

Rules and Regulations for The Personnel Board of the City of Albuquerque

(Adopted May 12, 2010)

ARTICLE 1 - MEETINGS

I. Regular Meetings.

- A. Regular meetings of the Personnel Board take place at 2:30 p.m. on the second Wednesday of each month. Meetings are normally held at the Office of Administrative Hearings, 40 First Plaza, 7th floor, Albuquerque, N.M. in a room specified in the Notice of Hearings.
- B. In January or as early as possible each calendar year, the Personnel Board Chair shall introduce a resolution in compliance with the Open Meetings Act, Section 10-15-1 et seq., NMSA 1978, specifying the date and time for the regular meetings. If these meetings need to be changed, such action should be taken as soon as it becomes clear that a change is appropriate.
- C. Regularly scheduled public meetings will be conducted with a prepared agenda that will be available at least 24 hours prior to the meeting from the City Hearing Monitor. Agendas will be posted on the City Council Notice Board in the lobby of the first floor, City Hall. Written notice will also be mailed by the City Hearing Monitor to those broadcast stations licensed by the FCC and newspapers of general circulation that have requested such notice of public meetings
- D. Each Board meeting agenda will include an item entitled "public comment".

II. Special Meetings.

- A. Special meetings may be called by the Chair or by a majority of members upon three days notice. Notice shall include an agenda or information on how members of the public may obtain copies of the agenda. The agenda shall be publicly available at least twenty-four hours in advance.

III. Closed Sessions

- A. The Personnel Board may have closed sessions or close an open meeting only if the subject matter of such discussion/action is exempted from the open meeting requirement under section 10- 15-1 (H) of the Open meetings Act.
- B. Such closed sessions shall be approved by a majority vote of a quorum of the Board taken during the open meeting. Authority for closing the meeting and subjects to be discussed shall be stated with sufficient clarity and a motion to close and the vote of each member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in closed session.
- C. The minutes of an open meeting that was closed or the minutes of the next open meeting shall state whether matters discussed in closed session were limited only to those specified in the motion for closure.

- D. Except as provided in section 10-15-1 (H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by a vote of the Board in open session.

IV. Emergency Meetings.

- A. Emergency meetings will be called only under unforeseen circumstances that demand immediate action.
- B. These meetings will include an agenda or information on how the public may obtain a copy of the agenda.
- C. These meetings will comply with the New Mexico Open Meetings Act.

V. Quorum.

A majority of Personnel Board members shall constitute a quorum thereof.

VI. Records.

Unless otherwise provided, the City Hearing Monitor shall serve as the clerk for the Board. The clerk shall keep the minutes of all Board proceedings; prepare and distribute the agenda; and keep all other records as may be necessary.

VII. Records Retention

- A. Minutes of Board meetings shall be retained permanently.
- B. Records of adversarial proceedings before the Personnel Board involving dismissals, demotions, and other adverse employment actions, shall be retained for 10 years.
- C. Retention periods shall be extended until six months after all current or pending litigation, claims, audit exceptions, or court orders involving a record have been resolved or concluded.

VIII. Attendance.

- A. Board members are expected to regularly attend meetings. When an absence is necessary, members will endeavor to provide the Chairman and City Hearing Monitor 24 hours notice of absence.
- B. A member of the Board may participate in a meeting by means of a conference telephone or other similar communications when it is otherwise difficult or impossible to attend a meeting in person, provided that each member participating by phone can be identified when speaking; all participants can hear each other at the same time; and members of the public are able to hear any member speak.

IX. Disturbing Meetings.

- A. It shall be unlawful to disturb any Personnel Board meeting or to behave in a disorderly manner at any such meeting.
- B. Any person who disturbs meetings may be asked to leave at the request of any Board member for the remainder of that meeting.

ARTICLE 2 – ORGANIZATION OF THE BOARD

I. Appointment of Members of the Personnel Board

- A. Regular members – Two members shall be appointed by the Mayor; they shall have significant management or personnel experience. Two members shall be selected by the employees by election and then appointed by the Mayor. All Board members shall be persons who have resided in the city for a period of at least one year and shall not be elected public officials. All selections shall be subject to the advice and consent of the City Council.
- B. The Chairman shall be selected and elected by a majority of the regular members of the Board and shall be subject to the advice and consent of the City Council
- C. Board members shall serve two-year terms that expire September 1.
- D. Board members shall not serve more than two full consecutive terms.

II. Election of Chair and Vice Chair.

- A. The Board shall elect a Chair and another member to act as Vice-Chair.
- B. The Chair may not serve more than two full consecutive terms
- C. The Vice Chair shall serve for a term of one year.
- D. The Chair can be removed by a majority vote of the full Board.
- E. The vice-chair can be removed by a majority vote of the full Board.

III. Powers and Duties of the Chair and Vice-Chair.

- A. The Chair shall call the Board meeting to order, and upon a quorum being present, shall proceed to business.
- B. Having the following powers and responsibilities, the Chair:
 - 1. Shall preserve order and decorum and maintain the general direction of any and all Board meetings.
 - 2. Shall assign agenda items and have the responsibility for ensuring the preparation of the agenda and for proper dissemination of the agenda with the public notice for the meeting.
 - 3. Shall decide all questions of order.
 - 4. May speak, as other Board members, on general matters.
 - 5. Shall call for Executive Sessions in which the Board deliberates the recommendations of the Hearing Officer(s) and takes a “straw vote” which is formalized in open session.
 - 6. May make a motion in the same manner as other Board members.
 - 7. Shall vote upon all questions in the same manner as other Board members.
 - 8. Shall announce the result promptly on the completion of every vote.
 - 9. Shall call for session closure following a duly executed motion, second and vote of the Board members.
 - 10. Shall sign all letters in conjunction with the business of the Personnel Board.

- C. In the absence of the Chair, upon the Chair's inability to act, or upon request of the Chair, the Vice-Chair shall preside and shall have all the powers and authority of the Chair.
- D. In the absence of the Chair and Vice Chair, the most Senior Member of the Board shall preside and shall have all the powers and authority of the Chair.

ARTICLE 3 -PROCEDURES

I. General Rules.

Any matter not covered by these rules shall be governed by Roberts' Rules of Order (latest edition), or by a decision of the Chair, subject to discussion with the Board.

II. Order of Business.

- A. The Board shall consider business in the following order:
 - 1. Review and approval of meeting agenda
 - 2. Review and approval of minutes of last meeting
 - 3. Presentation of cases
 - 4. Executive session
 - 5. Public comment
 - 6. Other matters
 - 7. Adjournment
- B. The Chair may, upon the vote of a majority of a quorum of the Board, proceed out of order to any order of business or return to any prior order of business.
- C. A Board member shall withdraw from any matter in which he or she has a direct or indirect conflict of interest or when the Board member does not believe he or she can provide a fair and impartial hearing.
 - 1. Board members should err on the side of caution and withdraw from any proceeding in which there is an appearance of a conflict of interest.

III. Motions

No motions shall be entertained or debated until announced by the Chair, and every motion shall be seconded. The Chair may make motions or second motions.

IV. Presentation of Cases by the City, Grievants and/or their Representatives

- A. The Chair shall recognize appropriate representatives from the City and grievants and/or their representatives in order that they may present their case.
- B. Such representatives shall have five minutes to address the Board unless otherwise specified by the Chair following a motion to alter such time limits that has been made, seconded and approved by a vote of a quorum of the Board.
- C. Questions from the Board extend the time for the presentation of a party's case.

V. Discussion.

- A. Any Board member wishing to speak, debate, make a motion, submit a report, or conduct other business shall address the Chair and shall not proceed further until recognized by the Chair.

- B. If two or more Board members seek recognition at the same time, the Chair shall name the one who shall speak first.
- C. Any Board member may ask questions of grievants, their representatives, or Hearing Officers.

VI. Voting by Members of the Board

- A. The chair shall call for a vote on each motion that has been made and seconded by the Board.
- B. A majority vote of a quorum of the Board will carry any and all motions. In the event of tie votes, the Appeal fails.
- C. Voting shall be in the form of “Yea” or “Nay”. Every Board member who is within the room shall vote upon each question, except those who have disqualified themselves due to a conflict of interest or the appearance thereof.

VII. Deliberating and Recording Case Decisions

- A. Following the presentation of cases and discussion in open session, the Board shall deliberate in Executive Session following a motion to go into Executive Session, which is duly seconded and voted upon by a majority of a quorum of the Board.
- B. Only Board members and the City Attorney advising the Board attend deliberations conducted in Executive session.
- C. During Executive Session, a “straw poll” is taken by the Chair regarding proposed decisions in each case.
- D. In open session, a motion stating the decision of the Board will be made separately for each case and when duly seconded and passed by a vote of a majority of a quorum of the Board, such decision is formally entered into the record as final.

VIII. Decisions of the Board.

- A. The employee or the city may appeal the final decision of the Personnel Board to the District Court within 30 days after the date of the decision voted on by a quorum of the Board, by following the Rules of Civil Procedure for the District Courts.
- B. The Board may consider only the following in rendering a decision regarding a Hearing Officer’s recommendation
 - 1. The hearing record
 - 2. The Hearing Officer’s findings, proposed conclusions and recommendations
 - 3. Note: the Board shall *not* consider matters not in the record before the Hearing Officer
 - 4. If the Board determines that the credibility of a witness is at issue, the Board may review at least as much of the record as is necessary to support its decision.
 - 5. A request to submit a brief by any party shall be presented to the Chair no less than five (5) working days prior to the scheduled hearing.
- C. Final decisions of the Board are voted on in open session and recorded in the minutes by the Hearing Monitor. The Board may vote to:
 - 1. Accept or reverse the recommendation of the Hearing Officer

2. Modify or reverse any recommended remedy or discipline imposed. Any modification shall be consistent with Federal, New Mexico State Law, and the City of Albuquerque's Ordinances and Policies.
3. Remand the matter to the Hearing Officer for further proceedings or a more detailed report.

IX. Attendance:

- A. All Board members shall attend all scheduled Board meetings.
- B. All Board members shall advise the Office of Administrative Hearings with reasonable advance notice of the need to arrive late to or depart early from a scheduled Board meeting.
- C. Any Board member who has three unexcused absences from Board meetings may be removed from the Board.
- D. Board members shall be removed pursuant to the Charter of the City of Albuquerque.

X. Report of Decisions:

When the Board renders a final decision in an appeal, the Board's decision including the Hearing Officer's recommended decision will be available to the public pursuant to the Inspection of Public Records Act, NMSA 1978, Section 14-2-1. The Orders and recommended decisions shall be available to the public when provided to the parties. All privileged and confidential information pursuant to state and federal law shall be redacted prior to release from any document requested pursuant to the Inspection of Public Records Act.

XI Maintenance of Records:

Copies of the Board's final Order and the Hearing Officer's recommended decision shall be stored in any available format, at the City's office of Administrative Hearings for 10 years after an adverse action case has been finalized. "Finalized" anticipates the completion of any appellate proceeding before the Courts.

**ARTICLE 4 – POWERS, DUTIES AND
GENERAL ADMINISTRATION OF THE BOARD**

I. Power and Duties:

- A. The Personnel Board shall serve in an advisory capacity in the administration of the city's Personnel Program and shall have the following powers:
 1. To advise and assist the Chief Administrative Officer or his or her designated representative and the Director of Human Resources in adopting such Personnel Rules and Regulations as are considered necessary, appropriate or desirable to carry out the provisions of this article;
 2. To advise and assist the Chief Administrative Officer or his or her designated representative and the Director of Human Resources in the improvement of personnel standards in the classified service;
 3. To advise the Chief Administrative Officer or his or her designated

representative and the Director of Human Resources upon problems concerning personnel administration and recommend corrective action; and

4. To inquire, after consultation with the Chief Administrative Officer, into any matter which it may consider desirable concerning the administration of affairs of personnel.

B. The Personnel Board shall render a decision upon the appeal of classified employees of the city who have been suspended without pay for more than five days, demoted for disciplinary reasons or discharged, as provided in § 3-1-25.

C. Meetings of the Personnel Board, including hearings, shall comply with the New Mexico Open Meetings Act, §§ 10-15-1 et seq. NMSA 1978.

D. The Personnel Board shall establish rules and regulations governing the conduct of its meetings and its grievance hearings.

II. Complaints about Board members.

A. The Chair will meet at his/her discretion with any member to attempt to address concerns voiced by other members, the public, City representatives or grievants/their representatives regarding behavior during meetings, lack of attendance or participation and related matters. Matters involving the Chair will be addressed by the Mayor or the Mayor's representative.

B. The Board will not formally address complaints against a Board member or the Chair. All Complaints of this nature will be forwarded to the Mayor's office.

C. If an objection relates to a possible conflict of interest, Board members will consider the objection and decide whether an appearance of a conflict of interest exists and act accordingly.

III. Indemnification of Board members.

A. The city shall provide a defense, including costs and attorneys' fees, for a member when liability is sought for any tort alleged to have been committed by the member while acting within the scope of the member's duties, responsibilities and service on the Personnel Board.

B. The City shall provide Personnel Board members with legal representation including, if appropriate, outside counsel. The City will hold members of the Board harmless for any liability or claim, which is or may be asserted while the members act on behalf of and in service to the city in their capacity of Personnel Board members.

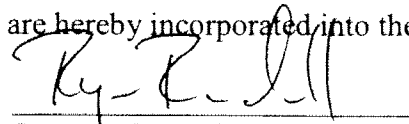
ARTICLE 5 – AMENDMENT OR SUSPENSION OF THESE PROCEDURES

I. Amendment of these Operating Procedures. These Procedures, or any part thereof, may be amended, repealed, altered or rescinded by a vote of a majority of the Board.

II. Suspension of these Operating Procedures. Except for charter, statutory, or ordinance provisions, these procedures, or any part thereof, may be temporarily suspended by a majority vote of the Board. When the suspension of a procedure is requested and no objection is offered, the Chair shall announce the procedure is suspended and the Board may proceed accordingly.

ARTICLE 6- INCORPORATION BY REFERENCE

I. Rules of Procedure For Appeals of Disciplinary Actions. The Personnel Board's Rules of Procedure for Appeals of Disciplinary Actions as amended are hereby incorporated into these Rules and Regulations adopted on May 12, 2010.



Ryan M. Randall
Chair