



COUNTY OF EL DORADO
Civil Service Commission – Rules of Procedure
Month 2020

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~~RULES OF PROCEDURE~~

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SECTION 1: AUTHORITY AND PURPOSE

1.1 Update: May 12, 2015

RULE 1: AUTHORITY AND PURPOSE

1.01 Authority

Under the authority of the El Dorado County Charter, Article V, Section 502.2 ~~and the El Dorado County Civil Service Ordinance~~, the Civil Service Commission, hereafter “(Commission” does) shall prescribe and ~~adopt these Rules~~ maintain Commission Procedures, approved by resolution of the Board of Supervisors, which provide for the orderly conduct of the Commission's business. These Procedures (herein after referred to as Rules) shall have the force and effect of law. Per the El Dorado County Charter, Section 502.3, the Commission shall hear only the following matters:

- Discipline of classified employees with permanent status;
- Complaints of unlawful discrimination in personnel matters; and
- Other matters as may be provided for in the County's Personnel Rules, Memoranda of Understanding between the County and representing employee organizations, or Board Policy.

1.02 1.2 Purpose

These Rules are prescribed for the purpose of assuring fair and impartial treatment to all County of El Dorado (County) employees and applicants for employment in the classified service. To this end, these ~~ends, the~~ Rules shall be liberally construed.

1.3 Effective Date

All Rules and amendments thereto shall become effective immediately upon adoption by the County Board of Supervisors.

1.03 1.4 Severability

If any ~~Rule~~ rule, section, paragraph, sentence, clause, or phrase of these Rules is declared unconstitutional or void for any reason, the validity of the remaining portions of these Rules shall not be affected by such ~~a decision-(s).~~

RULESECTION 2: ORGANIZATION AND ADMINISTRATION

2.011 Responsibilities of the Civil Service Commission

- A. Prescribe, amend, repeal, and enforce ~~the~~these Rules, upon approval by the County Board of the Civil Service Commission~~Supervisors as necessary~~;
- B. Investigate the enforcement and effectiveness of ~~the~~these Rules, as needed, and implement best practice processes to ensure the same;
- C. Consider the legitimacy of and hear appropriate disciplinary appeals initiated by individuals regarding actions taken on matters governed by Civil Service~~applicable County of El Dorado~~ Ordinances; ~~and~~
- D. Consider the legitimacy of and hear appropriate appeals ~~of allegation~~ of initiated by individuals of allegations related to discriminatory hiring practices or employment practices ~~initiated by individuals~~; ~~and~~
- E. ~~Conduct~~If and to the extent provided for by any Memorandum of Understanding and/or the Salary and Benefits Resolution for Unrepresented Employees, conduct grievance hearings specified in the County ~~Regulations~~ or regulations, as applicable ~~Memorandum of Understanding~~.

2.022 Officers of the Civil Service Commission

A. Election

The ~~Civil Service~~ Commission shall elect one of its members to serve as Chairperson and another member to serve as the Vice-Chairperson at the first regular meeting of each calendar year. The ~~incumbent~~ Chairperson and Vice-Chairperson shall hold office until their respective successors are duly elected and qualified.

B. Chairperson Duties and Authority

The Chairperson shall preside at all ~~meetings of the~~ Commission; meetings, as available; sign official documents of the Commission; and speak on behalf of the Commission when so authorized. During hearings, the Chairperson shall have the authority to rule on evidentiary objections and to issue orders to promote due process, fairness, and decorum during the proceedings.

C. Vice-Chairperson Duties and Authority

In the absence of the Chairperson, the Vice-Chairperson shall perform all duties regularly performed by the Chairperson, as outlined in Section 2.2.B of these Rules.

D. In the absence of the Chairperson and Vice-Chairperson, a Commissioner present shall serve as an acting Chairperson or Chairperson pro tem for the meeting or hearing.

2.033 Director of Human Resources

~~The Director of Human Resources or designee, under~~ Under the general direction of the Commission, the Director of Human Resources or designee shall perform the following administrative functions:

- A. Act as the Executive Officer for the Commission and be responsible for carrying out the decisions, instructions, ~~and Rules of the Commission;~~
- B. Furnish a recording secretary to the Commission who shall take minutes of all ~~meetings of the Commission~~ meetings and hearing;
- C. Prepare the budget for the operation of the Commission;
- D. Administer the expenditure of funds appropriated for the Commission;

~~E. Schedule such hearings as may be required;~~

~~F. E. Receive all appeals and grievance on behalf of the~~ coordinate
Commission meetings and hearings;

~~G. F. Make recommendations relative to matters of policy and~~
amendments to these Rules; and

~~H. G. Perform other duties that may be assigned from time to time by the~~
Commission.

2.044 Regular Meetings

The Commission shall hold regular business meetings ~~pursuant to a schedule set~~
in at its discretion. The Commission ~~may~~ shall also hold such other meetings and

~~hearing~~hearings as may be required by the ~~County's Administrative~~El Dorado County Charter, El Dorado County Code ~~and of Ordinances, or~~ other applicable laws. The Commission, through its Chairperson, may cancel or reschedule meetings if there is no scheduled business for the Commission, or for other good cause. Notice of the time and place of meetings, together with the agenda of such meetings, shall be posted ~~at least 72 hours before a meeting and according to law on their~~ accordance with the Brown Act. The postings shall be physically placed on the County Board of Supervisors' official bulletin board and on the County's Department of Human Resources ~~website of the County.~~

2.055 Special Meetings

A special meeting may be called at any time by the Chairperson, or by a majority of the ~~commissioners, by delivering written notice to each member of~~Commissioners. Such special meeting shall be posted in accordance with the Commission and Brown Act. The posting notices shall be physically placed on the County's official website. The notice shall be posted at least 24 hours before the time of the meeting as specified in the notice. The notice shall also be provided to each local newspaper of general circulation and radio or television station requesting such notice in writing. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these special meetings by the Commission. The call and notice shall be posted at least 24 hours prior to the ~~special meeting on the County~~ Board of ~~Supervisors'~~Supervisor's official bulletin board and on the County's Department of Human Resources website.

2.066 Quorum

Three (3) members of the ~~Civil Service~~ Commission shall constitute a "quorum" and a quorum shall be necessary for the transaction of business and hearings. No formal action shall be taken by the Commission unless it is adopted by the concurring votes of a majority of ~~these~~ Commission members attending a business meeting or hearing where a quorum is present. A roll call vote may be requested by a Commissioner on any matter before the Commission.

2.077 Communications

Communications, official notices, and requests to the Commission, insofar as practicable, shall be in writing. The substance of each request or notice and the action of the Commission thereon, if any, shall be noted in the applicable minutes.

~~2.08~~ Public ~~8~~ Business Meetings

All business meetings of the Commission shall be open to the public and all persons shall be permitted to attend any meeting of the Commission, except as provided in these ~~rules~~Rules, or as otherwise provided by law.

~~2.099~~ Minutes

The Executive Officer to the Commission shall ensure minutes of its meetings are maintained. ~~— as noted in Section 2.3.B of these Rules and in the County's Department of Human Resources Retention Schedule.~~

2.10 Hearings and Closed Session

Hearings shall be held in closed session unless the appellant in a disciplinary hearing requests an open appeal hearing prior to the commencement of the hearing. The disciplining authority shall be responsible for providing written notice to the appellant of his or her right to request such an open hearing. Following any hearing held in open session, the Commission shall adjourn to a closed session, outside of the presence of the attending parties upon conclusion of testimony to deliberate and render a decision. The Commission may also adjourn to closed session at any time ~~under circumstance~~ which is otherwise lawful under the Brown Act.

~~2.11~~ Effective Date

~~All Rules and amendments shall become effective immediately upon adoption by the Board of Supervisors unless some later date is specified by the Commission.~~

RULE 3: HEARINGS OF THE CIVIL SERVICE COMMISSION

~~3.01~~ Hearings of the Civil Service Commission

SECTION 3: PROCEDURES

A. Disciplinary Appeal

In the case of a disciplinary appeal, ~~unless the appellant agrees to waive time,~~ the Commission shall commence a hearing within ~~twenty (20)~~ calendar days after ~~filing a~~

~~disciplinary~~ the appellant files such appeal with the Executive Officer. ~~— unless the appellant agrees to waive the 20 calendar day time frame.~~

B. ~~Grievance and~~ Non-Disciplinary Appeals

In the case of a ~~grievance or~~ non-disciplinary appeal, the Commission ~~—~~ shall commence a hearing within 20 calendar days after the appellant files such appeal with the Executive Officer for the purpose of determining the validity of the allegations ~~made within a reasonable period of.~~ Should the appellant agree, the 20 day time frame may be waived.

C. Case Management Conference

Within five (5) working/business days (that the County's main administration office is open for business) of the Executive Officer receiving any appeal or grievance invoking the Commission's jurisdiction, the Executive Officer shall send out a notice scheduling a case management conference. The case management conference shall be scheduled at the earliest ~~reasonable opportunity~~ date/time in which all applicable parties (as noted on the following page) are available, and no later than ~~fourteen (14) working/business~~ days (that the County's main administration office is open for business) after the filing of ~~an~~ such appeal or grievance. The ~~Case Management Conference~~ case management conference may be scheduled beyond ~~fourteen (14) working/business~~ days (as noted above) by mutual agreement, or by the Commission's ~~counsel~~ legal representation/designee if circumstances so warrant. All or part of the case management conference may be conducted by telephone, web meeting, or ~~other electronic means if in person so long as~~ each participant in the conference has an opportunity to participate in ~~and to hear~~ the entire proceeding while it is taking place. The following persons shall participate in the conference:

- ~~1. Counsel or representative for any represented party before the Commission;~~
- ~~2.1. If unrepresented, the party on behalf of parties before the Commission~~ the appellant, or the appellant if self-representing;
- ~~3. The Executive Officer;~~
- ~~2. Counsel or representative on behalf of the department head of the disciplining authority or their designee.~~
- ~~4.3. The Commission's counsel~~ Executive Officer or designee; and/or ~~other Commission designee;~~
- ~~5. The Department Head or their designee, and/or the appellant, may also chose to participate in the conference but are not required.~~
4. The Commission's legal representative or designee.

All parties must be prepared to discuss the following matters:

1. -The nature of the appeal;
2. The facts and issues that are in dispute;
3. The facts and issues that are uncontested and may be subject to stipulation;
- ~~2-4.~~_____ The estimated number of witnesses;
- ~~3-5.~~_____ The estimated length and schedule of the hearing;
- ~~4-6.~~_____ The specific relief being sought; and
- ~~5-1.~~_____ The facts and issues that are in dispute;
- ~~6. The facts and issues that are uncontested and may be subject to stipulation; and~~
7. Any anticipated problems or unusual concerns regarding the hearing, including any existing or anticipated evidentiary disputes.

The participants~~parties~~ may also discuss any other matters as which shall promote the orderly and prompt conduct of the impending hearing.

Following the case management conference, the Commission's ~~counsel and/~~legal representative or designee will memorialize and send to all parties a memorandum confirming the outcome of the case management conference, including any agreements made concerning the conduct of the upcoming hearing. The Executive Officer or designee will ~~the~~ promptly assign a coordinate the hearing ~~date for to meet~~ the appeal agreed upon date.

D. Rights of Parties at Hearings

At the hearing of an appeal, the Appellant~~appellant~~, the disciplining/appointing authority, Department of Human Resources ~~Department~~ staff, and any other person(s) whom the Commission determines to have a legitimate interest in the matter shall be entitled to:

1. Be represented by legal counsel or otherwise represented ~~at such~~ hearings;
2. Testify under oath;
3. Question under oath any witness or other ~~persons~~person(s) involved in or related to the matter being considered that the Commission deems relevant;
4. Present such affidavits, exhibits, and other evidence that the Commission deems relevant to the hearing; and
5. Argue his/her respective case.

E. Assistance of Commission Legal Counsel

The Commission's appointed legal counsel, if required to do so by the Commission, may be present during all phases of a hearing, including ~~the deliberations of the Commission following the presentation of all evidence. The Commission's counsel shall,~~ During such deliberations, and upon request of the Commission, the Commission's legal counsel shall make advisory rulings on the admission and exclusion of evidence and advise the Commission on ~~matter~~matters of law. The Commission itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to its appointed legal counsel.

F. Closed Hearings

The Commission shall receive and rule on requests for closed or open hearings subject to ~~Rule~~Section 2.10 of these Rules.

G. Burden of Proof

In disciplinary appeal hearings, the burden of proof shall be on the disciplining authority. In grievance hearings and other types of hearings, the burden of proof shall be on the ~~Appellant~~appellant. The Commission shall use the "preponderance of evidence" standard.

In disciplinary appeal hearings, the disciplining authority shall first present his/her evidence. Each party shall then have the right to present their evidence in rebuttal.

In grievance or other hearings, the ~~employee filing the appeal~~appellant shall first present evidence of the charges alleged. The person charged and/or ~~Department Head of~~appointing authority for the department in which the alleged violations occurred may then present evidence. Each party shall then have the right to present rebuttal evidence.

H. Evidence

Hearings shall not be conducted according to the technical rules of evidence for formal court proceedings, except as hereinafter provided.

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objections in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in and of itself to support a material ~~finding~~findings unless it would be admissible over objection(s) in civil actions.

Oral evidence shall be taken only on oath or affirmation only.

The rule of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. The Commission has discretion to exclude evidence if it's probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

I. Subpoena of Witnesses – Production of Records

The Commission shall have the authority to subpoena witnesses, either at the ~~request~~ of any applicable party or upon its own motion.

1. Any expense incurred in the subpoena of witnesses shall be paid by the ~~party which requests the presence of those witnesses~~requesting party.
2. Normally, each party may subpoena no more than ~~ten (10)~~ witnesses. ~~The~~However, the Commission will consider a request to subpoena more than ~~ten (10)~~ witnesses if asuch party can demonstrate to the Commission all of the following:
 - a. That testimony of the additional witness(es) is relevant and would be considered material evidence pertaining to the action; ~~and~~
 - b. Such evidence cannot be produced through means of a stipulation as to the testimony proposed to be introduced; and
 - c. Such evidence is not merely duplication of other evidence.
3. All written subpoenas for witnesses shall bear the signature of the Chairperson, Vice-Chairperson, or Executive Officer (or designee) of the Commission.
4. A ~~Subpoena Duces Tecum~~subpoena duces tecum may also require a person to produce at the hearing all books, papers, and documents in his/her possession or under his/her control relating to the hearing. All applications for ~~Subpoena Duces Tecum~~subpoena duces tecum shall:
 - a. Include a statement showing good cause for the production of the records requested;
 - b. Specify the exact records to be produced;
 - c. Set forth in full detail the materiality to the issues involved in the hearing; and

- d. State that the person from whom they are seeking records has the desired records in his/her possession and under his/her control.

If a person wishes to object to the validity or scope of the subpoena, he/she may do so before the Commission at the time ~~and place set for~~ the hearing.

J. Witnesses at Hearings

During hearings, the Commission may exclude from the public or closed ~~meeting session~~ any or all witnesses in the matter being considered by the Commission provided, however, that appellants shall have the right to have one representative, even if the representative is also a witness.

K. Professionalism

Persons appearing before the Commission shall conduct themselves in a professional and respectful manner. In instances of inappropriate behavior or misconduct, the Chairperson may 1) issue ~~warnings~~ a warning and, ~~finally, an opportunity for 2)~~ a last chance. If the offending person violates the Chairperson's last chance order, the Commission may vote to impose sanctions, including without limitation exclusion of certain evidence, and/or dismissal of the appeal (if the offending party is the appellant) or sustaining the appeal (if the offending party is a County representative).

L. Findings and Decisions

After hearing the appeal, grievance, or other action, the Commission shall:

1. Adjourn to closed session to deliberate before arriving at or rendering its decision in the matter outside of the presence of the attending parties.
2. The Commission, being governed by a preponderance of evidence, may affirm, revoke, or modify the existing order, action, or ruling. The Commission may direct necessary corrective action to be taken (within the scope of its jurisdiction) once is it has made a ruling. A decision of the Commission shall be determined by a majority vote of the ~~majority of those members of the~~ Commission members present at the hearing where a quorum is present. In the event of a tie vote in ~~a grievance or~~ non-disciplinary hearing, the appeal shall be dismissed. In the event of a tie vote in a disciplinary appeal hearing, the discipline imposed shall not be affirmed.
3. At the conclusion of the deliberations, the Commission shall reconvene into open session to report any action taken in closed session as required by law.

4. The Commission (and/or its designee) shall prepare a formal written decision, including findings of fact, within 14 working/business days in which the County's main administration office is open for business. The decision of the Commission shall become effective when the Chairperson signs the written decision—; a wet signature or an electronic signature shall suffice.
5. The written decision shall be provided promptly to the appellant, grievant, and other persons deemed to have an interest in the proceedings. The Executive Officer or designee shall distribute the Commission's written decision to all involved parties and prepare a proof~~Proof~~ of ~~service which shall be provided with the decision~~Service document to accompany such.

M. Report of Hearing

Hearings shall be recorded by a certified court reporter or recorder of legal and sufficient mean.

N. Continuances

It is the policy of the Commission that continuances are strongly discouraged. The Chairperson, ~~or Vice-Chairperson~~, or Executive Officer ~~of the Commission~~ may grant a continuance of a hearing upon an affirmative showing of good cause by a party which necessitates the continuation of the hearing. A continuance shall not be granted unless the party seeking the continuance has made a good faith effort to prevent the condition or event upon which they are making their request for a continuance. Requests for continuances made less than 14 calendar days prior to a scheduled hearing ~~dates~~date shall ordinarily be denied.

RULESECTION 4—: MISCELLANEOUS

4.01 4.1 Days

Unless otherwise specified, a “day” shall mean a working/business day in which the County's main administration office is open for business.

SECTION 5: REFERENCES

A. El Dorado County Charter

B. El Dorado County Code of Ordinances

SECTION 6: HISTORY

Established: March 30, 2007

Updated: May 16, 2007

Updated: May 21, 2008

Updated: May 12, 2015

Updated: Month/Day, 2020

COUNTY OF EL DORADO

EL DORADO COUNTY
CIVIL SERVICE COMMISSION

~~Bobbi Bennett~~ Tameka Usher
Civil Service Commission Executive Officer

Edward Miller
Civil Service Commission Chairperson

Date

Date

Board of Supervisors' Chairperson

Date

ATTEST: ~~James S. Mitrison~~, Kim Dawson
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Date