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# CITY OF SEATTLE
# CIVIL SERVICE COMMISSION

# RULES OF PRACTICE AND PROCEDURE

**Adopted September 17, 2026**

**Commissioners**

Denise Wells, Chair

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Steve Zwerin

# Civil Service Commission
# Rules of Practice and Procedure
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# Rules of Practice and Procedure

City of Seattle
**CIVIL SERVICE COMMISSION**
**Adopted September 17, 2026**

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## I. GENERAL PROVISIONS

### 1.01 AUTHORITY AND APPLICATION

These rules ("Rules") are promulgated under the authority granted by Article XVI of the Charter of the City of Seattle, the 1978 City of Seattle Personnel Ordinance (Ordinance 107790 and Chapter 4.04 of the Seattle Municipal Code, as amended) and the Administrative Code of the City of Seattle (Chapter 3.02 SMC).

### 1.02 SCOPE AND PURPOSE

These Rules govern the administration of the Civil Service Commission ("Commission") and all matters within the jurisdiction of the Commission.

### 1.03 WAIVER

The Commission may waive the requirements of any of these Rules by a majority vote.

### 1.04 JURISDICTION OF THE CIVIL SERVICE COMMISSION

The Commission's scope of authority relates specifically to matters involving the City's classified civil service system, not including employees in the City's Public Safety Civil Service System. The Commission's jurisdiction is limited to the Seattle City Charter provisions, Seattle Municipal Code provisions, and City ordinances directly pertaining to the administration of the classified civil service system, as well as what is described in these Rules.[1]

### 1.05 PREEMPTION

If any of these Rules or part of these Rules conflict(s) with a provision of the Seattle City Charter, the Seattle Municipal Code, a City ordinance, Washington state law, or a collective bargaining agreement under Chapter 41.56 RCW, then the Charter, Seattle Municipal Code, City ordinance, Washington state law, or collective bargaining agreement provision shall govern, to the extent required by law. The validity of these Rules which are not preempted shall not be affected thereby.

## II. ADMINISTRATION AND OPERATIONS

### 2.01 MEETINGS – QUORUM

**A.** The Commission shall meet monthly unless there is no pending business requiring Commission action. Members may attend by electronic means. Parts of the meetings that are open to the public shall be voice recorded. The Commission may schedule special meetings.

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[1] See, e.g., *Patton v. Wheelon*, 65 Wn.2d 320, 325 (1964).

**B.** Two members of the Commission shall constitute a quorum. Unless otherwise provided for in these Rules, no action of the Commission shall be effective unless two members concur.

## 2.02 COMMISSIONERS AND PRESIDING OFFICERS – ETHICS AND QUASI-JUDICIAL CANONS

**A.** Ethics. Commissioners and Presiding Officers shall abide by the City of Seattle Code of Ethics, Chapter 4.16 SMC, and training received on its requirements.

**B.** Quasi-Judicial Canons. Commissioners and Presiding Officers should endeavor to uphold and promote the independence, integrity, and impartiality of the Commission. Descriptions and requirements related to quasi-judicial proceedings (e.g., hearings) are set forth in Section 5 of these Rules.

## 2.03 SELECTION OF TEMPORARY COMMISSIONER

**A.** If a Commission seat is vacant by a Commissioner's recusal or disqualification, or because a Commissioner is otherwise unable to serve, the Commission may appoint a temporary Commissioner as provided in SMC 4.04.265.

**B.** The Executive Director or Commission may select a former Commissioner or other person to serve as a temporary Commissioner. The appointee must meet the eligibility requirements established in SMC 4.04.250.

**C.** The Executive Director may propose and the Commission may adopt a roster of individuals willing and eligible to serve as temporary Commissioners, from which the Commission may select a temporary Commissioner.

**D.** If the Commission appoints a temporary Commissioner under SMC 4.04.265, it shall do so by formal motion and vote in accordance with the procedures set forth in SMC 4.04.265. The Commission shall enter a written order identifying the name of the appointee and the scope and duration of the temporary appointment.

## 2.04 SELECTION OF CHAIR

The Chair shall be elected from among the Commissioners by majority vote for a one year term. A Commissioner may serve two consecutive terms as Chair.

## 2.05 DUTIES OF THE CHAIR

The Chair:

**A.** Shall preside over Commission meetings.

**B.** Shall rule on matters of parliamentary procedure.

**C.** Shall act as primary supervisor for the Executive Director.

**D.** May sign correspondence on behalf of the Commission.

### 2.05.1 ACTIONS OF THE CHAIR

The Chair's actions are subject to review and modification by a majority vote of the full Commission.

### 2.05.2 DELEGATION OF CHAIR'S DUTIES

In the absence of the Chair, the Chair's authority shall be delegated to another member of the Commission.

## 2.06 DUTIES OF THE EXECUTIVE DIRECTOR

The Executive Director shall:

**A.** Be the general manager and executive officer of the Civil Service Commission, responsible to and as directed by the Commission. Implement Commission administered ordinances, Rules, and policies.

**B.** Appoint and remove staff, delegate duties where necessary, and supervise and direct their work.

**C.** Make and enforce contracts.

**D.** Prepare and draft the budget for the department, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the department. Disburse Commission funds as authorized by its budget and by law; and deposit funds received into the City Treasury.

**E.** Coordinate with other City agencies.

**F.** Conduct education, assistance, and information programs and propose policy related matters for the Commission's review.

**G.** Process the delegation of appeals to the Hearing Examiner upon a vote of approval by the Commission to make such a delegation.

**H.** Prepare subpoenas for documents and witnesses.

**I.** Issue orders on preliminary matters, such as hearing dates and times, dismissals in accordance with Rule 5.03, and continuances for the Commission.

**J.** Sign orders, correspondence, and other documents as authorized by the Commission, the Commission Chair, or a Presiding Officer.

**K.** Conduct prehearing conferences to identify and simplify issues of appeals and encourage resolution of contested matters.

**L.** Prepare the record of proceedings for review by the Commission.

**M.** If needed, the Executive Director shall schedule a special meeting in order for the Commission to decide who shall hear an appeal or how to proceed with an appeal.

**N.** Perform all other functions necessary for the proper carrying out of these Rules and such additional duties as assigned by ordinance or by the Commission.

### 2.07 OFFICE LOCATION

The office and post office address of the Civil Service Commission is: 700 Fifth Avenue, Suite 1670, P.O. Box 94729, Seattle, Washington, 98124-4729. The regular schedule of the Commission staff shall be Monday through Friday, excluding official City holidays, as staffing permits.

### 2.08 PUBLIC RECORDS

The Commission is subject to the Public Records Act (Chapter 42.56 RCW). The Commission operates consistent with the Public Records Act, as well as with the Citywide Policy on Public Disclosure which are rules and regulations implemented by the City to provide public access to public records, protect records from damage or destruction, and prevent excessive interference with other essential functions of City government.

### 2.09 COMMISSIONER HOLDOVER IN OFFICE

A Commissioner whose current term has expired shall continue to hold office on an interim basis until a successor has been appointed or elected in accordance with SMC 4.04.250.[2] However, holdover is at the Commissioner's option and as such a Commissioner can choose not to continue in office after the expiration of their term of office.

## III. DEFINITIONS

**Appeal** shall mean a challenge to a decision or other action the Commission or Hearing Examiner is authorized to review and decide.

**Appellant** shall mean the person or entity that filed the appeal with the Civil Service Commission.

**Burden of proof**, as a general matter, shall mean the burden of producing evidence sufficient to avoid a dismissal or judgment as a matter of law, as well as the burden of persuading the factfinder or trier of fact on the factual issues. In the context of these Rules, it also refers to *who* has the burden of making a showing of the requisite proof to establish the validity of the subject action or to establish an alleged violation. In this context, the burden will either be on the Department, or it will be on the Appellant or Complainant.

**Business day** shall mean Monday through Friday, excluding official City holidays.

**Charter** or **Seattle City Charter** shall mean the Charter of the City of Seattle.

**City** shall mean the City of Seattle.

**Code** shall mean the Seattle Municipal Code.

[2] See, e.g., Article XIX, Section 9, of the Seattle City Charter.

**Commission** shall mean the Civil Service Commission.

**Days** shall mean calendar days, unless indicated otherwise in these Rules.

**Demotion** shall mean the movement of an employee from such employee's current classification to a classification with a lower maximum salary rate, for justifiable cause.

**Department** shall commonly mean the City entity responsible for the decision or action that is subject to appeal.

**Discovery** shall mean the disclosure by one party to another party of documents and information relevant to an appeal, or which are reasonably calculated to lead to documents and information relevant to an appeal. Discovery is the process of prehearing fact-finding through the use of certain methods commonly used in civil litigation, including but not limited to written interrogatories, deposition of witnesses (oral and written), requests for documents and information, and requests for admissions.

**Ex parte communication** shall mean a direct or indirect communication between the Commission or Hearing Examiner and a proponent, opponent, or a party, made outside a hearing or scheduled conference, and outside the presence of all other parties, regarding the merits of a matter pending before the Commission or Hearing Examiner.

**Hearing Examiner** shall mean the official the City Council appointed per Chapter 3.02 SMC to serve as the City's Hearing Examiner. In these Rules, the terms "Hearing Examiner" and "Examiner" are used interchangeably to refer to the Hearing Examiner, a Deputy Hearing Examiner, or Hearing Examiner Pro Tempore to whom the Hearing Examiner has delegated authority to preside over a particular matter.

**Justifiable cause** shall generally have the meaning set forth in the Personnel Rules. Consistent with what is stated in Personnel Rule 1.3.2, a regular employee may be terminated, demoted, or suspended only for justifiable cause, and this standard requires that:

1. The employee was informed of or reasonably should have known the consequences of their conduct;
2. The rule, policy, or procedure the employee violated is reasonably related to the employing unit's safe and efficient operations;
3. A fair and objective investigation produced evidence of the employee's violation of the rule, policy, or procedure;
4. The rule, policy, or procedure and penalties for the violation thereof are applied consistently; and
5. The termination, demotion, or suspension is reasonably related to the seriousness of the employee's conduct and their previous disciplinary history.

**Law** shall mean federal or state statute or regulation; the Seattle City Charter; the Seattle Municipal Code; City ordinance, rule, or regulation; case law; or common law.

**Motion** shall mean a formal request presented, either in writing (and clearly identified as a motion) or orally during a proceeding, to the Commission or Hearing Examiner for an order or other ruling.

**Order** shall mean a Commission or Hearing Examiner ruling, instruction, or other directive issued in response to a motion, or on Commission or Hearing Examiner initiative.

**Original appeal** shall mean an appeal brought by a regular employee to challenge a decision or other action the Commission or Hearing Examiner is authorized to review and decide, and it *shall not include* situations described in Section VI of these Rules in which the Commission has delegated an appeal matter to the Hearing Examiner and a party has appealed the Hearing Examiner's final decision to the Commission.

**Party** shall mean the Appellant or Respondent for the appeal.

**Personnel Rules** shall mean the official Personnel Rules of the City of Seattle, adopted pursuant to SMC 4.04.050. Reference to a specific rule within the Personnel Rules shall also include capitalization such as, for example, Personnel Rule 1.4.

**Prejudice** to a party shall mean as determined by the Commission or Hearing Examiner an impairment of a legal interest, legal claim, or legal argument, including but not limited to serious delay**,** or preclusion from being able to raise an argument or effectively participate in a hearing.

**Preponderance of the evidence** shall mean that it more likely true than not (more than 50% likely) that the subject action occurred or the alleged violation occurred as described. For example, in cases of termination, demotion, or suspension, if the Department must show by a preponderance of the evidence that the Department's decision or action was with justifiable cause, the Department is required to show that it is more likely true than not that the Department acted with justifiable cause in making the subject decision and taking the subject action.

**Presiding Officer** shall mean the Hearing Examiner to whom the Commission has delegated the authority to preside over an appeal in accordance with Article XVI of the Seattle City Charter, or the member of the Commission assigned to preside over an appeal. If the Commission is conducting an original appeal, the Executive Director shall be the Presiding Officer for prehearing matters, including but not limited to discovery, continuances, protective orders, and subpoenas, as well as conducting prehearing settlement conferences to encourage resolution of contested matters. Alternatively, if the Commission has delegated an original appeal to the Hearing Examiner, the Hearing Examiner shall be the Presiding Officer for all prehearing and other matters related to the original appeal.

**Remand** shall mean to send a decision back to the appropriate authority, such as the Presiding Officer or Department, for further proceedings, for additional review, or to otherwise take action consistent with the decision of the Commission or Hearing Examiner.

**Representative** shall mean the attorney or other individual chosen by the Appellant or Respondent to represent them in the appeal process.

**Respondent** shall mean the person or entity that the appeal is filed against. Generally this is a City Department or office.

**Standard of proof** shall mean the level of proof that must be shown by the party which has the burden of proof. Unless indicated otherwise in these Rules, the standard of proof is a preponderance of the evidence.

**Standard of review** shall mean the standard that is used by the Commission to evaluate the decision of the Hearing Examiner, including as relates to findings of fact and conclusions of law, in situations in which the Commission has delegated an original appeal to the Hearing Examiner and one of the parties has appealed the Hearing Examiner's final decision to the Commission. The standard of review for such appeals is set forth in Rule 6.07.

**Substantial evidence** shall mean a sufficient quantity of evidence to persuade a fair-minded, rational person of the truth of the finding or conclusion based on the whole record at issue.

**Suspension** shall mean the temporary discontinuation without pay of an employee from employment for a specified period of time, for justifiable cause.

**Termination** shall mean discharge or separation from employment, for justifiable cause.

## IV. POLITICAL PATRONAGE PROCEEDINGS

### 4.01 POLITICAL PATRONAGE – SCOPE

Commission staff shall investigate any complaints alleging that the Mayor, a City Councilmember, or member of their immediate staff has initiated a recommendation regarding a candidate for City employment, or that such person has used inappropriate pressure to effect the hiring of any candidate for City employment.

### 4.02 POLITICAL PATRONAGE – INAPPROPRIATE PRESSURE

Inappropriate pressure includes any suggestion (either by oral or written communication) to a City employee, the effect of which would:

**A.** Preclude job advertising for, or open consideration of, qualified applicants; or

**B.** Result in the selection of an employee for reasons other than relative ability, knowledge, and skill.

### 4.03 POLITICAL PATRONAGE HEARING

Commission staff shall report the results of its investigation to the Commission. The Commission, upon review of the report, may dismiss the complaint or set the matter for a full hearing.

## V. APPEALS

### 5.01 APPEALS – TYPES

**A.** Disciplinary Appeals – Any regular employee who is demoted, suspended, or terminated may appeal such action to the Commission.

**B.** Probationary Appeals – Any employee alleged to be probationary by the disciplining Department may appeal to the Commission the question of the employee's probationary status and whether the procedures for discharge of probationers, as found in the Personnel Rules, were properly followed.

**C.** Other Appeals – Any regular employee aggrieved by an alleged violation of Chapter 4.04 SMC or the rules passed pursuant thereto may appeal to the Commission, provided that the employee first exhausts the interdepartmental grievance remedies under SMC 4.04.240 and in Personnel Rule 1.4.

## 5.02 APPEALS – TIME – FORM

An employee must first exhaust the Employee Grievance Procedure as described in SMC 4.04.240 and Personnel Rule 1.4 before filing an appeal with the Civil Service Commission. If the employee exhausts the grievance procedure and remains dissatisfied with the outcome of an action that falls within the jurisdiction of the Civil Service Commission, the employee may file an appeal.

The appeal must comply with the requirements of SMC 4.04.260 and these Rules, including that the Notice of Appeal must be filed within **twenty (20) calendar days** of the Step 3 grievance response, such that the response is the appointing authority's final written response to the employee's grievance under SMC 4.04.240. The 20 day limit for filing appeals begins to run on the date of delivery of the notice provided by SMC 4.04.240. "Date of delivery" means the date the notice is personally delivered to the employee or the third day after the date of mailing if the notice is mailed to the address shown on departmental records as the employee's most recent residence address or as the address supplied by the employee for receiving notices.

The Notice of Appeal shall be submitted in writing electronically and include the mailing address and email address where process and other papers may be served upon the Appellant.

The Notice of Appeal shall also contain a brief description of the grievance process and Step 3 grievance outcome, and a concise statement of the reason for the appeal, including what the Appellant believes was the error or problem with the Step 3 grievance outcome. Forms provided by the Commission may be used for such notice but are not required; however, the Appellant should provide all the information requested in the Notice of Appeal form.

In the Notice of Appeal form, the Appellant shall specify ***which*** City rule, City ordinance, City regulation, or provision of the Seattle City Charter or Seattle Municipal Code is allegedly violated, and ***how*** that rule, ordinance, regulation, or provision has allegedly been violated, with the understanding that the Commission's scope of authority relates specifically to matters involving the City's civil service system. For example, if the Appellant is alleging a violation of a rule that is part of the Personnel Rules, the Appellant shall specify each specific rule that has allegedly been violated and how each such rule has allegedly been violated. A failure to provide such specificity shall be grounds for dismissal.

## 5.03 APPEALS – INITIAL REVIEW

The Executive Director shall review all appeals to determine whether the employee has timely filed an appeal, whether the employee has exhausted the Employee Grievance Procedure, and if the appeal falls within the Commission's jurisdiction. If the Executive Director determines that an appeal is untimely, premature, or not within the Commission's jurisdiction, the Executive Director shall dismiss the appeal by a dismissal order stating the reasons for the dismissal. Decisions by the Executive Director may be appealed to the Commission within **twenty (20) calendar days** after the date of the order.

## 5.04 ARBITRATION – EFFECT

Pursuant to Article XVI, Section 6, of the Seattle City Charter, an appeal shall be dismissed if the subject of the appeal has previously been the subject of binding arbitration under a labor contract. Pursuant to SMC 4.04.260, by submitting the same complaint to binding arbitration provided by a collective bargaining agreement, the employee waives their right to an appeal, and an appeal filed that is subject to this provision shall be dismissed.

## 5.05 REFERRAL

An appeal or complaint alleging a violation of law related to employment enforced by another City agency shall be referred, in whole or in part, by the Commission to the agency of the City having jurisdiction over such alleged violation. As set forth in SMC 4.04.260, this includes complaints alleging discrimination in violation of Chapter 14.04 SMC, and such complaints shall be referred by the Commission to the rights agency of the City having jurisdiction over such complaints for its recommendation as to appropriate settlement of the case. As a general matter, the City's Office for Civil Rights has sole jurisdiction over discrimination issues in this referral context, recognizing, however, that there could be factual situations in which just cause factors are severable from a discrimination analysis.[3] The Commission in its discretion may stay the portion of the matter that is in its jurisdiction until the referred matter is resolved.

If the issue of an appeal falls under the jurisdiction of the Commission and another City agency having jurisdiction and the issues can be clearly separated, the Commission shall process the portions of the matter that are within the Commission's jurisdiction.

## 5.06 NOTIFICATION

If the appeal meets initial jurisdictional requirements and has not been dismissed or referred, the Executive Director shall send a letter of receipt and a copy of the Notice of Appeal to the Parties with a copy to the Seattle Human Resources Director.

## 5.07 APPEALS, REPRESENTATION OF APPELLANT

As set forth in SMC 4.04.260, an Appellant may be represented at a hearing before the Commission by a person of their own choosing at their own expense.

Individuals representing a party shall serve the Presiding Officer and the other party with a Notice of Appearance as early as possible in the proceedings after representation is retained.

When a party consists of more than one individual, or is a group, organization, corporation, or other entity, the party shall designate an individual to be its representative and inform the Presiding Officer of the name, address, telephone number, and email address of that designated representative. The person designated as the party representative shall exercise the rights of such Appellants. Notice or other communication to the party representative is notice or communication to the party.

[3] See, e.g., *Hemmelgarn v. City of Seattle, Fleets and Facilities*, CSC No. 10-01-004 (2011).

## 5.08 HEARINGS

Consistent with Article XVI, Section 6, of the Charter and SMC 4.04.250, the Commission may itself hear an appeal, or may delegate its powers to hear an appeal, in whole or in part, to the Hearing Examiner. If the Commission has delegated an appeal to the Hearing Examiner, the final decision of the Hearing Examiner may be appealed to the Commission by either party and it is expected that the Hearing Examiner will adhere to these Rules as relates to appeal hearing proceedings. Hearings shall be conducted and concluded in a timely manner and at all stages of the appeal process parties shall make a good faith effort to avoid delays.

### 5.08.1 WHEN THE COMMISSION CONDUCTS THE HEARING – PRESIDING OFFICER

The Commission may designate one of its members to serve as the Presiding Officer for the case. The Presiding Officer shall rule on all prehearing and other matters. The Presiding Officer may delegate prehearing matters, in whole or in part, and including decision-making regarding such matters, to the Executive Director. If the Commission does not designate a Presiding Officer for a case, the Chair shall serve as Presiding Officer.

### 5.08.2 WHEN THE HEARING EXAMINER CONDUCTS THE HEARING – PRESIDING OFFICER

The Hearing Examiner shall serve as the Presiding Officer for the case. The Presiding Officer shall rule on all prehearing and other matters.

### 5.08.3 APPEARANCE OF FAIRNESS IN QUASI JUDICIAL PROCEEDINGS

**A.** Quasi-judicial proceedings, including disciplinary hearings, shall be conducted in accordance with the appearance of fairness doctrine, codified at Chapter 42.36 RCW.

**B.** Under the appearance of fairness doctrine, the test is whether " 'a disinterested person, having been apprised of the totality of a [commissioner's] personal interest in a matter being acted upon,' " would be " 'reasonably justified in thinking that partiality may exist.' " *Bunko v. City of Puyallup Civ. Serv. Comm'n*, 95 Wn.App. 495, 503 (1999) (alteration in original) (quoting *Swift v. Island County*, 87 Wn.2d 348, 361 (1976)). "The party asserting a violation of the doctrine must produce sufficient evidence demonstrating bias, such as personal or pecuniary interest on the part of [a] commissioner; mere speculation is not enough." *Id*.

**C.** Requirement to Disclose Actual or Potential Conflicts of Interest. To avoid procedural unfairness or the appearance of unfairness in the conduct of quasi-judicial proceedings, Commissioners and Presiding Officers shall, prior the commencement of the proceeding, consider and disclose any actual or potential conflicts of interest of which they are aware.

**D.** Recusal. A Commissioner or Presiding Officer shall recuse themselves in any quasi-judicial proceeding over which they cannot preside impartially. For example, if a Commissioner or Presiding Officer has personal knowledge of facts which are in dispute in the proceeding, or has a financial interest in the proceeding, and that Commissioner or Presiding Officer cannot be impartial in

the proceeding, then they must recuse. Any Commissioner or Presiding Officer may be recused by filing with the Executive Director a certification of recusal citing the reasons they are not able to preside with impartiality.

**E.** Parties' Challenge of a Commissioner or Presiding Officer. Any party's challenge to a Commissioner's or Presiding Officer's participation in a proceeding shall be made by written affidavit or declaration at least fourteen (14) days prior to the beginning of a hearing, or as soon as the basis for the challenge is or could with reasonable diligence have been known by the party making the challenge. The affidavit or declaration shall state the facts and reasons for the belief that bias or prejudice exists. If the affidavit is filed fewer than fourteen (14) days prior to the hearing, then good cause shall be shown for the untimely filing. Failure to raise a challenge in a timely manner is a waiver of the challenge.

**F.** Commissioner's or Presiding Officer's Response to Challenge. The Commissioner or Presiding Officer against whom the affidavit or declaration is so filed may answer the affidavit or declaration or may file a disqualifying certificate with the Commission.

**G.** Disqualification by Commission Vote. The Commission may, by majority vote, disqualify a challenged Commissioner or Presiding Officer from further participation in a proceeding if it finds that the Commissioner's or Presiding Officer's participation would constitute a conflict of interest.

**H.** Prohibited Reasons for Challenging the Employee-Elected Commissioner. Rule 5.08 does not require an employee-elected Commissioner to disqualify themself from any matter because of their civil service status, union membership or activity, or the fact that they are employed by the City of Seattle.

**I.** Appearance of Fairness Challenge and Rule of Necessity. If an appearance of fairness challenge is brought regarding a Commissioner, and if, as a result of disqualification(s) pursuant to Rule 5.08, there is no longer a lawfully constituted quorum of the Commission available or disqualification would result in a failure to obtain a majority vote, then by reason of necessity the disqualified Commissioner(s) shall return and proceed with the hearing, if the Commissioner(s) publicly disclose(s) the basis for disqualification prior to rendering a decision. Alternatively, if an appearance of fairness challenge is brought regarding a Hearing Examiner who is Presiding Officer, another Hearing Examiner in the Office of Hearing Examiner will replace the disqualified Examiner and act as Presiding Officer for the proceeding.

### 5.08.4 EX PARTE COMMUNICATIONS AND QUASI-JUDICIAL PROCEEDINGS

**A.** Ex parte communication is prohibited. No interested person, party, or representative shall communicate ex parte directly or indirectly with the Commission or Presiding Officer concerning the merits or facts of any quasi-judicial matter involving an appeal to the Commission.

**B.** This rule does not prohibit ex parte communications about procedural topics, nor does it apply to written submissions made for the record and available to all participants.

**C.** If a prohibited ex parte communication occurs, the Presiding Officer shall promptly and publicly disclose the communication to both parties and provide the parties with an opportunity to review and rebut it.

## 5.09 COMPUTATION OF TIME

In computing any period of time prescribed or allowed by these Rules or by any applicable statute as relates to all matters before the Commission or the Hearing Examiner, and except as otherwise provided by the Code, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a City legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a City legal holiday.

## 5.10 FILING AND SERVICE OF DOCUMENTS

**A.** Manner of Service and Filing of Documents. Documents must be served and filed with the Presiding Officer electronically, unless specified otherwise by the Presiding Officer.

**B.** Timing of Delivery and Receipt of Documents. Documents must be filed and served with the Presiding Officer by 5:00 PM, unless otherwise specified by the Presiding Officer. Documents received after 5:00 PM will be deemed received on the next business day. Email timestamps shall determine timeliness.

**C.** Courtesy Copies. At the time of filing, a party filing any document with the Presiding Officer shall also serve the opposing party with a copy of the document by electronic copy.

**D.** Matters Delegated to Hearing Examiner. For matters delegated to the Hearing Examiner, filing and service shall comply with the Hearing Examiner Rules of Practice and Procedure for filing and service (HXM 3.03 or as amended).

## 5.11 PREHEARING CONFERENCE (Considerations)

The Presiding Officer may on their own order, or at the request of a party, hold a prehearing conference prior to the hearing to consider:

**A.** Identification, clarification, and simplification of the issues;

**B.** Potential for mediation or settlement;

**C.** Disclosure of witnesses and exhibits;

**D.** Discovery;

**E.** Motions; and

**F.** Other matters deemed by the Presiding Officer appropriate for the orderly and expeditious disposition of the proceedings.

### 5.11.1 PREHEARING CONFERENCE (Scheduling, Attendance, and Order)

**A.** If the Commission is hearing the case, the Executive Director shall schedule and preside over all prehearing conferences.

**B.** If the Hearing Examiner is hearing the case upon delegation of the original appeal from the Commission, the Hearing Examiner shall preside over all prehearing and other matters related to the original appeal.

**C.** Prehearing conferences may be held by telephone conference call, in person, video conference, or other electronic means as specified by the Presiding Officer.

**D.** The Presiding Officer shall give notice orally or in writing to all parties of any prehearing conference.

**E.** All parties shall be present at any prehearing conference unless they waive the right to be present or are represented and granted permission by the Presiding Officer not to attend.

**F.** Following the prehearing conference, the Presiding Officer may issue an order reciting the actions taken or ruling on motions made at the conference.

## 5.12 OATH OR AFFIRMATION

**A.** All testimony before the Presiding Officer shall be taken under oath or affirmation to tell the truth.

**B.** Every interpreter, before beginning to interpret, shall take an oath that a true interpretation shall be made that is understandable for the person needing the interpreter and that the interpreter shall repeat statements in English to the Presiding Officer, to the best of the interpreter's ability.

## 5.13 WITNESSES AND TESTIMONY

**A.** Witness List Exchange. Parties shall exchange, review, discuss, and agree upon witness lists no less than two (2) weeks prior to any scheduled prehearing conference or hearing, unless a different time period is specified in the hearing scheduling or prehearing order.

**B.** Attorney-Client Privilege. The rules of attorney-client privilege apply to the extent recognized by law.

**C.** Public Access and Non-Party Testimony. Hearings are open to the public. However, in appeal hearings, individuals who are not parties are not permitted to testify unless called as witnesses.

**D.** Testimony. The Presiding Officer may limit the length of testimony to expedite proceedings and avoid the necessity to continue the hearing, consistent with the requirements of due process. Maximum practicable advance notice will be provided if such time limitations are to be imposed. If parties are unable to complete their arguments and testimony within the allotted time, an opportunity will be granted to submit written materials after the close of the hearing; other

parties will be allowed an opportunity to offer written rebuttal to any such materials.

**E.** Cross-Examination. All witnesses are subject to cross-examination by the other party.

1. Cross-examination is limited to direct testimony subject matter, the foundation for opinions and statements, and to determine any bias, conflict of interest, or any other issue that reflects on credibility and is relevant to the appeal.

2. Expert witnesses may also be subject to cross-examination on the sufficiency of their qualifying credentials, as well as related to their opinions and the basis for such opinions.

3. The Presiding Officer will prohibit irrelevant, cumulative, unduly repetitious, argumentative, or abusive cross-examination.

4. Only one person representing each party may cross-examine a witness. In cases with multiple parties with shared interest, the Presiding Officer may place limits on the cross-examination of an individual witness by such parties to protect against undue repetition in the questions being asked.

5. A party may seek re-direct testimony after cross-examination. Re-direct is limited to the subjects addressed during cross-examination.

6. The Presiding Officer may limit cross-examination of opinion testimony offered by an interested person who does not claim to be an expert.

7. The Presiding Officer may establish reasonable time limits for cross-examination, consistent with the requirements of due process.

**F.** Remote Testimony and Electronic Evidence. At the discretion of the Presiding Officer, or where the parties agree and the rights of the parties will not be prejudiced, the Presiding Officer may allow evidence presented via electronic means. Each party must be able to hear (or hear and see, if available) the testimony and to question the witness.

For witnesses appearing remotely:

1. The party calling the witness shall be responsible for providing necessary exhibits to the witness in advance of their testimony, and shall provide a copy of all exhibits to opposing counsel, per the case schedule.

2. The party calling the witness shall ensure phone and email communication with the witness is available during the hearing, as set forth in the case schedule order issued by the Presiding Officer.

## 5.14 MOTIONS

**A.** All motions shall state the order or relief requested and the grounds for the motion. All motions other than those made at a prehearing conference or during a hearing shall be written, and the filing shall be identified as a motion for consideration by the Presiding Officer. Each party representative shall receive every motion, answering statement, and accompanying papers on the day it is filed with the Presiding Officer.

**B.** Within **seven (7) calendar days** after service of any written motion, or such longer or shorter period as may be designated by the Presiding Officer, the other party shall file a written answer. When the Presiding Officer has received the answering statement(s), or the **seven (7) calendar days** or other period designated by the Presiding Officer has elapsed, the Presiding Officer shall rule on the motion. Failure of a party to file a timely response may be considered by the Presiding Officer as evidence of that party's consent to the motion, and failure to respond to an issue raised in the motion may constitute a waiver of that issue.

**C.** The Presiding Officer may authorize a reply or other additional briefing. Where the Presiding Officer has not yet determined if a party may file a reply, such parties should request a determination prior to filing a reply.

**D.** The Presiding Officer may call for oral or written argument prior to ruling. Parties may request oral argument on a motion. The Presiding Officer has discretion to grant or deny the request. Parties are not entitled to oral argument on motions.

**E.** The Presiding Officer may rule upon motions orally, except for motions that are fully dispositive of a case.

**F.** Written decisions on motions do not require findings and conclusions to be made in support of the decision, except for motions that are fully dispositive of a case.

**G.** If a schedule for filing motions and related briefing is established by order of the Presiding Officer, motions to dismiss some or all of an appeal may not be filed at any other time without permission of the Presiding Officer.

**H.** Motions to dismiss all or part of an appeal, other dispositive motions, and motions to exclude evidence (testimony or exhibits) prior to the hearing shall be in writing and shall be filed as set forth in the case schedule order issued by the Presiding Officer to allow time for the other party to respond. The Presiding Officer shall have discretion to adopt reasonable deadlines and to adjust those deadlines if good cause is shown.

**I.** Motion to Dismiss. A party may move to dismiss an appeal, in whole or in part, if:

1. The Appellant lacks standing to appeal the decision or action being challenged;

2. The appeal was not filed before the appeal deadline, or does not otherwise conform to appeal requirements;

3. The Presiding Officer lacks jurisdiction, in whole or in part, over the appeal or;

4. Other grounds established by law exist.

**J.** Motion for Summary Judgment. A party may move for summary judgment on an appeal or claim with permission of the Presiding Officer, and if:

1. There is no genuine issue of material fact; and

2. The moving party can show that when the law is applied to those facts, the party is entitled to judgment on the claim or claims.

The schedule for filing and responsive briefing for a summary judgment motion will be set by the Presiding Officer and will generally exceed the deadlines set for other motions.

**K.** A primary purpose of prehearing motions is to enhance hearing efficiency. Where filing of a motion will cause delay or inefficiency, the Presiding Officer may prohibit or deny the motion.

**L.** Orders on motions may result in the dismissal of all or part of a matter without an in-person hearing.

## 5.15 EVIDENCE

**A.** Parties shall exchange, review, discuss, and agree where possible upon exhibits and witness lists no less than two (2) weeks prior to any scheduled prehearing conference or hearing, unless another time period is specified in the hearing or prehearing order.

**B.** Subject to other provisions of these Rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of evidence, the Presiding Officer may consider, but shall not be bound to follow, the Washington State Rules of Evidence (i.e., the rules of evidence governing civil proceedings in the superior courts of the State of Washington). Where the Rules of Evidence conflict with these Rules or the Code, these Rules or the Code shall take precedence.

**C.** The Presiding Officer may exclude evidence that is irrelevant, unreliable, immaterial, unduly repetitive, or privileged.

**D.** Documentary evidence may be received in the form of copies or excerpts. The Presiding Officer may require that the parties are given an opportunity to compare the copy with the original, and all parties must make the complete document from which an excerpt is taken available for inspection.

**E.** If the Commission is hearing the appeal, each party shall provide six (6) copies of all filings on the date specified in the hearing or prehearing order. If the Hearing Examiner is hearing the appeal, then each party shall provide three (3) copies of all filings.

**F.** Electronic copies of Exhibits. Each party to the appeal shall send electronic copies of exhibits it intends to submit as evidence to the Presiding Officer and other parties, with receipt by the Presiding Officer and other parties no later than fourteen (14) days before the hearing, unless another time period is specified in the hearing or prehearing order.

**G.** Documents submitted as exhibits must be legible. Unless challenged for authenticity and found unreliable by the Presiding Officer, documents may be received in their entirety or as excerpts. The Presiding Officer may require that the parties be given an opportunity to compare the copy with the original, and that the complete document from which an excerpt is taken be made available for inspection.

**H.** All evidence that a party plans to submit at hearing shall be exchanged with all other parties to the appeal, except as otherwise agreed by the parties or ordered by the Presiding Officer. Any evidence offered at the hearing that was not disclosed by the party offering it may be excluded, unless the Presiding Officer permits it for impeachment purposes, or the party demonstrates extenuating circumstances apply.

**I.** The Presiding Officer may exclude any evidence imposing an unreasonable custodial burden. The Presiding Officer may require substitute photographs, reduced-sized copies, or written or oral descriptions.

**J.** Copies of any screen presentation, such as PowerPoint, must be provided as specified above.

**K.** Exhibits submitted for the record will not usually be returned.

**L.** The Commission, or the Hearing Examiner if the Commission has delegated the original appeal to the Hearing Examiner, must base their final decision regarding the appeal solely on evidence introduced at the hearing, rather than upon the information or experience of Commissioners or the Hearing Examiner. As a general matter, the Commission or Hearing Examiner cannot act upon their own information, and nothing can be considered as evidence that was not introduced at the hearing of which the parties had notice or at which the parties were present.[4]

## 5.16 OFFICIAL NOTICE

**A.** The Presiding Officer may take official notice of judicially cognizable facts. In addition, the Presiding Officer may take notice of general, technical, or scientific facts within their specialized knowledge.

**B.** Parties must be notified during the hearing, or before issuance of the decision, of the specified facts or material noticed and the source thereof, and afforded an opportunity to contest or rebut the facts or material so noticed. The Presiding

[4] See, e.g., *City of Seattle, Seattle Police Dept. v. Werner*, 163 Wn.App. 899, 908 (2011).

Officer shall not take such notice of disputed adjudicative facts that are material to an appeal.

**C.** A Presiding Officer ruling, decision, or recommendation may refer to and utilize any part of the law and any issued Commission decision.

## 5.17 CONTINUING OR REOPENING HEARING

**A.** A scheduled hearing may be continued for good cause as determined by the Presiding Officer. Written notice of the date, time, and place of the continued hearing shall be provided to each party. The notice of a rescheduled hearing need not observe the time requirements to which the original notice was subject.

**B.** Prior to the issuance of the subject decision, the Presiding Officer may continue or reopen proceedings for good cause and may permit or require written briefs or oral argument.

**C.** If the Presiding Officer determines at hearing that there is good cause to continue such proceeding and then and there specifies the date, time, and place of the new hearing, no further notice is required.

**D.** If a matter is reopened after conclusion of the hearing, parties shall be provided at least **ten (10) calendar days'** notice of the reopened hearing.

## 5.18 LEAVING THE RECORD OPEN

**A.** The Presiding Officer may leave the record of a hearing open at the conclusion of the hearing in order to receive argument, briefing, or for other good cause.

**B.** Unless the Presiding Officer has left the record open, information submitted after the close of the record shall not be included in the hearing record or considered by the Commission, or by the Hearing Examiner if the original appeal has been delegated to the Hearing Examiner.

## 5.19 PROCEEDINGS RECORDED

As set forth in Article XVI, Section 6, of the Seattle City Charter, a record of the appeal proceedings shall be made. Pursuant to SMC 4.04.260, the Commission shall keep a record of its own appeal proceedings, but the record need not include a written verbatim transcript. All proceedings before the Presiding Officer, except deliberations, shall be electronically recorded. The recordings of hearings shall be part of the official case record. Copies of the recordings shall be made available to the public upon request through the City's process for responding to requests for public records pursuant to the Public Records Act (Chapter 42.56 RCW).

## 5.20 CLARIFICATION

### 5.20.01 – CLARIFICATION OF APPEAL

The Appellant shall provide clarification, additional information, or other submittal(s), as the Presiding Officer deems necessary in order that the appeal be made complete and

understandable. The Presiding Officer shall rule on the request of any party for clarification of an appeal. Request for clarification must be made in a timely manner as to afford reasonable opportunity for other parties to prepare response(s) for hearing.

### 5.20.02 – CLARIFICATION OF DECISION

Clerical mistakes in decisions, orders, or the record, and errors arising from oversight or omission, may be corrected by Presiding Officer order or initiative, or in response to a motion for clarification by a party. A motion for clarification does not stop or alter the running of the time period provided by law for appealing the decision.

## 5.21 AMENDMENT

The Presiding Officer may allow an appeal to be amended within **thirty (30) days** after it has been filed for shown good cause. In deciding whether to allow such an amendment, the Presiding Officer shall consider whether the fair hearing opportunity of other parties is prejudiced by the amendment.

## 5.22 WITHDRAWAL OF AN APPEAL

**A.** Only the Appellant or counsel of record may withdraw an appeal.

**B.** Where several persons, a group, organization, or other entity files an appeal, the person who has been designated the party representative shall file the withdrawal.

**C.** An Appellant's request to withdraw shall be granted as a matter of right and the appeal shall be dismissed.

**D.** If the Appellant withdraws an appeal, and the Hearing Examiner is the Presiding Officer, the Hearing Examiner shall issue a dismissal order. This order will serve as the dismissal order from the Commission.

**E.** If an appeal is withdrawn after parties decide on a settlement and there is a signed settlement agreement, a copy of the agreement may be submitted to the Commission, to be included in the record. If there is a settlement, the Presiding Officer may at their discretion require a settlement conference with the parties to confirm on the record that all parties agreed to the terms of the settlement and had the opportunity to seek advice and review of the settlement agreement with a representative of their choice.

## 5.23 INTERVENTION

**A.** Upon a showing of a substantial or significant interest that is not otherwise adequately represented, the Presiding Officer may permit an interested person, group, organization, corporation, or other entity, who has not filed an appeal, to participate in that appeal.

**B.** A written request for intervention must be submitted to the Presiding Officer at least **fifteen (15) days** prior to the day on which the hearing begins. The intervention request must state the basis for the intervention and how the person,

group, organization, corporation, or other entity making the request is affected by or interested in the matter appealed. In considering the requested intervention, the Presiding Officer shall seek to ensure that intervention will not unduly delay the hearing process, will not expand the issues beyond those within the appeal, and will not prejudice the rights of any of the original parties. In granting intervention, the Presiding Officer may limit the nature and scope of the intervention.

**C.** Intervention is not a substitute means of appealing a decision for those who could have appealed but failed to do so.

### 5.24 NOTICE OF HEARING

The notice of hearing shall include:

**A.** The time, place, and nature of the hearing;

**B.** The legal authority and jurisdiction for the hearing;

**C.** The file number, address, or other identifying information for the underlying decision or action being appealed;

**D.** A brief statement as to the issue(s) to be considered; and

**E.** Reference to the applicable Code section(s).

#### 5.24.1 TIME

Notice of the hearing shall be given within the time required by these Rules and the Code.

#### 5.24.2 RECORD OF NOTICE

A copy of the notice of hearing shall be made part of each official case record.

### 5.25 DISCOVERY

**A.** Appropriate prehearing discovery is permitted (refer to definition of discovery in Section III of these Rules). The Presiding Officer may prohibit or limit discovery where the Presiding Officer determines it to be unduly burdensome, harassing, or unnecessary under the circumstances of the appeal.

**B.** The Presiding Officer typically is not involved in the discovery process and is not copied on documents produced, or on correspondence and electronic mail about discovery matters. The parties are expected to collaboratively manage discovery without the Presiding Officer's involvement. In the case of a dispute or disagreement regarding relevancy or access to discovery, the parties must meet and confer and try to resolve the conflict. Unless the parties have met and conferred, the Presiding Officer shall not entertain any motion or objection on discovery.

**C.** In response to a motion, or on Presiding Officer initiative, the Presiding Officer may compel discovery or prohibit or limit discovery (for example where it is overly burdensome, harassing, or not reasonably calculated to lead to admissible evidence).

**D.** Witness lists shall include a list of each witness, a summary of each witness' testimony, and a statement establishing how the testimony will contribute to the issue of the appeal.

**E.** At the start of discovery, both sides must exchange all information and documentary evidence that relate to the case, even if the parties do not plan to use that evidence as exhibits.

**F.** Before filing any motion or request for intervention by the Presiding Officer regarding a discovery dispute, the parties must meet and confer in good faith to attempt to resolve the matter themselves.

## 5.26 SUBPOENAS

**A.** A request may be made in writing to the Presiding Officer for a subpoena to require a person to appear and testify at a hearing, or for a person to produce specified documents or other physical exhibits at a prehearing conference, deposition, or at hearing.

**B.** A request for a subpoena for a person shall: include the person's name and address; show the relevance of that person's testimony; and demonstrate the reasonableness of the scope of subpoena sought.

**C.** A request for a subpoena for documents or other physical exhibits shall: include the name and address of the person who is to produce the documents or other physical exhibit; specify the materials to be produced; indicate the relevance of the materials subpoenaed to the issues on appeal; and demonstrate the reasonableness of the scope of the subpoena sought.

**D.** The party requesting the subpoena shall be responsible for serving the subpoena. An affidavit or declaration of personal service or of mailing shall be submitted to the Presiding Officer as proof of that service.

**E.** Except as otherwise allowed by the Presiding Officer, subpoenas shall be served no less than **ten (10) calendar days** prior to the appearance or production ordered.

**F.** Subpoena requests require three (3) business days for the Presiding Officer to process.

**G.** Any motion to limit or quash (i.e., vacate or void) a subpoena shall be filed with the Presiding Officer within **three (3) calendar days** of receipt of the subpoenas or such other time as specified by the Presiding Officer.

**H.** Requests for subpoenas and the rulings upon such requests may be made ex parte unless otherwise ordered by the Presiding Officer.

## 5.27 PARTIES' RIGHTS AND RESPONSIBILITIES

**A.** Each party in an appeal proceeding shall have the right to due notice of hearing, presentation of evidence, rebuttal, objection, cross-examination, argument, and other rights determined by the Presiding Officer as necessary for the full disclosure of facts and a fair hearing.

**B.** Each party has the right to be represented by a person of their choosing at their own expense, as set forth in SMC 4.04.260. Representation is not required.

**C.** Where a party has designated a representative, the representative shall exercise the rights of the party.

**D.** All parties, witnesses, and others participating in and observing hearings shall conduct themselves with civility and deal courteously with all persons involved in the proceedings.

## 5.28 DEFAULT

The Presiding Officer may dismiss an appeal by an order of default where the Appellant, without good cause, fails to appear or is unprepared to proceed at a scheduled and properly noticed hearing, or otherwise fails to pursue their case in a timely manner.

## 5.29 HEARING FORMAT

**A.** Appeal hearings, although generally informal in nature, shall have a structured format and shall be conducted in a manner deemed by the Presiding Officer to make the relevant evidence most readily and efficiently available to the Presiding Officer and to provide the parties a fair opportunity for hearing.

**B.** The order of hearing is generally as follows:

1. Presiding Officer's introductory statement (including type of appeal and CSC file number);
2. Introduction of Parties;
3. Parties' opening statements;
4. Respondent's presentation of evidence;
5. Appellant's presentation of evidence;
6. Respondent’s Rebuttal;
7. Closing argument of parties.

**C.** The order of hearing may be modified or a different order established, as the Presiding Officer deems necessary for the efficient, clear, and fair presentation of evidence. The order of hearing may also be modified as agreed upon by the parties with approval of the Presiding Officer.

**D.** The order of presentation at hearing shall not alter or shift any burden(s) or presumption(s) established by applicable law.

## 5.30 COMMUNICATIONS FROM NON-PARTIES

**A.** Written communications received from non-parties regarding a pending matter shall be disclosed by the Presiding Officer at hearing for the review of all parties.

**B.** The Presiding Officer, after considering the objections of the parties and determining that undue delay or prejudice will not result, may permit relevant oral or written statements or both, by persons who are not parties or called by parties as witnesses. Limitations may be imposed on the length of such statements and cross-examination by the parties may be permitted for oral statements.

## 5.31 BURDEN OF PROOF

**A.** In cases of termination, demotion, or suspension, the Department must show by the applicable standard of proof that the Department's decision or action was with justifiable cause, consistent with Article XVI, Section 7, of the Seattle City Charter. In other cases, the Appellant bears the burden of proof. As a general matter, if an applicable collective bargaining agreement contains a standard of proof or burden of proof that differs from what is provided in these Rules, the collective bargaining agreement governs over civil service provisions.

**B.** Unless otherwise provided by applicable law or collective bargaining agreement, the standard of proof is a preponderance of the evidence.

## 5.32 COMMISSION'S OR HEARING EXAMINER'S DECISION ON ORIGINAL APPEAL

**A.** **Issuance:** The Commission, or the Hearing Examiner if the Commission has delegated the appeal to the Hearing Examiner, shall issue a written decision and provide a copy of that decision to each party representative and to the Commission within **thirty (30) calendar days** from the close of the record. (See Rule 7.01 for additional description related to the "Commission's Decision.")

**B.** **Judgment on Relief Requested:** Unless proscribed by applicable law or collective bargaining agreement, the Commission's or Hearing Examiner's decision may affirm, modify, reverse, or remand the Department's decision or other action that is the subject of the appeal.

**C.** **Contents:** Decisions of the Commission or Hearing Examiner on original appeals shall include, but not be limited to, a statement regarding the following:

1. **Background or Introduction.** The introduction shall include the nature and background of the proceeding, including identification of party representatives participating in the hearing, prehearing determinations, and other similar information.

2. **Finding.** The individual facts that the Commission or Hearing Examiner finds relevant, credible, and requisite to the decision, based on the evidence presented at hearing and those matters officially noticed. This may include recitation of relevant provisions of ordinance, other regulation, or case law.

3. **Conclusion.** Legal and factual conclusions based upon specific provisions of law and the findings of fact.

4. **Decision.** The Commission's or Hearing Examiner's decision as to the outcome of the appeal (affirm, modify, reverse, or remand) based upon a consideration of the whole record and supported by a preponderance of the evidence in the record.

5. **Postscript.** Information regarding subsequent procedural step(s), if any, for appealing the Commission's or Hearing Examiner's decision.

The decision may also include an order disposing of contested issues and/or directing parties to take actions consistent with the decision. Consistent with SMC 4.04.250, the Commission has the authority to issue such remedial orders as it deems appropriate; provided, that no remedial order may supervene the exclusive authority of the City Council as it relates to the financial transactions of the City. The Commission also has the power to reinstate employees, and it may award lost wages and benefits, as appropriate.

### 5.33 FURTHER REVIEW NOT SOUGHT

If the decision on an original appeal is made by the Commission, and reconsideration by a party is not sought, the Commission's decision shall be the final decision. Alternatively, if the decision on an original appeal is made by the Hearing Examiner, and a party does not appeal that decision to the Commission, the decision of the Hearing Examiner shall be the final decision of the Commission.

### 5.34 RECORD

The record of an appeal shall include:

**A.** The Commission's file:

1. Department's decision or action being appealed;
2. Appeal statement (Notice of Appeal);
3. Evidence received or considered;
4. Pleadings, procedural rulings, and other non-evidentiary materials that are part of the Presiding Officer's file;
5. Statement of matters officially noticed, if any;
6. Findings, conclusions, and decision of the Presiding Officer;
7. Tape or digital recording of the hearing.

**B.** The Presiding Officer's administrative file on an appeal may include other information or materials which are not part of the evidentiary record. If the Hearing Examiner is the Presiding Officer, the Hearing Examiner shall forward the entire file to the Commission upon final decision.

## 5.35 MEDIATION AND SETTLEMENT

### 5.35.01 PURPOSE

**A.** Mediation is a process that allows the parties to explore resolution of an appeal without going through a formal hearing procedure. In mediation, a neutral third party (a “mediator”) facilitates communication and negotiation between the parties to assist them in finding mutually acceptable solutions to disagreements. The process is voluntary, and the parties may or may not reach a written agreement. The mediator does not have the power to make a decision for the parties but can help the parties find a resolution that is mutually acceptable. The only people who can resolve the dispute in mediation are the parties themselves. Mediation is more flexible than the formal appeal process and may allow the participants greater control over the process and outcome and may allow consideration of outcomes beyond those a Presiding Officer might have authority to address.

**B.** Settlement is the voluntary resolution of a dispute through party agreement. The Presiding Officer does not participate in the settlement process.

**C.** Mediation or settlement may be used to address some or all of the issues that have been raised in an appeal. The Presiding Officer encourages the use of mediation and/or settlement to reach voluntary and mutually acceptable solutions.

### 5.35.02 INITIATION

**A.** Parties may initiate mediation privately at any time. The Office of Employee Ombud provides free mediation services for City employees.

**B.** If all parties agree to mediate or engage in settlement discussions and stipulate to extend case deadlines, the Presiding Officer may postpone any deadlines or hearings. If the Presiding Officer does not stay or continue the matter, the existing hearing order remains in effect.

### 5.35.03 CONDUCT OF MEDIATION

**A.** As a general matter but subject to what is required by the mediator, before mediation each party representative shall file a declaration affirming:

1. A party representative with authority to settle the matter will be available for the duration of the mediation; and

2. The party representative with authority to settle the matter has reviewed the mediation materials submitted by that party, as well as the materials submitted by opposing parties.

**B.** Mediation during a proceeding is governed by the Uniform Mediation Act, Chapter 7.07 RCW. To the extent these Rules are inconsistent with Chapter 7.07 RCW, state law governs.

**C.** During mediation, prehearing procedures, including but not limited to discovery and motions for dispositive orders, shall continue according to any prehearing order.

**5.35.04 PRIVILEGE**

**A.** A mediation communication is a statement, whether oral, written, or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

**B.** A mediation communication is privileged, except as provided by Chapter 7.07 RCW, and is not subject to discovery or admissible in evidence in a proceeding before a Presiding Officer unless the privilege is expressly waived. In any subsequent proceeding following a mediation, the following privileges apply:

1. A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.

2. Evidence or information otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in mediation.

**5.35.05 OUTCOME**

**A.** When the parties determine mediation is complete, they shall report the outcome of the mediation to the Presiding Officer.

**B.** If the agreement resolves only some matters at issue in the appeal, and calls for dismissal of those issues, the Presiding Officer shall order dismissal of those issues. The hearing process shall resume as if no mediation had occurred with regard to the remaining issues. The agreement on the dismissed issues shall not be used as evidence or proof of anything except that an agreement has been reached, unless all parties signed the agreement and agreed to waive the privilege in writing.

**C.** The following applies if no agreement is reached:

1. The hearing process shall resume as if no mediation or settlement discussion had occurred; and

2. Information exclusively shared by parties at a mediation may not be used as evidence in the hearing process, unless all parties agree to waive their privilege.

## VI. APPEAL OF HEARING EXAMINER FINAL DECISION TO THE COMMISSION

This section applies only when the Commission did not conduct the original appeal hearing. More specifically, this section applies to situations in which the Commission has delegated an appeal to the Hearing Examiner and one of the parties appeals that decision to the Commission. When the Commission conducts the original hearing, a party may seek judicial review only pursuant to applicable law.

### 6.01 PETITION FOR REVIEW OF HEARING EXAMINER FINAL DECISION

Any party may file a petition for review with the Commission of all or any part of the Hearing Examiner's final decision. The petition must be filed at the Commission's office, and served on all other parties, no later than **ten (10) calendar days** following the date of the issuance of the Hearing Examiner's final decision. The party seeking review must file an original and four copies of the petition and any related briefs submitted if not filed electronically.

### 6.02 CONTENTS OF PETITION

The petition for review shall contain statements of the specific findings of fact, conclusions of law, orders, or rulings on which the party filing the petition seeks review by the Commission. Any brief or written argument that the party filing the petition for review desires to have considered by the Commission must be served and filed with the petition. If the record is then available, a petition shall cite the pages in the record or the exhibits supporting the review. The Commission will issue an order setting forth the issues it will review, and whether the Commission requires additional briefing by the parties.

### 6.03 PREPARATION OF THE RECORD FOR REVIEW

The party filing a petition for review is responsible for the initial cost of the preparation of a transcript.

**A.** The record shall include testimony designated by the party bringing the appeal as necessary to resolve disputed issues and a copy of the relevant papers and exhibits in cases involving dismissals. A party at their own expense may submit a transcript by a certified court reporter or other non-interested person approved by the Executive Director. The Hearing Examiner shall forward a recording of the proceedings to the Commission together with an index showing the names of the witnesses and the location on the recording where the testimony may be found and a list of the exhibits and an identification of the recording or witness, where the exhibit is identified, offered for admission, and a ruling made. If all or part of a recording is not audible, the Hearing Examiner may prepare and certify a summary of that portion of the testimony in the proceedings based on their notes and memory.

**B.** Where the parties agree that the testimony or facts are not in dispute, the Hearing Examiner may prepare a narrative report of the evidence or a summary of the testimony in order to reduce the amount of material transcribed and to

make a more compact record. A party may substitute a verbatim transcript for all or part of narrative report or summary at such party's own expense.

**C.** When the Hearing Examiner believes that the recording of proceedings adds an extra dimension to the testimony, the Hearing Examiner may supplement the transcript with the recording. For example, the tone of voice of a witness may be expressive or the manner of speaking may be informative.

**D.** The Hearing Examiner may order post-hearing conferences for the purpose of preparing the record for review.

### 6.04 RESPONSE TO PETITION FOR REVIEW

Responding parties shall serve and file their response and accompanying brief or written argument within **seven (7) calendar days** following the date on which they are served with a copy of such petition for review. The Commission Chair may grant any party an extension of time for the filing of its brief or written argument.

### 6.05 TRANSFER OF CASE FILE

Upon certification of the record, the Hearing Examiner shall transfer the case records to the Commission for its use during review.

### 6.06 ORDER TO APPEAR

The Commission may order the parties to appear before it and present oral argument or additional evidence as to any of the issues in the matter. Unless the Commission requests oral argument or presentation of evidence, the matter shall be decided on the record and written materials submitted.

### 6.07 STANDARD OF REVIEW FOR COMMISSION REVIEW OF HEARING EXAMINER FINAL DECISION

The Commission reviews questions of law de novo, and reviews factual findings to see if they are supported by substantial evidence in the record. The Commission shall reverse or modify a decision of the Hearing Examiner where the decision is not supported by substantial evidence or misapplies the law. The party seeking review of the decision of the Hearing Examiner shall have the burden of showing error of fact or law.

### 6.08 DELIBERATION

When considering a petition for review, the Commission may deliberate in closed session. No person other than necessary Commission staff and the Commission's legal counsel shall be present during deliberation.

### 6.09 COMMISSION DECISION ON APPEAL OF HEARING EXAMINER DECISION

If the Commission reverses or modifies the Hearing Examiner's decision, it will issue findings of facts and conclusions of law. The Commission's decision on review is the final administrative decision of the City. As set forth in Article XVI, Section 6, of the Seattle City Charter, the Commission shall render its final decision within **ninety (90) calendar days** after the hearing is

completed. If the Commission fails to decide an appeal within ninety (90) calendar days, unless the Appellant consents to an extension, the decision, if any, of the Hearing Examiner shall be sustained. The Commissioners may sign the decision or authorize the Executive Director to sign the decision.

### VII. WHEN THE COMMISSION HEARS AN ORIGINAL APPEAL

### 7.01 COMMISSION'S DECISION

If the Commission decides to hear an original appeal (i.e., it does not delegate the appeal to the Hearing Examiner), the Commission shall render its final decision within **ninety (90) calendar days** after the hearing is completed, as set forth in SMC 4.04.260 and Article XVI, Section 6, of the Seattle City Charter. The Commissioners may sign the decision or authorize the Presiding Officer or the Executive Director to sign the decision.

### 7.02 DELIBERATION

The Commission may deliberate on an appeal in closed session. No person other than necessary Commission staff and legal counsel shall be present.

### 7.03 SANCTIONS

In the interest of justice, to reduce injury to a disadvantaged party, or to secure obedience to its orders, the Commission, in its discretion and for good cause, may impose sanctions as authorized by law, including SMC 4.04.250 which authorizes the Commission, within certain limits, to issue remedial orders as it deems appropriate.

### 7.04 RECONSIDERATION OF COMMISSION DECISION

A party may move for reconsideration of a Commission decision only on the basis of fraud, mistake, or in the event that new evidence comes to light that would justify reconsideration. Such motion shall be filed with the Commission within **fifteen (15) calendar days** of the Commission's final decision.

### 7.05 JUDICIAL REVIEW

In order to seek judicial review of a Commission decision, a party must timely file an appropriate action in Superior Court of the State of Washington for King County as provided by applicable law.

# Rules of Practice and Procedure

ADOPTED this 17th day of September, 2026

SEATTLE CIVIL SERVICE COMMISSION

APPROVED BY:

/s/ Denise Wells, Commission Chair

Ray Ceaser-C (10/01/2026 10:33:22 PDT)

/s/ Ray Ceaser, Commissioner

Steve Zwerin-C (10/02/2026 08:52:01 PDT)

/s/ Steve Zwerin, Commissioner

Filed:
City of Seattle, City Clerk

**Office of the City Clerk**
E-signed 10/02/2026 08:55:28 PDT
cityclerkfiling@seattle.gov