



**CITY OF SAN MATEO
PERSONNEL BOARD**

RULES OF PROCEDURE

Adopted March 27, 1984
Last Revised September 15, 2015

PURPOSE AND OVERVIEW

These Rules of Procedure are enacted pursuant to Chapter 2.57 of the San Mateo Municipal Code and are intended to supplement the Boards & Commissions Rules and Procedures adopted by the City Council in light of the specialized and sensitive nature of hearings on personnel matters. The provisions set forth in Article III below apply only to hearings on appeals submitted by any person in the competitive service relative to any disciplinary action, dismissal, demotion, charge of discrimination, or alleged violation of Chapter 2.57, and to the Personnel Board's findings and recommendations.

Article I. COMPOSITION AND DUTIES. The Charter of the City of San Mateo as well as the municipal code regulate the duties and composition of the Personnel Board and state:

Section 1: The San Mateo City Personnel Board will act in an advisory capacity in matters of personnel administration, but its decisions on Appeals under Article VI hereof, shall be final.

Section 2: The Personnel Board shall consist of five (5) members, appointed by a majority vote of the City council for four (4)-year terms. Members of the Board shall be residents of the City and shall not hold any salaried office or employment with the City. No member shall be eligible for reappointment after serving two (2) consecutive four (4) year terms. They shall serve until successors are appointed and qualified.

The seat of the Personnel Board member shall become vacant if a member loses the qualifications for appointment, is convicted of a crime involving moral turpitude, or is absent from three (3) consecutive meetings unless by permission of the Board expressed in its minutes.

Section 3: The board shall:

- a. Hear appeals submitted by any person in the competitive service relative to any disciplinary action, dismissal, demotion, charge of discrimination, or alleged violation of Chapter 2.57.
- b. When new classifications or revisions to existing class specifications are presented to the Board, it shall review said specifications and make appropriate recommendations.
- c. Perform other duties as assigned by the City Council or requested by the City Manager.

Article II. COMMITTEES

Special committees may be appointed by the Chair to serve until the completion of the work for which they were appointed.

Article III. EMPLOYMENT AND LABOR RELATIONS APPEALS

Section 1: PURPOSE

The following procedures have been developed in an attempt to provide information to persons considering and/or filing appeal on issues which are under the jurisdiction of the Personnel Board. It is intended that these appeal procedures provide for an efficient and effective process in order to resolve issues in a fair and expedient manner. These procedures are not intended to, and do not, create substantive rights for the City or its employees.

Section 2: RIGHT TO APPEAL

Rights to appeal shall be governed by the provisions of the Memoranda of Understanding between the City and its employee units.

Section 3: SETTING HEARING DATE

All appeals shall be concluded as expeditiously as possible and are expected to be scheduled within forty-five (45) days of the date of appeal to the Board. The City shall mail written notification to appellant and representative(s) of the date that the appeal has been scheduled not later than two (2) City working days after scheduled.

Hearings may be continued at the discretion of the Board.

Section 4: FAILURE TO APPEAR

If an appellant or his/her representative does not appear either in person, by representative, or affidavit, for a scheduled hearing, the appeal is deemed to be dropped.

Section 5: DOCUMENTATION/WITNESSES

- a. The Board is interested in the orderly and efficient presentation of relevant evidence so that proceedings are not unduly interrupted or delayed as a result of the disorganized or late presentation of material by the parties. To that end, the Board encourages the parties to meet and confer before any hearing to exchange documents and lists of proposed witnesses and to acknowledge those documents, witnesses and/or facts both parties agree should be presented to the Board.
- b. The parties may:
 1. Deliver to the Secretary of the Board a joint statement of matters agreed to at the meet and confer conference.
 2. Prepare copies of documents or materials the party desires to introduce into evidence and deliver such to the Secretary of the Board.

3. Prepare a list of witnesses the party will call to testify, including a brief description of the intended testimony and the estimated time of direct examination and deliver such list to the Secretary of the Board.
 4. Submit to the Secretary of the Board a statement regarding the case not to exceed five (5) double spaced typed pages.
- c. Submission of the documents listed above is not mandatory, but is strongly encouraged. Additional documentation and evidence may be presented at the hearing, but for documents to be included in the packet for review by the Board prior to the meeting, they must be submitted to the Secretary of the Board at least seven (7) calendar days before the hearing.
- d. The Secretary to the Board shall forward the material received to members of the Personnel Board, the Legal Advisor, the department, the appealing employee(s), and any identified representative of the employee(s) or City at least four (4) calendar days before the hearing.

Section 6: HEARING PROCEDURE

- a. In order to be heard, the appellant shall either appear personally, by representative, or affidavit, unless physically unable to do so, before the Personnel Board at the time and place of the hearing. The hearing shall be held in accordance with the Brown Act. The hearing may be held whether or not the appellant is present, providing said appellant is represented as set forth herein.
- b. All witnesses shall testify under the following oath or affirmation to be administered by the recording secretary:

“Do you swear (or affirm) that the testimony you give in the matter now pending before the San Mateo Personnel Board shall be the truth, the whole truth and nothing but the truth?”

At the discretion of the Chair of the Board, the oath may be administered to all witnesses at once prior to receiving any testimony or to each witness as that witness is about to give testimony.
- c. In disciplinary hearings, the City shall present its case first, followed by the employee. In grievance hearings, the grievant shall proceed first. Rebuttal matter, not repetitive, may be allowed at the discretion of the Board. Cross-examination of the witnesses shall be permitted. The conduct and decorum of the hearing shall be under the control of the Chair of the Board, with due regard to the rights and privileges of the parties appearing before it. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The Chair of the Board shall rule on all procedural and evidentiary matters and the Chair’s decision on those matters shall be final.
- d. Closing argument may be made by the parties. The time allotted for argument shall be twenty (20) minutes per side, except that the Board may allow short additional time to either party. The party who is proceeding first may divide the available time between an initial closing argument and a rebuttal; no other rebuttal argument may be made by other parties.

- e. Prior to submission of the matter, or at such other time as directed by the Board, either party may provide proposed written findings to the Board and said findings may be considered and adopted at the Board's discretion.
- f.
 - 1) In the event that five (5) members of the Board are present at the hearing, no action may be taken by the Board unless it is concurred in and adopted by the affirmative votes of at least three (3) members of the Board.
 - 2) In the event that only four (4) members of the Board are present at the hearing and there is a tie vote, i.e., two to two (2-2), the decision shall be "no action." The Board may consider other action to break the tie or may continue the matter until a full Board is available.
 - 3) The Secretary to the Board will attempt to schedule hearings where all members of the Board are present. If the hearing cannot be scheduled within forty-five (45) days for four (4) or more Board members to be present, it shall proceed with three (3) Board members.
 - 4) Continuances of scheduled hearings shall be granted only for good cause in the discretion of the Secretary to the Board, or on call of the Chair or any three (3) members of the Board.
 - 5) In no event shall the refusal to continue the hearing to a time when more than three (3) Board members are present be grounds to set aside the Board decision. A majority of the quorum is required to take "action."

Section 7: FINDINGS AND CONCLUSIONS

The Personnel Board may state its conclusions, including its decision regarding the appeal and penalty, and may state findings at the conclusion of the hearing. The board may ask that findings and a statement of decision be prepared consistent with its decisions. The decision of the Board is final when findings and the statement of decision are signed by the Chair or the Vice-Chair if the Chair is not able to sign them. The decision of the Personnel Board shall be the final administrative decision and conclusive.

Revised 6/85
Revised 1990
Revised 1993
Revised 6/96
Revised 7/01
Revised 2/06
Revised 10/11
Revised 09/15