



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

Table of Contents

DRAFT

SECTION 1: AUTHORITY AND PURPOSE

1.1 Authority

Under the authority of the El Dorado County Charter, Article V, Section 502.2, the Civil Service Commission (Commission) shall prescribe and 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, and aside from matters relating to the conduct and business of the Commission, 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.

1.2 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 accomplish these goals, these 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 via resolution.

1.4 Severability

If any 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 decision(s).

SECTION 2: ORGANIZATION AND ADMINISTRATION

2.1 Responsibilities of the Commission

The Commission shall have the following responsibilities:

- A. Prescribe ~~_, amend, repeal,~~ and enforce these Rules as deemed reasonable or necessary, and make recommendations on amending these Rules to upon approval by the County Board of Supervisors;
- B. Investigate the enforcement and effectiveness of 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 applicable County Ordinances;
- D. Consider the legitimacy of and hear appropriate appeals initiated by individuals of allegations related to discriminatory hiring practices or employment practices; and
- E. Conduct grievance hearings if and to the extent provided for by any Memorandum of Understanding, the Salary and Benefits Resolution for Unrepresented Employees, and/or County regulations.

2.2 Officers of the Civil Service Commission

A. Election of Officers

The 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 held in each calendar year; provided, however, that the term of office after election shall be for at least one year. The Chairperson and Vice-Chairperson shall hold office until their respective successors are duly elected and qualified.

B. Chairperson Duties and Authority

The Chairperson shall have the following duties and authority:

1. ~~s~~Set the meeting agendas and preside at all Commission meetings, as available;
2. ~~s~~Sign official documents on behalf of the Commission;
3. ~~e~~Establish standing or special committees;
4. Request the County to provide law enforcement assistance in connection with a Commission proceeding;
5. Consult with the Commission's legal counsel and other experts to assist in the conduct of the Commission's business;
6. ~~and speak on behalf of the Commission when so authorized~~ During Commission hearings, the Chairperson shall have the authority to rule on evidentiary objections, and to issue orders to promote due process, fairness, and decorum during proceedings;
7. In response to the request of the County made pursuant to a Memorandum of Understanding, name Commissioners to serve as members and alternates of Layoff Arbitration Panels; and-

8. Speak on behalf of the Commission when so authorized.

C. Vice-Chairperson Duties and Authority

In the absence of the Chairperson, the Vice-Chairperson shall perform all duties regularly performed by the Chairperson. In the event of the death, resignation, replacement, or permanent disability of the Chairperson, the Vice-Chairperson shall act for the Chairperson until the Commission shall elect another Chairperson.

D. Chairperson Pro Tem

~~D.~~ In the absence of the Chairperson and Vice-Chairperson, the Chairperson shall appoint an acting Chairperson. In the event the Chairperson is unable to make such an appointment, a Commissioner present at a meeting or hearing who receives a majority vote of the Commissioners also present shall serve as an acting Chairperson for the meeting or ~~or~~ hearing.

2.3 Director of Human Resources

Under the general direction of the Commission, the County's 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 Commission's decisions, instructions, and these Rules;
- B. Furnish a recording secretary to the Commission who shall take minutes of all Commission meetings and hearings, and present them for correction and approval at the next regular Commission meeting;
- C. Prepare the budget for the operation of the Commission;
- D. Administer the expenditure of funds appropriated for the Commission;
- E. Provide administrative assistance in procuring goods and services necessary for the Commission to conduct its business;
- F. Schedule and coordinate Commission meetings and hearings;
- G. Make recommendations relative to matters of policy and amendments to these Rules; and
- H. Perform other duties that may be assigned from time to time by the Commission.

2.4 Regular Meetings

The Commission shall hold regular meetings pursuant to a schedule set at its discretion. The Commission shall also hold meetings and hearings as may be required by the El Dorado County Charter, El Dorado County Code 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 agendas of such meetings, shall be posted in accordance with the Ralph M. Brown Act, California Government Code section 54950, *et seq.* (the "Brown Act"). The postings shall be physically placed on the County Board of Supervisors' official bulletin board as well as made available electronically on the County's website and on County's Department of Human Resources website.

2.5 Special and Emergency Meetings

A special meeting or an emergency meeting may be called at any time by the Chairperson or by a majority of the Commissioners. Such meetings must comply with, and shall be posted in accordance with, the Brown Act. The postings shall be made in compliance with the rules applicable to Regular Meetings.

2.6 Quorum

Three (3) members of the Commission shall constitute a "quorum" 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 Commission members attending a meeting or hearing where a quorum is present. A roll call vote may be requested by a Commissioner on any matter before the Commission.

2.7 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.

2.8 Open and Public Meetings

All 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 or as otherwise provided by law.

Robert's Rules of Order, in its latest revision, shall guide the Commission in its proceedings.

2.9 Closed Session Hearings and Deliberations

For all disciplinary and grievance hearings, the Commission shall conduct hearings in closed session unless the appellant/grievant requests an open hearing prior to commencement of the hearing. The disciplining or appointing authority shall be responsible for providing written notice to the appellant/grievant of his or her right to request such an open hearing.

Upon the conclusion of all testimony and closing arguments, the Commission shall adjourn outside of the presence of the attending parties to deliberate and

render a decision. The Commission may also adjourn to closed session at any time which is otherwise lawful under the Brown Act.

DRAFT

2.10 Remote Meetings and Hearings

In compliance with applicable law and Executive Orders, the Commission is authorized to conduct its meetings and hearings remotely, via teleconference or videoconference.

SECTION 3: HEARING PROCEDURES

3.1 Scheduling of Hearings

The Commission shall commence hearings within 20 calendar days after the appellant/grievant files an appeal or grievance, unless he or she agrees to waive the 20-calendar-day timeframe.

3.2 Case Management Conferences

A. Scheduling of Case Management Conferences

The Commission's Executive Officer or designee shall issue a notice scheduling a case management conference for any appeal or grievance over which the Commission has jurisdiction within five (5) working days from the date the County's Director of Human Resources received the appeal or grievance. The case management conference shall be scheduled to be held at the earliest date/time on which all necessary participants are available, or as otherwise agreed by the appellant or grievant.

B. Conducting the Case Management Conferences

All or part of the case management conference may be conducted by telephone, videoconference, or in-person provided each participant in the conference has an opportunity to participate. The following persons shall participate in the conference:

1. Counsel or representative on behalf of the appellant/grievant, or the appellant/grievant if self-representing;
2. County Counsel or a representative of the disciplining/appointing authority;
3. The Commission's Executive Officer or designee; and
4. The Commission's legal counsel or designee, who shall preside over the case management conference.

C. Case Management Conference Topics

Parties must be prepared to discuss the following matters at the case management conference:

1. The nature of the appeal or grievance;
2. The facts and issues that are in dispute;

3. The facts and issues that are uncontested and may be subject to stipulation;
4. Whether any discovery or subpoenas will be requested;
5. The estimated number of witnesses;
6. The estimated length and schedule of the hearing;
7. The specific relief being sought; and
8. Any anticipated problems or unusual concerns regarding the hearing, including any existing or anticipated evidentiary disputes.

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

Following the case management conference, the Commission's legal counsel or designee will issue a Case Management Order memorializing the matters addressed at the conference and other required procedures. The Executive Officer shall serve a copy of the Case Management Order on the parties pursuant to legal requirements or as otherwise agreed by the parties.

3.3 Rights of Parties at Hearings

At hearings, the appellant/grievant, the disciplining/appointing authority, Department of Human Resources staff, and any other person(s) who the Commission determines to have a legitimate interest in the matter shall be entitled to:

1. Be represented by legal counsel or otherwise represented;
2. Testify under oath;
3. Question under oath any witness or other 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.

3.4 Subpoenas of Witnesses and Production of Records

The Commission shall have the authority to subpoena witnesses and records to be presented at hearings, either at the request of **any** party or upon its own motion. The Commission shall exercise and enforce its subpoena power in the same manner as the subpoena power granted to the County Board of Supervisors in the California Government Code, except that the power shall extend only to matters within the Commission's lawful jurisdiction.

All subpoenas shall bear the signature of the Chairperson or his/her designee, the Executive Officer. All members of the Commission, or any other person otherwise so empowered, may administer oaths to, or take affirmations from, witnesses before the Commission.

If a party has requested the issuance of the subpoena, that party is responsible for paying all costs related to the subpoena. Witnesses subpoenaed by the Commission shall be paid fees in the same amount and in the same manner as provided for in California Government Code section 68094.

If a party or other person wishes to object to the validity or scope of a subpoena, he/she may raise the objection prior to or during the hearing, but in any event no later than the time the subpoena is enforced.

A. Witness Subpoenas

Absent unusual circumstances, a party may request the Commission to issue subpoenas to no more than 10 witnesses. However, the Commission shall issue subpoenas to more than 10 witnesses if the requesting party can demonstrate to the Commission all of the following:

1. Testimony of the additional witness(es) is relevant and would be considered material evidence pertaining to the action;
2. Such evidence cannot be produced through means of a stipulation as to the testimony proposed to be introduced; and
3. Such evidence is not merely duplication of other evidence.

B. Subpoenas Duces Tecum

Parties may request the Commission to issue subpoenas duces tecum for the production of records, including documents and other materials, which are within the possession, custody or control of another person or entity. All requests for the issuance of a subpoenas duces tecum shall:

1. Include a statement showing good cause for the production of the records requested;
2. Specify the exact records to be produced;
3. Set forth in full detail the materiality of the records to the issues involved in the hearing; and
4. State that the person or entity from whom they are seeking the records has them in his/her/its possession and under his/her/its control.

3.45 Conducting the Hearing

A. Admission of Evidence

While the Commission is not required to comply with formal rules of evidence during its hearings, absent good cause it shall ~~when practical~~ apply the State of California's rules relating to the admission of evidence in civil proceedings.

~~Notwithstanding the foregoing, In accordance with California Evidence Code section 352,~~ the Commission has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

B. 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/grievant. The Commission shall use the "preponderance of evidence" standard in rendering its decisions.

C. Presentation of Evidence

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

In grievance or other hearings, the appellant/grievant shall first present evidence of the charges alleged. The person charged and/or 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.

D. Witnesses at Hearings

During hearings, the Commission may exclude any or all witnesses from attending the hearing when they are not testifying provided, however, that

appellants/grievants shall have the right to have one representative present at all times, even if the representative is also a witness.

E. Inappropriate Behavior or Misconduct During Hearings; Professionalism and Sanctions

Persons appearing before the Commission and otherwise attending its hearings shall conduct themselves in a professional and respectful manner. In instances of inappropriate behavior or misconduct, the Chairperson has the authority to issue orders to ensure the Commission may proceed in an orderly and safe fashion. If a person fails to comply with an order of the Chairperson, may 1) issue a warning and 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 (1) exclusion from the proceedings; (2) exclusion of certain evidence from being presented or admitted, and/or (3) dismissal of the appeal or grievance (if the offending party is the appellant/grievant) or sustaining the appeal or grievance (if the offending party is a County representative).

F. Report of Hearing

Hearings shall be recorded by a certified court reporter and may be transcribed pursuant to a request of a party or the Commission. The requesting party shall bear the cost of transcription, unless otherwise required by law or applicable rules.

3.56 Findings and Decisions

- A. After hearing the appeal, grievance, or other matter, the Commission shall adjourn to an executive closed session to deliberate outside of the presence of the attending parties and witnesses. At the conclusion of the deliberations, the Commission shall reconvene into open session to report any decision or action taken as required by law.
- B. The Commission shall issue a decision on the matter which may either 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 it has made a decision. A decision of the Commission shall be determined by a majority vote of the Commission members present at the hearing where a quorum is present. In the event of a tie vote in a 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.
- C. The Commission (and/or its designee) shall prepare a formal written decision, including findings of fact, within 30 calendar days after the conclusion of the hearing. The decision of the Commission shall become effective and final on the date the Chairperson signs the written decision; wet signatures and electronic signatures shall have the same purpose and effect.
- D. The Executive Officer or designee shall distribute the Commission's written decision to all involved parties and prepare a Proof of Service to certify service.

- E. The decision of the Commission shall be final and binding, shall be certified to the department head or officer whose action was the subject of the hearing, and shall be forthwith enforced and followed by the department head or officer.

DRAFT

3.67 Continuances

Requests to continue hearings are strongly discouraged. The Chairperson, Vice-Chairperson, or Executive Officer are authorized to continue a hearing only upon making a finding of good cause.

3.78 Commission Legal Counsel

The Commission's legal counsel may be present during all phases of a hearing, including deliberations. During the hearing and deliberations, and upon request of the Commission Chairperson, ~~the Commission's~~ legal counsel shall make advisory rulings on the admission and exclusion of evidence and advise the Commission on 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 legal counsel.

SECTION 4: JUDICIAL REVIEW AND RECORD

4.1 Judicial Review

The provisions of California Code of Civil Procedure section 1094.6, and any successor statute, are hereby adopted. Any petition for review of a decision of the Commission shall be filed within the time limits prescribed therein, or where a shorter time limitation is prescribed by state or federal law, within such shorter time limits. With respect to decisions issued following proceedings now pending or hereafter begun before the Commission, notice of the applicability of California Code of Civil Procedure section 1094.6 to judicial review of such decisions shall be given to the parties by the Commission in substantially the following form:

"The time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure section 1094.6. Judicial review must be sought not later than the 90th day following the date on which this decision becomes final, except that where a shorter time limit is prescribed by state or federal law, such shorter time limit shall apply. The decision becomes final on the date that it is signed by the Commission's representative."

4.2 Record

The complete record of the proceedings shall be prepared by the Executive ~~Officer~~Director or designee upon a request by any party to the proceeding and a deposit of the estimated cost of preparation. If the cost of preparing the record exceeds the amount deposited, the party requesting such record shall pay this additional amount. If the amount deposited exceeds the cost, the difference shall be returned to the party requesting such record.

If, within ten (10) calendar days after the date the decision becomes final, the petitioner files a request for the record and deposits an amount of money equal to the estimated cost of preparing the record, the time within which a petition pursuant to California Code of Civil procedure section 1094.5 may be filed shall be extended to not later than the thirtieth (30) day following the date on which the record is either personally delivered or mailed to the petitioner or his or her attorney of record, if he or she has one.

SECTION 5: REFERENCES

- A. El Dorado County Charter
- B. El Dorado County Code of Ordinances
- C. Government Code sections 31108, 31110.2

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**

Tameka Usher
Civil Service Commission Executive Officer

Edward Miller
Civil Service Commission Chairperson

Date

Date

Approved by Resolution
County of El Dorado

Board of Supervisors' Chairperson

Date

ATTEST: Kim Dawson
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Date