



Seattle Civil Service Department

CIVIL SERVICE COMMISSION MEETING AGENDA

The agenda is subject to change to address immediate Commission concerns.

DATE: Thursday, September 17, 2026

TIME: 2:00 p.m.

LOCATION: In Person and Microsoft Teams (Webinar-view only)

In-Person Location:

SMT 1679 – 700 Fifth Avenue

Civil Service Department Hearing Room

In-Person Attendance Instructions:

Call **(206) 233-7118** or **(206) 586-1991** from the 4th floor lobby to be escorted to the 16th floor.

Important Notes:

- The Microsoft Teams webinar is **view-only**.
- Public comment will NOT be accepted through the webinar platform.
- Public comment may be provided **in person** or **in writing** only.
- For public comment instructions, visit the CSC website:

[Civil Service Commission - Meeting Agenda and Minutes | seattle.gov](#)

Webinar Public Login:

[CSC Monthly Meeting | Join meeting in Teams | Microsoft Teams](#)

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Civil Service Commission

Monthly Meeting Agenda

September 17, 2026 @ 2:00 p.m.

SMT 1679 Civil Service Department Hearing Room and Microsoft Teams Webinar-View Only

1.	CALL TO ORDER LAND ACKNOWLEDGEMENT	Commission Chair (CSC 2.05)
2.	COMMISSIONER INTRODUCTIONS	
3.	ADOPTION OF AGENDA	
4.	PUBLIC COMMENT (In Person/Written)	
5.	APPROVAL OF MINUTES	August 13, 2026, CSC Monthly Meeting (Pages 1-2)
6.	UPDATES/DISCUSSION	A. EXECUTIVE DIRECTOR BUDGET & DEPARTMENTAL UPDATES 1. Budget Update (Page 3) 2. Department Update B. CASE STATUS REPORT/APPEAL UPDATES (Pages 4-5) 1. Franklin v. SPR-CSC No. 26-07-001A (Pages 6-22) 2. Russell v. SPU-CSC No. 26-01-019A (Pages 23-28) 3. Hecht v. Parks-CSC No. 26-07-021A
7.	ACTION ITEMS	A. Proposed Rulemaking CSC Comprehensive Rules Revision SMC 4.04.250 K (2) (Pages 29-67) B. Potential Action Item Franklin v. SPR- CSC no. 26.07-001A
8.	EXECUTIVE SESSION	May be cancelled if not needed
9.	OLD/NEW BUSINESS	Save the Date: 45 th Annual Civil Service Conference October 20 and 21 (Page 68)
10.	ADJOURNMENT	Next Meeting Date: Thursday, October 8, 2026 @ 2:00 p.m.



Seattle Civil Service Department

Civil Service Commission Monthly Meeting Minutes

August 13, 2026 @ 2:00 p.m.

Seattle Municipal Tower Room 1679 and Teams

1.	CALL TO ORDER LAND ACKNOWLEDGEMENT	Commission Chair (CSC Rule 2.05) Commission Chair Denise Wells called the meeting to order at 2:03 p.m. And read the Land Acknowledgement.
2.	COMMISSIONER INTRODUCTIONS STAFF, COUNSEL AND GUESTS	The Commissioners were present and introduced themselves. Commission Chair Denise Wells and Commissioners Ray Ceaser and Steve Zwerin. Andrea Scheele, Executive Director; Commission Staff. Commission Counsel: Joe Levan, Assistant City Attorney and Anne Vold, Assistant City Attorney,
3.	ADOPTION OF AGENDA	Commissioner Zwerin moved to adopt the August 13, 2026, CSC Agenda. Commissioner Ceaser seconded the motion. The motion passed unanimously.
4.	PUBLIC COMMENT	There was no written comment, and no members of the public requested to give public comment.
5.	APPROVAL OF MINUTES	June 18, 2026-CSC Monthly Meeting Commissioners reviewed the minutes of June 18, 2026, CSC Monthly Meeting. Commissioner Ceaser moved to accept the minutes as written. Commissioner Zwerin seconded the motion. The minutes were approved as read.
6.	UPDATES/DISCUSSION	A. EXECUTIVE DIRECTOR BUDGET & DEPARTMENTAL UPDATES 1. Budget Update 2. Department Update 3. CSC Rules Revisions Update B. CASE STATUS REPORT/APPEAL UPDATES 1. Franklin v. SPR-CSC No. 26-08-001A 2. Lacambra v. SCL-CSC No. 26-04-009A 3. Russell v. SPU-CSC No. 26-01-019A 4. Hecht v. Parks-CSC No. 26-07-021A

7.	ACTION ITEMS	
8.	EXECUTIVE SESSION	The commission did not go into Executive Session.
9.	OLD/NEW BUSINESS	
10.	ADJOURNMENT	The meeting ended at 2:44 p.m.

Minutes submitted September 17, 2026, by: Teresa Jacobs

Minutes ☐ Approved ☐ Amended

September 17, 2026, by: CSC

Signed by CSC Commission Chair, Denise Wells

Monthly meetings are recorded; after January 1, 2024, they may be found at:

<https://www.youtube.com/channel/UCLjvUwCTxoAH-cC4Vt1fMTA>

Previous recordings may be requested via the public records portal at

<https://www.seattle.gov/public-records>

Budget Summary

Business Unit ID

VC0

Year

2026

09/08/2026
Last Pay Period End Date

Friday, September 4, 2026 10:11 AM Pacific Daylight Time (PDT)
Last Refreshed Date

\$3,038,328.00	\$24,225.00	\$67,211.00	\$0.00	\$3,129,764.00	\$59,722.00	\$1,829,498.88	\$1,889,220.88	\$1,300,265.12
Adopted Budget	Carryforward	Budget Revisions	Budget Transfers	Revised Budget	Encumbrances	Total Expenses	Commitments	Remaining Legal Bu...

1,300,265.12	1,240,543.12	58.45%	41.55%
Available Balance Before Encumbrances	Available Balance After Encumbrances	Percent Spent Before Encumbrances	Percent Available Before Encumbrances

BSL ID And Name	Adopted Budget	Carryforward	Budget Revisions	Budget Transfers	Revised Budget	Encumbrances	Total Expenses	Total Commitments	Remaining Legal Budget
BO-VC-V1CIV - Civil Service Commissions	\$3,038,328.00	\$24,225.00	\$67,211.00	\$0.00	\$3,129,764.00	\$59,722.00	\$1,829,498.88	\$1,889,220.88	\$1,300,265.12
Revenue - Revenue	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$3,038,328.00	\$24,225.00	\$67,211.00	\$0.00	\$3,129,764.00	\$59,722.00	\$1,829,498.88	\$1,889,220.88	\$1,300,265.12

**CIVIL SERVICE COMMISSION
CASE STATUS REPORT (CSR)
September 2026**

FILED/OPEN

CASE NUMBER	APPELLANT	RESPONDENT DEPARTMENT	DATE FILED	ALLEGED VIOLATION RULE/CODE	ISSUE	STATUS	PRESIDING
26-07-021A	Hecht	SPR	5-21-2026	Classification/Multiple Violations	Alleged violations of Personnel Rules in classification consideration process	Under review	CSC
26-01-019A	Russell	SPU	5-17-2026	Personnel Rule 1.1, 1.3	Suspension	First prehearing was held on July 7. Hearing scheduled for March 23-24, 2027. Case schedule issued.	CSC

CLOSED

CASE NUMBER	APPELLANT	RESPONDENT DEPARTMENT	DATE FILED	ALLEGED VIOLATION RULE/CODE	ISSUE	DISPOSITION	
26-04-009A	Lacambra (Non- employee)	SCL	3-27-2026	None.	Alleged irregularities in exam/application process	Dismissed. Non-employee lacked standing to file appeal.	
26-06-015P	Lacambra	SCL	4-23-2026	SMC 4.04.070; CSC Rule 4.02	Political patronage	Dismissed. Commission did not find sufficient evidence of political patronage to set	

**CIVIL SERVICE COMMISSION
CASE STATUS REPORT (CSR)
September 2026**

						the matter for hearing.	
26-07-001A	Franklin	SPR	1-5-2026	Personnel Rules Violations: PR 1.1 and PR 1.3	Whether reassignment violated Personnel Rules.	Hearing Examiner issued final decision 8/27/2026. Step 3 decision upheld.	

**FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE
UNDER DELEGATION FROM THE CIVIL SERVICE COMMISSION**

ANDRE' FRANKLIN

Appellant,

v.

**SEATTLE PARKS AND
RECREATION**

Respondent.

Hearing Examiner File:
CSC-26-07-001A

Introduction

Andre' Franklin was reassigned during his employment at Seattle Department of Parks and Recreation ("SPR" or "Department". Mr. Franklin appealed matters concerning his reassignment to the Civil Service Commission. Pursuant to SMC 4.04.250.K.7, the Civil Service Commission delegated the appeal to the City of Seattle Hearing Examiner for hearing and decision.

The hearing on the appeal was held on July 28, 2026, and continued on July 29th, August 3rd and August 6th before the Hearing Examiner ("Examiner"). Andre' Franklin ("Appellant"), represented himself. SPR was represented by Molly Daily, Assistant City Attorney.

After considering the evidence in the record, the Examiner enters the following findings of fact, conclusions and decision on the appeal.

Findings of Fact¹

1. The Appellant is employed by the Department as the Teen Life Center Manager. The Department's three Teen Life Centers ("TLCs") are facilities that operate solely in the service of teens and teen programming.

¹ The Findings of Fact are not a full recitation of all activity or facts in the record as a result of the hearing. The recording of the hearing and exhibits speak for themselves and constitute the record. The Findings of Fact reflect the facts established at hearing relevant to the Conclusions of Law and the Decision herein.

2. From December 2022 to October 6, 2025, Mr. Franklin reported to Zachary Wilson, the Department's Teen and Youth Development Manager. Mr. Wilson reported to Tianna Scott, who in turn reported to Recreation and Aquatics Division Director Aphrodyi Antoine.
3. On October 6, 2025, the Appellant was reassigned during his employment at SPR. Mr. Franklin appealed matters concerning his reassignment to the Civil Service Commission. Pursuant to SMC 4.04.250.K.7, the Civil Service Commission delegated the appeal to the City of Seattle Hearing Examiner for hearing and decision.
4. The Appellant's Notice of Appeal to the CSC identified three issues:
 - a. Whether the City's Step 3 Grievance record and Step 3 Grievance Response should be corrected or formally annotated where the record contains disputed factual characterizations that remain unaddressed, including the timing and clarity of notice to me that I was a subject of an investigation.
 - b. Whether the City's handling of administrative [sic] reassignment and related restrictions complied with applicable personnel system requirements when the City relied on investigatory status as part of the justification for reassignment but did not inform me that I was a subject until later in October.
 - c. Whether SPR applied its practices consistently when it did not separate or reassign my supervisor or me after it was aware of my WSHRC and EEOC complaint and investigation, and after the issues and concerns I raised as part of the E3 annual review process that SPR HRBPs reviewed and signed off on but later relied on HRIU investigatory status as a basis for reassignment.
5. At hearing the Appellant and the Department called various witnesses to testify. Many of the witnesses were jointly called by both the Appellant and the Department. Witnesses were called based on witness availability with deference to the parties as to witness order. Testifying at the hearing were the following witnesses:

Desiree Tabares. Human Resources Director, SPR.

Aphrodyi Antoine. Recreation and Aquatics Division Director, SPR.

Tianna Scott. Manager 3, SPR.

Rochelle Brown. Employee and Labor Relations Manager.

Kelli Koontz. SPR HR.

Josie Watanabe. Interim Policy and Legislation Advisor, SDHR.

Raymond Sugarman. Director of Learning and Accountability, Seattle Department of Human Resources.

Anthony-Paul Diaz. Superintendent, SPR (at time of matters at issue).

Testimony by these witnesses and exhibits admitted to the record inform the findings of fact below.

6. During the summer of 2025, the Department received complaints from the Appellant about Mr. Wilson, and from Mr. Wilson about the Appellant.
7. The Appellant emailed Ms. Antoine on July 29, 2025, stating that he would be taking “a Mental Health Day... in response to the ongoing, unaddressed toxic and retaliatory work environment at SPR, which continues to negatively impact my well-being.” App. Ex. 11. At hearing, Ms. Antoine indicated that the email alerted her that Appellant was experiencing a negative work environment. Ms. Antoine forwarded Appellant’s email to a superior within the Department the day she received it, and this resulted in the email eventually being forwarded to the Seattle Human Resources Investigation Unit (“HRIU”). On September 18, 2025, HRIU notified Appellant that it would investigate the following allegation by him: “Mr. Wilson retaliated against you for filing a complaint with the Washington State Human Rights Commission by withholding programmatic information in a manner that had a materially adverse impact on your ability to do your job.” App. Ex. 6.
8. On August 20, 2025, SPR Human Resources Director Desirée Tabares received an email from Mr. Wilson. City Ex. 2. The subject of the email was: “ACP2—Unhealthy Work Environment.” Id. In the email, Mr. Wilson represented that he had been required to work in “an unhealthy work environment” due to actions taken by the Appellant. Ms. Tabares forwarded Mr. Wilson’s complaint to HRIU. On September 24, 2025, HRIU notified Mr. Wilson that it was going to investigate the following allegation by him: “Mr. Franklin harassed you based on your race by making repeated inappropriate, race-based comments and name-calling.” App. Ex. 7.
9. HRIU conducted an intake interview with Mr. Wilson on September 5, 2025, and with the Appellant on September 9, 2025. On September 18, 2025, the Appellant was notified that HRIU would investigate his complaints against Mr. Wilson, and on September 24, 2025, HRIU notified Mr. Wilson that it was going to investigate his complaints against Appellant – these notices did not include information that the respective complainants were also the subject of investigations.
10. Even though notices had not been provided to either Mr. Wilson or the Appellant, Ray Sugarman of HRIU informed Ms. Tabares that Mr. Wilson was the subject of the Franklin investigation and Mr. Franklin was the subject of the Wilson investigation. Ms. Tabares subsequently notified Ms. Antoine of the two investigations.
11. Ms. Tabares notified Ms. Antoine of the respective HRIU investigations of the Appellant and Mr. Wilson. Ms. Antoine consulted Ms. Tabares as the Department’s

HR representative about her options to address the circumstance of both investigations being conducted. Ms. Tabares identified various options which included administrative reassignment, temporary reassignment of both individuals in the conflict, temporary reassignment of one of them and not the other, or doing nothing. Ms. Antione testified at hearing that prior to being notified of the HRIU investigations, she was aware of the conflict between the Appellant and Mr. Wilson. She described being aware of its impact on the “community” of the Teen Learning Center environment including services to the public and team morale of Department employees. Ms. Antoine described Teen Learning Centers in part as trusted spaces where teens and staff can interact away from adult populations.

12. Ms. Antoine provided a detailed description of how she reached the determination to reassign both Mr. Wilson and the Appellant during the HRIU investigations. She described her concerns about the impact of the conflict on the Teen Learning Center community of the public and employees. She also expressed sincere concern for the well-being of the two individuals involved in the conflict. She indicated she felt it would be unfair and inequitable to reassign one and not the other during the investigation. As part of the reassignment of both individuals, each individual was assigned special projects of specific value to the Department because they were projects needing completion by the Department, and Ms. Antoine considered this important work that was consistent with the individuals’ respective job titles. Each assignment required the individual: to work on from home; removed them from managerial functions; and instructed them to return their keys and badges. Both individuals kept their titles, and there was no pay rate reduction as a result of the reassignments. Ms. Antoine was extremely frank and clear that, while she did consult with Department HR about options to address the circumstances, the decision to reassign the individuals involved in the investigation was hers and hers alone. Her clarity on this point was unambiguous, and a manifest demonstration by a leader taking ownership of her actions in executing her duties.
13. On October 6, 2025, Ms. Antoine sent the Appellant and Mr. Wilson separate emails, notifying them that they were being temporarily reassigned to special assignments. See e.g. App. Ex. 8 and City Ex. 8.
14. Ms. Antoine in her email notice of reassignment used the term “administrative reassignment” in error. The Appellant was not administratively reassigned within the meaning of that term under SMC 4.20.065.A. He was not put on paid leave status but was temporarily reassigned to a special project within the Department.
15. The Appellant responded to Ms. Antoine’s reassignment email later the same day he received it, objecting to and seeking clarification on the reassignment. App. Ex. 8. In the email, the Appellant expressed concern that the reassignment was retaliation for making a HRIU complaint. For context, HRIU had not yet notified the Appellant that he was the subject of an investigation. It is the role of HRIU, not employing departments, to notify employees when they are subjects of an HRIU investigation. Therefore, Department HR, noting the Appellant’s concerns, contacted HRIU

requesting that HRIU expedite the investigation notification. App. Ex. 13. HRIU eventually notified the Appellant and Mr. Wilson separately that they were subjects of investigation in mid to late October 2026.

16. On or about October 9, 2025, the Appellant submitted a Step 3 grievance to the Seattle Department of Human Resources (“SHR”). App. Ex. 2. According to the written grievance, Mr. Franklin was grieving his “reassignment...and the retaliatory actions that preceded it.” Id.
17. The Step 3 grievance was processed and investigated by Josie Watanabe, SHR’s Policy and Legislative Advisor. Ms. Watanabe testified at hearing and described her role as the Policy and Legislative Advisor is to advise on the interpretation, implementation, and governance of the Personnel Rules, and that as such she is a subject matter expert. Ms. Watanabe held a Step 3 grievance meeting with the Appellant and others concerning the Step 3 grievance. Ms. Watanabe also met with Rochelle Brown, Employee and Labor Relations Manager, reviewed the list of reassignments that the Department maintained pursuant to SMC 4.20.065(C), and compared the reassignments of both Mr. Wilson and Appellant. Ms. Watanabe concluded that the Department had not violated Personnel Rules as part of the reassignment process.
18. Ms. Watanabe memorialized her findings in a Step Three Grievance Report (“Grievance Report”), which she emailed to the Appellant and Department Superintendent Anthony-Paul Diaz on December 20, 2025. City Ex. 3. After receiving the Grievance Report and Ms. Watanabe’s recommendation, Superintendent Diaz denied the Appellant’s grievance on December 23, 2025. App. Ex. 5.
19. The Appellant emailed Ms. Watanabe on December 24, 2025, listing items he felt were errors in the Grievance Report and asking for corrections to the record. App. Ex. 3 at 4-6. Ms. Watanabe agreed to make some edits to the report but declined to make additional changes requested by the Appellant. At hearing she indicated that the two minor edits she agreed to make did not alter her recommendation. The Appellant additionally requested Superintendent Diaz to place a “short-written statement that addresses the factual points that remain disputed and were not revised in the Step 3 Grievance memo” for the “Step 3 file.” App. Ex. 3 at 2. As there was no “Step 3 file” and no process for such a written statement this request was not met.
20. Several weeks after conclusion of the HRIU investigation the Appellant was reinstated to his original position in the Department.²

Conclusions

² The Appellant raised the delay of several weeks from the time of the conclusion of the HRIU investigation to his reinstatement as an issue at hearing. However, this was dismissed as it was not an issue raised in his Notice of Appeal or in any amendment to the Notice of Appeal.

1. Article XVI, sec. 5, of the Charter of the City of Seattle gives the Civil Service Commission authority to hear appeals “involving the administration of the personnel system.” Charter, Art. XVI, § 5. SMC 4.04.260(A) provides:

A regular employee who is aggrieved thereby may appeal to the Civil Service Commission his/her demotion, suspension, termination of employment, or violation of this Chapter 4.04 or rule passed pursuant thereto, provided that the employee first exhausts the intradepartmental grievance remedies under Section 4.04.240 and the Personnel Rules.

2. The Hearing Examiner has jurisdiction over this appeal pursuant to delegation from the Civil Service Commission under SMC 4.04.250. Pursuant to SMC 4.04.250.K.7, and the City of Seattle Civil Service Commission Rule of Practice and Procedure 5.08 and 5.08.2, the Civil Service Commission approved delegation of the hearing and final decision or decisions in this matter to the Hearing Examiner, to serve as Presiding Officer for the Civil Service Commission.
3. Pursuant to CSC Rule 5.31 burden of proof is determined as follows:
 - 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. In other cases, the Appellant bears the burden of proof.
 - B. Unless otherwise provided by applicable ordinance(s), statute, or case law, the standard of proof is a preponderance of the evidence.

Mr. Franklin contests the circumstances of a reassignment which is not a “termination, demotion, or suspension,” as defined by the Personnel Rules, therefore he bears the burden of proof.

4. The standard is preponderance of the evidence. CSC Rule 5.31(B). The Examiner may affirm, reverse, modify, or remand the appealed decision or action. CSC Rule 5.32(B).
5. CSC Rule 5.01 provides the following guidance for the type of appeals the Commission can hear:
 - A. Any regular employee who is demoted, suspended, or terminated may appeal such action to the Commission.
 - B. 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. Any individual or department adversely affected by an alleged violation of Article XVI of the Charter of the City of Seattle, the Personnel Ordinance or the administration of the personnel system may appeal such violation to the Commission.

The issues raised by the Appellant in his Notice of Appeal do not concern appeals brought pursuant to CSC 5.01 A or B. The appeal is grounded in issues related only to CSC 5.01.C. To the degree they have any basis for appeal before the Commission, they allege violations of the Personnel Ordinance and administration of the personnel system.

6. In *Kim v. SPU*, CSC No. 20-07-013, Order on Request for Reconsideration of Executive Director's Dismissal (2021), the Commission stated that "administration of the personnel system," as used in CSC Rule 5.01(C), refers to the Personnel Rules stating:

CSC Rule 5.01's reference to "administration of the personnel system," is not to be interpreted in a vacuum. Rather, the phrase should be interpreted in the context of the legal authority described in SMC 4.04.260 as appellate authority regarding a violation of SMC Chapter 4.04 "or rules passed pursuant thereto." Therefore, the Commission reads the Rule 5.01's reference to "administrative of the personnel system" to mean a violation of the Personnel Rules.

Kim, at 3 n.4.

As a result, the Commission (and by extension the Examiner) does not have jurisdiction to hear violations of policies not contained in Article XVI of the Charter, the Personnel Ordinance (i.e., SMC Chapter 4.04), or the Personnel Rules.

7. The Personnel Rules permit City departments to reassign employees during investigations for workplace misconduct. Personnel Rule 1.1.4(A)(2), "Reporting Prohibited Behavior," states:

The appointing authority or designated management representative shall assess the need to separate the person experiencing the possible prohibited behavior and the subject to avoid further prohibited behavior during the investigation. Prompt, effective and remedial action will be made as required by the circumstances.

8. Personnel Rule 1.3.4, "Reassignment During Investigation," provides:

- a. While investigating an employee's alleged misconduct the appointing authority may remove the employee or other employees who are the cause of or otherwise significantly affected by such investigation from the workplace. The employee(s) may be temporarily reassigned to another work unit, or may be placed on administrative reassignment.
 - b. An employee who is reassigned to another work unit pending the outcome of an investigation shall not have his or her pay rate reduced as a result of such reassignment.
 - c. The appointing authority shall place an employee on paid administrative reassignment only when he or she determines that the employee's absence from the workplace is in the best business interest of the employing unit and there is no workplace to which the employee may be reassigned.
9. Underlying Appellant's appeal issues and concerns expressed in various communications prior to and following the filing of the appeal was whether his reassignment was punitive in nature.

Appellant is certainly entitled to his personal subjective opinion and feeling that the reassignment was a negative and impactful experience. While the record is not fully developed as to the Appellant's experience, it is not difficult to extrapolate based on what is in the record (see e.g. App. Ex. 2) that Appellant would have negative feelings and experiences because he had to surrender his identification card and keys, and was disassociated from his normal work environment including his fellow employees, the teens served by Teen Learning Center, and his normal work duties among other aspects of the reassignment. However, nothing under the Personnel Rules requires that a reassigned individual not experience any negative impact from the reassignment.

The Personnel Rules do not permit reassignment to be used by management punitively against an employee for filing complaints associated with HRIU or WSHRC, or similar matters. However, the mere filing of such complaints does not shield the complainant from reassignment that is non-punitive. The record does not reflect any objectively punitive (e.g. inflicting or intended as punishment) aspect of the decision to reassign the Appellant.

Whether intended or not, the Appellant is challenging the decision to reassign made by Recreation and Aquatics Division Director Aphrodyi Antoine. The testimony by Ms. Antoine at hearing, uncontroverted by other evidence in the record, clearly established that the decision of reassignment was not punitive. Ms. Antoine detailed that she consulted with Department HR about the reassignment, but that otherwise the decision to reassign both Mr. Wilson and the Appellant was hers. Similarly, there is no indication that she was inappropriately influenced by Mr.

Wilson or any information she had available to her about the Appellant as part of her decision to reassign the individuals involved. She was very clear that the decision was hers and no evidence contradicted this. She described that in making her decision she considered the well-being of the community - the individuals that were involved in the conflict, the other employees of the team, and the people served by the Department. She considered alternatives to reassignment, she rejected the possibility of just reassigning one person as unfair and decided as a Department leader that the “employees who are the cause of or otherwise significantly affected by [the respective HRIU] investigation[s]” should be reassigned to meaningful alternative work conditions until the HRIU investigations were complete. There is no evidence that Ms. Antoine was punishing the Appellant for filing complaints, that she was inappropriately influenced by any other member of the Department or City, or that she was biased against the Appellant in any way. Ms. Antoine’s testimony was sincere and convincing.

10. The Appellant’s Notice of Appeal raises the following issue:

Whether the City’s handling of administrative reassignment and related restrictions complied with applicable personnel system requirements when the City relied on investigatory status as part of the justification for reassignment, but did not inform me that I was a subject until later in October.

- a. As indicated above there is no evidence that Ms. Antoine’s decision concerning the reassignment was conducted for inappropriate reasons identified under the Personnel Rules.
- b. Personnel Rule 1.3.4 provides that employees may be removed from the workplace so long as they are an employee who’s “alleged misconduct was under investigation or are an employee otherwise significantly affected by such an investigation.” Thus, it is not a violation of the Personnel Rules to reassign an individual who is under investigation or otherwise significantly affected by such an investigation. The Appellant was both, because he was the subject of an investigation for alleged misconduct (resulting from Mr. Wilson’s complaint), and because he was “otherwise significantly affected by such an investigation” (resulting from his complaint against Mr. Wilson).
- c. It is the role of HRIU, not employing departments, to notify employees when they are subjects of an HRIU investigation. While it may be unfortunate that the Appellant received notice of the reassignment from SPR due to an investigation prior to receiving notice of the investigation from HRIU (as this order of communication seems to have created confusion and an impression that the reassignment was punitive), it is not a violation of the Code or Personnel Rules for reassignment to occur prior to notice of an investigation from HRIU.

The appeal should be denied as to this issue.³

11. The Appellant raised the following additional issue in his Notice of Appeal:

Whether SPR applied its practices consistently when it did not separate or reassign my supervisor or me after it was aware of my WSHRC and EEOC complaint and investigation, and after the issues and concerns I raised as part of the E3 annual review process that SPR HRBPs reviewed and signed off on, but later relied on HRIU investigatory status as a basis for reassignment.

Reassignment under Personnel Rule 1.3.4 is discretionary. The Department is not required to reassign under any specific circumstances, and it may take such action in one instance and not another, even where one circumstance bears resemblance to another or involves the same individuals. It was within Ms. Antoine's discretionary authority to determine that the circumstances wherein both Mr. Wilson and the Appellant had made and were the subject of HRIU investigations warranted reassignment, and she did so. The Appellant did not identify any legal error with that process.

The Department has highlighted that the Personnel Rules do not require consistency in application. This is partly accurate – there is no explicit requirement that application of the Personnel Rules be consistently applied even between similar circumstances. As a general policy matter this makes sense, because the circumstances of each City department and specific employee situations can vary widely, and so a rigid system requiring the same outcome or application could be unworkable and/or harmful to employees and departments. However, this does not mean that the concept of consistent application of the Personnel Rules should be entirely abandoned, and that City departments have such broad discretion that they can so inconsistently apply the Personnel Rules that such inconsistency itself demonstrates a violation of the Personnel Rules.

The Department's own expert on the Personnel Rules, Ms. Watanabe, did apply the concept of checking for consistency in SPR's application of reassignment during her review of Appellant's Step 3 grievance as part of her effort to determine if reassignment had been retaliatory or not. Ms. Watanabe said she reviewed both a general record of reassignments made of employees by the Department and compared the reassignments of Mr. Wilson and the Appellant for consistency to see if based on the "preponderance of the evidence" the Department reassignment of the Appellant showed evidence of retaliation. Ms. Watanabe stated that she had done this not as a specific directive from the Personnel Rules but was consistent with general HR practices, and "guidance provided by the Society for Human Resource Management (SHRM) Human Resources Investigation Standards," which her predecessor used, and that she also followed "the Association for

³ Appellant's sub issues that he may consider related to this issue (e.g. the authority of Ms. Antoine to make the decision) are addressed below.

Workplace Investigators' guiding principles as the authoritative framework for applying the 'Preponderance of Evidence' standard."

If application of an action permitted by the Personnel Rules such as reassignment is exercised in such an inconsistent manner that the inconsistency is evidence of retaliation, punitive abuse of the action, personal bias, etc. – all of which are not permitted by the Personnel Rules, then inconsistent application of the Rules can violate the Rules. However, there must be evidence to corroborate such an outcome. In this case, while reassignment was applied in one instance but not another, there is no evidence that this was done for purposes of retaliation, punitive abuse, etc., or that there was any other outcome of the reassignment in one instance but not another that created a result prohibited by the Personnel Rules. Therefore, the appeal should be denied as to this issue.

12. The final issue identified in the Notice of Appeal states:

Whether the City's Step 3 Grievance record and Step 3 Grievance Response should be corrected or formally annotated where the record contains disputed factual characterizations that remain unaddressed, including the timing and clarity of notice to me that I was a subject of an investigation.

To the degree this issue raises concerns with the contents of Step 3 Grievance Report, the Step 3 Grievance Report was issued by SHR, not SPR. To the extent Mr. Franklin is taking issue with the SHR investigation and the failure to correct the Step 3 Grievance Report, he is complaining about acts by Ms. Watanabe of SHR, and SHR's actions cannot be a subject of the appeal.

Further, the Appellant has not identified a Personnel Rule that is violated by potential inconsistencies in the record for which both Ms. Watanabe and Mr. Diaz indicated would not change the result of their final determination. Based on the record before the Examiner, the inconsistencies, while containing facts which may be important to Appellant, do not indicate reversible error of the Step 3 grievance process even if the alleged errors had been corrected as requested by the Appellant.

13. In closing argument, the Appellant argued five primary points:

a. "First, management received repeated reports from Mr. Franklin describing an "ongoing, unaddressed toxic and retaliatory work environment" before October 6, 2025. Reports were sent in May and June to his supervisor and senior management. The July 29 report was forwarded within SPR that day but did not reach SPR Human Resources and HRIU until August 22. App. Exs. 11, 15, 19. This sequence is directly relevant to Personnel Rule 1.1.6 and to whether management acted promptly and consistently."

Actions relating to the reporting (or timeliness thereof) identified in this argument do not concern any of the three issues listed in the Appellant's Notice of Appeal. This argument does not concern the reassignment, or the Step 3 grievance process – which are the subjects of the Appellant's appeal. This issue concerns compliance by Department management with the reporting requirements listed in Personnel Rule 1.1.6 and cannot be raised as an issue for the first time in closing argument. The purpose of the hearing was to vet the issues raised by the Appellant in the Notice of the Appeal, not to allow an investigation to show error in other actions by the Department even where such error may or may not have occurred.

To the degree the Appellant is arguing that delays in the reporting process demonstrate a bias by management against Appellant which later resulted in the reassignment, the evidence in the record does not support such a contention.

b. "Second, the record does not identify a contemporaneous assessment under Personnel Rule 1.1.4(A)(2) when SPR earlier learned of Mr. Franklin's WSHRC and EEOC matter and E3 concerns involving Mr. Wilson. Yet SPR later relied on the parties' HRIU status to separate and reassign both employees. App. Exs. 1, 3, 4; City Ex. 11; Day 1 testimony (Tabares). The issue is not whether every report must produce the same result. It is whether the different treatment followed an actual, circumstance-based assessment."

To the degree the Appellant is arguing that the Department violated the Personnel Rules during the WSHRC and EEOC matters, this issue does not concern any of the three issues listed in the Appellant's Notice of Appeal. This argument does not concern the reassignment, or the Step 3 grievance process – which are the subjects of the Appellant's appeal. Issues concerning Department activity with regard to those matters cannot be raised as an issue for the first time in closing argument.

To the degree this argument concerns inconsistency between the period of the WSHRC and EEOC matters and the reassignment, that issue is addressed in Conclusion 12 above.

To the degree the Appellant is arguing Ms. Antoine's assessment of the circumstances as part of her decision to reassign was inadequate, Ms. Antoine detailed the assessment she conducted as part of the decision, and this is described above. The Appellant did not identify any authority requiring an additional or more detailed assessment in the Personnel Rules. While the Appellant may prefer to have a more detailed assessment for the record, there is no indication in the Personnel Rules that such detail is required.

c. "Third, the October 6 action was extensive in operation. It removed Mr. Franklin from his worksites and team, changed his supervisor and duties, restricted staff and operational contact, and required surrender of his keys and badge. App. Ex. 8. Although the

Code labels paid administrative reassignment non-disciplinary, these concrete restrictions were isolating and had a punitive effect. Their breadth made compliance with the governing safeguards especially important.”

This argument is addressed by Conclusions 10 and 11 above.

d. “Fourth, SPR did not establish who lawfully exercised Rule 1.3.4 authority or who made the findings required by that rule and SMC 4.20.065. Aphrodyi Antoine made the decision. App. Ex. 10 at 4. The appointing authority, Superintendent AP Diaz, testified that he had little involvement, did not sign off, had not received a case-specific assessment, and assumed one had probably been performed. Day 3 testimony (Diaz). No witness identified a contemporaneous, purpose-specific designation, a determination by the appointing authority that no other workplace or work unit was available, a finding that administrative reassignment was the only reasonable course, or the appointing authority’s recorded business justification.”

The burden at hearing was not on SPR to demonstrate it had complied with the Personnel Rules. The Appellant did not demonstrate that Ms. Antoine did not have authority to make the reassignment decision.

Under Personnel Rules Preamble 2 Definitions, “‘Appointing authority’ shall mean the head of an employing unit authorized by ordinance or City Charter to employ others on behalf of the City. The term includes and can be used interchangeably with department head, department director, superintendent, or chief.” Testimony from Mr. Sugarman and Mr. Diaz indicate that delegation of these responsibilities is common in City departments and SPR, and this delegation is not shown in the record to be a violation of the Personnel Rules. The record indicates that Ms. Antoine had the authority to make the decision that she did.

Ms. Antoine detailed the assessment she conducted as part of the decision. The Appellant did not identify any authority requiring an additional or more detailed assessment in the Personnel Rules.

e. “Fifth, the Step 3 process did not resolve these defects. It accepted disputed information from Rochelle Brown without securing readily identifiable underlying evidence, including the mentorship deactivation email stating “On leave.” App. Ex. 3; Day 2 testimony (Watanabe). It blurred SPR’s internal knowledge of an investigation Page 1 with the date Mr. Franklin was clearly notified that he was a subject. It did not analyze Rule 1.3.4 authority or the statutory prerequisites. Its author later corrected or qualified material parts of her reasoning. Superintendent Diaz relied on that work without independently reviewing the disputed underlying record.”

This argument is addressed in part by Conclusion 13 above. Further, the Appellant's concern that the Step 3 grievance process did not resolve defects in the record is misplaced. The purpose of the Step 3 grievance process is not to establish correct details as to every specific aspect of a grieving parties experience for reference in a future record. The purpose of the Step 3 grievance process was to determine if the reassignment was retaliatory, and the process was properly conducted as to that serious concern.

14. In closing argument, the Appellant raises issues under SMC 4.20.065 concerning "administrative reassignment." SMC 4.20.065 is not relevant to this matter. Ms. Antoine in her email notice of reassignment used the term "administrative reassignment" in error. Under SMC 4.20.065.A:

"Administrative reassignment" means paid leave status that an appointing authority may authorize for any City officer or employee in his or her department or office, when such employee is the cause of or subject of, or otherwise significantly affected by an active official investigatory process related to alleged violations of personnel rules, City ordinances, or state or federal laws and/or regulations, or an investigation intended to determine the employee's fitness for duty. Administrative reassignment shall not be considered discipline.

The Appellant was not administratively reassigned under SMC 4.20.065.A. He was not put on paid leave status but was temporarily reassigned to a special project within the Department.

15. The Appellant has raised other concerns and issues embedded in his closing argument that may not be addressed by the above. These issues were not adequately identified in the Appellant's Notice of Appeal with sufficient detail such that they were preserved as separate issues for the hearing, and as such cannot be raised for the first time in closing argument and are not considered by the Examiner.
16. The Appellant has not shown by a preponderance of the evidence that the decision to temporarily reassign him was made in violation of the Personnel Rules, or that there was reversible error as to the Step 3 grievance process.
17. On Monday August 24, 2026, the Appellant emailed a request to the Hearing Examiner to admit Appellant Exhibit 19 to the record. The hearing record closed on August 6, 2026. It is the responsibility of the parties to ensure that evidence they present at hearing is admitted by requesting that it be admitted during the

hearing. The request to admit Appellant Exhibit 19 after the close of the hearing is denied.⁴

18. At hearing on July 29, 2026, the Examiner determined that he did not have jurisdiction to hear issues concerning retaliation that are within the jurisdiction of the City of Seattle Office of Civil Rights (“OCR”). CSC Rule 5.05 provides:

An appeal or petition alleging a violation of a rule or ordinance related to employment enforced by another City agency, shall be referred by the Commission to the agency of the City having jurisdiction over such alleged violation.

The Appellant requested the Examiner to refer retaliation issues raised by him to OCR. The Examiner indicated that the CSC Rules and Code provide for referral of an appeal to the Examiner, these do not include delegation of CSC powers/obligations to refer retaliation matters to other departments in the City, including OCR. Therefore, the Examiner could not make an official referral to OCR on behalf of the Commission. The Examiner indicated that as a courtesy he would issue a written order as to the Examiner’s rulings on this issue for the benefit of communication with the Commission for the Appellant if the Appellant provided a draft order for review by the Examiner. The Appellant did not provide a draft order, but made a good faith attempt to provide some verbiage to support his request. The Examiner apologizes, but absent a draft order, and due to workload and family matters, he was not able to complete an Order concerning this issue and so records that decision herein. The Appellant may elect to pursue this directly with the Commission.

Decision

The Department’s decision is **AFFIRMED** and the appeal is **DENIED**.

Entered August 27, 2026.

/s/Ryan Vancil
Ryan P. Vancil
Hearing Examiner

Concerning Further Review

⁴ In the alternative, if the Appellant is indicating that the Exhibit was admitted by the Examiner at hearing but was inadvertently left off the exhibit list in error, the Appellant should cite to the hearing recording where this occurred, and the exhibit list can be corrected.

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

The decision of the Hearing Examiner is subject to review by the Civil Service Commission. To be timely, the petition for review must be filed with the Civil Service Commission no later than ten (10) days following the date of issuance of this decision, as provided in Civil Service Commission Rules 6.02 and 6.03.

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **FINDINGS AND DECISION** to each person listed below, in the matter of Hearing Examiner File: **CSC-26-07-001A FRANKLIN v SPR** in the manner indicated.

Party	Method of Service
Appellant Andre' Franklin andre.franklin@seattle.gov ; 	☐ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☒ E-mail ☐ Hand Delivery ☐ Legal Messenger
Department Legal Counsel, City Attorney's Office Molly Daily Molly.Daily@seattle.gov	☐ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☒ E-mail ☐ Hand Delivery ☐ Legal Messenger
Civil Service Commission Andrea Scheele andrea.scheele@seattle.gov Teresa Jacobs Teresa.Jacobs@seattle.gov	☐ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☒ E-mail ☐ Hand Delivery ☐ Legal Messenger
Seattle Human Rights Commission Meredith Stone Meredith.Stone@seattle.gov	☐ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☒ E-mail ☐ Hand Delivery ☐ Legal Messenger

Dated: August 27, 2026.

/s/ Angela Oberhansly
 Angela Oberhansly, Legal Assistant

BEFORE THE CITY OF SEATTLE
CIVIL SERVICE COMMISSION

CRAIG RUSSELL,
Appellant

v.

SEATTLE PUBLIC UTILITIES (SPU),
Respondent

CSC no. 26-01-019A

**ORDER SETTING HEARING AND CASE
SCHEDULE**

HEARING DATE: March 23 and 24, 2027

The Executive Director of the Seattle Civil Service Commission (CSC) orders that this appeal proceed under the case schedule below. All submissions are due by 5:00 p.m. unless otherwise specified.

ORDER SETTING HEARING AND CASE SCHEDULE

1. Discovery 2. Preliminary Exhibit List 3. Preliminary Witness List	Discovery is underway. The parties have exchanged preliminary witness and exhibit lists.
4. Discovery Cutoff	The parties agreed to exchange all documents related to the case on August 26, 2026.
5. Prehearing Motions	The parties shall exchange prehearing motions (if any) and submit them the CSC by noon, December 29, 2026.
6. Responses to Prehearing Motions	Responses to any prehearing motions shall be delivered by email to the Commission and exchanged by the parties by email. Responses shall be filed by January 5, 2027.
7. Replies to Prehearing Motion Responses	Any reply shall be filed with the CSC and emailed to the other party by January 12, 2027.

1	8. Prehearing Motion Oral Argument (Executive Director Request Only)	If requested by the Executive Director, oral argument will be held at a prehearing conference (see item 15).
2		
3	9. Prehearing Brief	Each party shall email a prehearing brief of seven or fewer pages to the other party and the CSC and deliver hard copies to the CSC by noon on January 28, 2027 . See subsection (d) below for the required number of copies and delivery instructions.
4		
5		
6		
7	10. Final Witness and Exhibit Lists and Copies	Each party shall email its final witness and exhibit lists and copies of exhibits in pdf to the other party and CSC and deliver hard copies to the CSC office by noon on January 28, 2027 . See subsection (d) below for the required number of copies and delivery instructions. Appellants shall label exhibits A-1, A-2, etc., Respondent shall label exhibits R-1, R-2, etc.
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9		
10		
11		
12		
13		
14	11. Requests for Remote Participation	Requests for a party or witness to participate remotely shall be made in writing to the Executive Director (cc: Teresa Jacobs) by January 28, 2027 . In-person participation is strongly preferred . Due to limited staff and logistic limitations, telephone will be the only remote witness participation option without advance permission. See section (e) for more information about requests and participation.
15		
16		
17		
18		
19		
20	12. Objections to Final Witness and/or Exhibits Lists	Objections shall be emailed to the opposing party and Commission by February 2, 2027 .
21		
22	13. Subpoenas for attendance at the hearing	Requests for subpoenas to the Commission are due by email on February 23, 2027 .
23		
24	14. Prehearing Conference on Process and Procedures	A prehearing conference to discuss processes and procedures for the hearing is scheduled for 10:00 a.m., March 9, 2027 . Parties and their representatives must attend in person and must bring all equipment
25		

	they expect to utilize during the hearing so it can be tested. The location is the Commission Hearing Room, 700 5th Ave, Suite 1670, Seattle, WA 98124
15. Prehearing Motion Oral Argument (Executive Director Request Only)	Prehearing Motion Oral Argument (Executive Director Request Only) If necessary, will be held in-person at the Commission Hearing Room, 700 5 th Ave, Suite 1670, Seattle, WA 98124 at 10:00 a.m., March 9, 2027.
16. Hearing	March 23 - 9:30 a.m. to 4:30 p.m. March 24 - 9:30 a.m. to 4:30 p.m.
17. Post-Hearing Briefs	Closing argument will be submitted by the parties by written brief. The Commission will notify parties of the page limit and deadline at the close of evidence.
18. Decision	See CSC Rule 7.01 for information about the commission's decision on appeal proceedings.

NOTICE OF CASE MANAGEMENT AND CONDUCT OF HEARINGS

- a. Hearing Location:** The public hearing in this matter will be conducted in person in the Civil Service Department hearing room at Seattle Municipal Tower, 700 5th Avenue, Ste. 1679, Seattle Washington. The hearing room will be open to the public during the proceeding. Parties and witnesses must check into the security desk on the 4th floor for access to the elevators.
- b. Notice of the Civil Service Rules of Practice and Procedure:** All parties and their representatives should familiarize themselves with the [CSC Rules of Practice and Procedure \(Rules\)](#).
- c. Recordings & Transcripts:** The proceedings will be recorded, and a court reporter will be present and prepare a transcript of the proceedings. Parties may utilize their own exhibit technician, but one is not provided by the commission. Parties can utilize video conferencing

1 on their own laptop to present exhibits or videos. Parties should consult with commission
2 staff at least three weeks prior to the hearing date about any special technology or
3 presentation requests and will be required to do a technology check.

- 4 **d. Copies of Exhibits (Binders):** One (1) pdf copy should be delivered by email to
5 CivilService@seattle.gov and six (6) printed copies collated into binders shall be delivered
6 only to the Civil Service Department office. Contact Teresa Jacobs at
7 Teresa.jacobs@seattle.gov to arrange delivery of hard copies.
- 8 **e. Remote Witness Participation:** A party may appear by telephone or video conference at a
9 Civil Service hearing when authorized by the Rules or approved in advance by the
10 Executive Director. Any request for remote participation must be supported by good
11 cause and must be both valid and reasonable under the circumstances. In-person
12 participation is strongly preferred, and parties should make all reasonable efforts to
13 ensure that witnesses appear in person. Remote participation will be permitted only
14 when it will not impair the orderly conduct of the proceeding.
- 15 i. Requests for a witness to testify via teleconference or telephone must be
16 submitted to the Executive Director as early as possible, but no later than two
17 weeks prior to the scheduled hearing. Approval is contingent upon the successful
18 completion of a system test before the hearing to confirm compatibility with CSC
19 equipment.
- 20 ii. After a witness is approved to participate via telephone or video conference, the
21 party must provide the scheduled date and time of their testimony, and
22 confirmation that the witness has downloaded and has been instructed in the use
23 of Microsoft Teams. No later than one week before their scheduled appearance,
24 the party shall notify Ms. Jacobs of the email address the witness will use on the
25 day of their testimony, and a telephone number at which they can be reached.

Ms. Jacobs will send a Microsoft Teams invitation for the witness to utilize at the time of their testimony. Each party is responsible for managing their witness on the day of their testimony, verifying that the Microsoft Teams application was installed, and they have completed a tech check to test their audio and video.

f. Sequestration of Witnesses: Parties are instructed that witnesses, other than the parties themselves, shall be sequestered during the hearing. Sequestered witnesses may not observe the proceedings, discuss testimony with other witnesses, or access any portion of the record prior to providing their testimony. It is the responsibility of each party to ensure their witnesses comply with this order. Violation of sequestration may result in the exclusion of witness testimony or other appropriate sanctions.

g. Amended Witness and Exhibit Lists: To file an amended final witness or exhibit list, parties must show good cause and receive permission from the Executive Director.

h. Closing Arguments: The method and dates for closing arguments shall be determined by the Commission after the presentation of evidence.

i. Questions about hearing process: The parties are requested to direct any questions regarding the hearing process to Commission staff person Teresa.jacobs@seattle.gov.

To avoid ex parte contact, parties are directed to cc each other on all correspondence with the commission.

Dated this 8th day of September 2026

FOR THE CITY OF SEATTLE PUBLIC SAFETY CIVIL SERVICE COMMISSION

Andrea Scheele

Andrea Scheele, Executive Director

CERTIFICATE OF SERVICE

I, Teresa R. Jacobs, declare under penalty of perjury under the laws of the State of Washington, that on the date below, I caused to be served upon the below-listed parties, via the method of service listed below, a true and correct copy of the foregoing document: **Order Setting Hearing and Case Schedule.**

Party	Method of Service
Appellant: Craig Russell [REDACTED]	E-Mail
Respondent: Seattle Public Utilities c/o Macaulay Dukes, Assistant City Attorney, Law Macaulay.Dukes@seattle.gov Anab Mohamud, Legal Assistant, Law Anab.Mohamud@seattle.gov Mary Barber, Paralegal, Law Mary.Barber@seattle.gov	E-Mail

Dated this 8th day of September 2026, at Seattle, Washington.

Teresa R. Jacobs

Teresa R. Jacobs, Executive Assistant
Civil Service Department

CIVIL SERVICE COMMISSION

2026

NOTICE OF PROPOSED RULEMAKING

Notice of Proposed Rulemaking

The Civil Service Commission (“CSC”), acting under the authority of SMC 4.04.250 K (2), proposes to amend the Civil Service Commission Rules of Practice and Procedure (“Rules”). CSC Rules were last revised in 2014. This is a comprehensive Rules revision to achieve the following objectives:

- Modernize the Rules to reflect current business and operational practices
- Document and clarify practices and legal requirements already in use

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- Update the Rules to reflect current business and operational practices
- Improve documentation of practices and legal requirements already in use

The public may view the proposed Rule changes on the commission’s website:

<https://www.seattle.gov/civil-service-commission/current-news>

Interested persons are invited to submit public comment the following ways:

1. By email to civilservice@seattle.gov . Include “Public Comment” in the subject line, or
2. In person at the CSC on September 17, 2026, at 2:00 p.m.; the meeting is located at the Seattle Municipal Tower in the CSC hearing room at 700 Fifth Avenue, Suite 1679, Seattle, Washington 98104.

Written comment must be received no later than 5:00 p.m., on September 16, 2026. The Commission may take final rulemaking action at its meeting on September 17, 2026, at 2:00 p.m.

City of Seattle

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Written comment must be received no later than 5:00 p.m., on September 16, 2026. The Commission may take final rulemaking action at its meeting on September 17, 2026, at 2:00 p.m.

Dates of publication in the Seattle Daily Journal of Commerce, September 1 and 2, 2026.

9/2(452289)

CSC PROPOSED RULE REVISIONS

Rules of Practice and Procedure

City of Seattle
CIVIL SERVICE COMMISSION
Adopted _____, **2014 2026**

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, (~~SMC~~ Chapter 3.02 SMC).

1.02 SCOPE AND PURPOSE

These Rules govern the administration of the Civil Service Commission ("Commission") and all appeals 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.

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 ~~DISQUALIFICATION OF A COMMISSIONER, HEARING OFFICER, OR HEARING EXAMINER~~ COMMISSIONERS AND PRESIDING OFFICERS – ETHICS AND QUASI-JUDICIAL CANONS

- A. ~~An interested party may challenge the participation of one or more Commissioners, Hearing Officer, or a Hearing Examiner in a matter. The challenge must be presented in writing as a “Motion to Dismiss” or “Motion to Disqualify.”~~ Ethics. Commissioners and Presiding Officers shall abide by the City of Seattle Ethics Code, Chapter 4.16 SMC, and training received on its requirements.
- B. ~~Any motion to disqualify a Commissioner from participating in an appeal must be filed within fourteen days after the notice of appeal is timely filed, or in the case of a new Commissioner, within fourteen days of when the Commissioner assumes office. The motion must set forth the reasons that the Commissioner cannot remain objective due to personal bias, prejudice, financial interest or other substantial reason. The fact that the Commissioner has participated in a decision or vote adverse to the party is not a basis for disqualification.~~ 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.
- C. ~~Any motion to disqualify a Hearing Officer or Hearing Examiner from participating in an appeal must be filed within fourteen days of the date of the first notice identifying that the challenged Hearing Officer or Hearing Examiner will participate in the appeal. The motion must set forth the reasons the party reasonably believes that the Hearing Officer or Hearing Examiner cannot remain objective due to personal bias, prejudice, financial interest or other substantial reason. The fact that the Hearing Officer or Hearing Examiner has participated in a decision or vote adverse to the party is not a basis for disqualification.~~
- D. ~~Any motion to disqualify a Commissioner from participating in any other matter must be filed prior to the Commission’s meeting for which the item appears on the agenda, or if the item does not appear on the agenda, prior to the time the issue is presented to the Commission.~~
- E. ~~A party’s failure to timely raise a challenge shall constitute a waiver of the challenge.~~
- F. ~~In the event of an actual or apparent personal bias, prejudice, financial interest or other reason substantially affecting a Commissioner’s, Hearing Officer’s or Hearing Examiner’s objectivity the challenged Commissioner, Hearing Officer or Hearing Examiner may recuse him or herself, or the Commission may, by majority vote, disqualify a Hearing Officer or Hearing Examiner.~~

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 ~~past~~ 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 ~~qualified~~ individuals willing and eligible to serve as temporary Commissioners, from which the Commission may select a temporary Commissioner.
- D. ~~If the Commission decides to appoint a temporary Commissioner pursuant to SMC 4.04.265, the Commission shall select the temporary Commissioner by motion and vote consistent with SMC 4.04.265.~~ 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.
- ~~E. If a temporary Commissioner is not appointed by one of the above methods, the Commission may select any other qualified individual in any manner consistent with SMC 4.04.265.~~

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. ~~Assign~~ Process the delegation of appeals to a Hearing Officer or the Hearing Examiner upon a vote of approval by the Commission to make such a delegation. ~~Request a Commissioner to act as Reviewing Officer on final decisions of the Hearing Officer or Hearing Examiner. Generally assign appeals to Commissioners to act as Reviewing Officers on a rotating basis unless circumstances warrant assignment to a specific Commissioner.~~
- 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 ~~pre-hearing~~ 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 ~~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: ~~Seattle Municipal Tower (SMT), 700 Fifth Avenue, Suite 1670, P.O. Box 94729, Seattle, Washington, 98124-4729, or such other office as the commission designates.~~ The regular schedule of the Commission offices staff will shall be open Monday through Friday, excluding legal official City holidays, as staffing permits.

2.08 PUBLIC RECORDS

The Commission is subject to the City's 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.

~~Public records of the Commission shall be available for inspection and copying, by written request as provided in RCW Chapter 42.56. No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the Commission staff, under its supervision, and accomplished without excessive interference with the essential functions of the Commission. Copies of records will be made available at actual cost or as provided by City ordinance.~~

~~In accordance with RCW 42.56.070(4) the Commission has determined that it is unduly burdensome to maintain an index of the Commission's records.~~

2.08.1 RESPONSE TO PUBLIC RECORDS REQUESTS

- ~~A. The Commission office shall respond promptly to requests for disclosure in accordance with applicable statutes.~~
- ~~B. Washington State or other applicable law may prohibit the release of some Commission records.~~
- ~~C. The Commission may provide third party notification to individuals to whom the requested records pertain.~~

2.08.2 REVIEW OF DENIAL OF PUBLIC RECORDS REQUEST

~~Any person who objects to a denial of a request for a record should within **five (5) days** of the date of receiving the written notice of denial, ask for a review of such decision by submitting a written request for a review to the Commission.~~

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

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

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.

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 Office of the City's 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.

Hearing Officer shall mean a Hearing Examiner Pro Tem hired by the Commission to whom the Commission delegates the authority to preside over an appeal

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 ~~person~~ 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 ~~D~~epartment or office.

~~**Reviewing Officer** shall mean the member of the Commission assigned to review and make a recommendation on a matter that the Commission has delegated to a Hearing Officer or to the Office of the Hearing Examiner of the City of Seattle.~~

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. ~~HEARINGS AND 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 ~~D~~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 individual or department adversely affected regular employee aggrieved~~ by an alleged violation of ~~Article XVI of the Charter of the City of Seattle, the Personnel Ordinance Chapter 4.04 SMC~~ or the administration of the personnel system may appeal such violation to the Commission 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, ~~he or she~~ the employee may file an appeal.

The appeal must comply with the requirements of SMC 4.04.260 and these Rules, including that the ~~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 street address and email address where process and other papers may be served upon the Appellant-appellant.

The Notice of Appeal shall also contain a brief description of the grievance process and Step 3 grievance outcome facts giving rise to the appeal, 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 (20) days** after the date of the order.

5.04 ARBITRATION – EFFECT

Pursuant to Article XVI, Section 6, of the Seattle City Charter, an 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 petition~~ alleging a violation of a ~~rule or ordinance 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 ~~City of Seattle Personnel~~ 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 ~~appellants~~. Notice or other communication to the party representative, is notice or communication to the party.

5.08 HEARINGS

Consistent with Article XVI, Section 6, of the Charter and SMC 4.04.250, The the Commission may itself hear an appeal, or may delegate its powers to hear an appeal, in whole or in part, to a Hearing Officer or to the Office of the Hearing Examiner of the City of Seattle, subject to review by the Commission. 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.

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

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 pre-hearing 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 A HEARING OFFICER OR THE OFFICE OF THE HEARING EXAMINER~~ CONDUCTS THE HEARING – PRESIDING OFFICER

~~A Commissioner will serve as the Reviewing Officer to review and make a recommendation on all final decisions of the Presiding Officer. The Commission may affirm, modify, or remand a decision of a 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 themselves 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

~~Except as otherwise provided by the Code, computation of any period of time prescribed or allowed for all matters before the Commission or a Presiding Officer shall begin with the first day following the day on which the act or event initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or a legal City holiday, the period shall extend to the end of the next day the office is open for business.~~

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 shall be deemed filed with the Presiding Officer on the date received at the location and in the manner specified by the Presiding Officer.
- B. Timing of Delivery and Receipt of Documents. Documents due to the Commission or a Commission Hearing Officer may be filed electronically during regular business hours. Documents sent electronically before 5:00 PM will be deemed filed on that business day. 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. Documents shall be served personally or, unless otherwise provided by applicable ordinance, by first class, registered, or certified mail, or by facsimile (fax) transmission, electronically or, in the case of service to City agencies, by the City's regular interoffice mail, with written acknowledgment of such mailing attached to the papers so served. A written signed statement for the purpose of confirming the date of mailing shall be provided by the person who mailed the papers, or by certificate of any attorney, or Commission staff in the case of Commission papers. Service shall be regarded as complete upon deposit in the regular facilities of the U.S. Mail of a properly stamped and addressed letter or packet, or at the time personally delivered, or transmitted by fax. 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. In the event staff is not present in the Commission office during regular business hours, the Commission will make available a written statement for Parties to sign for the purpose of confirming the date and time when filing papers. 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 (~~Presiding Officer~~) (Considerations)

The Presiding Officer may on ~~his or her~~ 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;
- ~~B.C.~~ Disclosure of witnesses and exhibits;
- D. Discovery;
- ~~C.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 (~~Commission~~) (Scheduling, Attendance, and Order)

- A. If the Commission is hearing the case, the Executive Director shall schedule and preside over all pre-hearing 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.
- ~~A.C.~~ Pre-hearing Prehearing conferences may be held by telephone conference call, in person, video conference, or other electronic means as specified by the Presiding Officer.
- ~~B.D.~~ The Presiding Officer shall give notice orally or in writing to all parties of any ~~pre-hearing~~ prehearing conference.
- ~~C.E.~~ All parties shall be present at any ~~pre-hearing~~ prehearing conference unless they waive the right to be present or are represented and granted permission by the Presiding Officer not to attend.
- ~~D.F.~~ Following the ~~pre-hearing~~ 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 ~~at hearing~~ 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 ~~shall be effective~~ apply to the extent recognized by law.
- C.** Public Access and Non-Party Testimony. Hearings are open to the public. However, in appeal hearings, ~~persons~~ individuals who are not parties are ~~generally~~ not permitted to testify unless called as witnesses.
- D.** Testimony. The Presiding Officer may limit the length of testimony to expedite the 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.
- AE.** Cross-Examination. All witnesses are subject to cross-examination by the other party~~(s)~~.
 - 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.

E-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 testimony evidence presented via electronic means. Each party ~~to the proceeding shall have the opportunity to hear (or, if available, to both hear and see)~~ must be able to hear (or hear and see, if available) the testimony given in this manner and to question the person giving such testimony 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. All motions, other than those made during a hearing, shall be in writing and state the order or relief requested and the grounds for the motion. 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 (7) days** after service of any written motion, or such longer or shorter period as may be designated by the Presiding Officer, the other party(s) shall file a written answer. When the Presiding Officer has received the answering statement(s), or the **seven (7) calendar (7) 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.

- ~~C.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.
- ~~D.E.~~ The Presiding Officer may rule upon motions orally, except for motions that are fully dispositive of a case. ~~For motions made at hearing or for motions made for the extension of time or the expedition of hearings, the Presiding Officer may waive the requirements of this section and may also rule upon such motions orally.~~
- 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.
- A.B. Evidence, including hearsay, may be admitted if, in the judgment of the Presiding Officer, it is relevant to the issue(s) on appeal, comes from a reliable source, and has probative (proving) value. Such evidence is that which responsible persons would commonly rely upon in the conduct of their important affairs. 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.
- B.C. The Presiding Officer may exclude evidence that is irrelevant, unreliable, immaterial, unduly repetitive, or privileged.
- C.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.
- D.E. If the Commission is hearing the appeal, each party shall provide ~~four~~ six (4-6) copies of all filings on the date specified in the hearing or prehearing order. If a ~~Hearing Officer~~ or 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 ~~his or her~~ 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 Officer shall not take such notice of disputed adjudicative facts that are ~~at the center of material to~~ material to an appeal.
- C.** A Presiding Officer ruling, decision, or recommendation may refer to and utilize any part of the law Code 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.

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

- 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 (10) 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. ~~Parties shall be provided notice of the consideration of any evidence received after the hearing and shall have an opportunity to review such evidence and to file rebuttal evidence or argument.~~
- 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 ~~Presiding Officer~~ 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, ~~subject to payment of a reasonable fee for copying~~ through the City's process for responding to requests for public records pursuant to the Public Records Act (Chapter 42.56 RCW).

Note: ~~Third party notification may be required for some records.~~

5.20 CLARIFICATION

5.20.01 – CLARIFICATION OF APPEAL

The ~~Appellant~~ 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-~~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-~~appellant's~~ request to withdraw shall be granted as a matter of right and the appeal shall be dismissed.
- D. If the Appellant-~~appellant~~ withdraws an appeal, and the ~~City's~~ 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.

~~In any subsequent proceeding, the Commission shall consider the following factors in determining whether to give legal effect to the settlement agreement:~~

- ~~1. The agreement is written and easily understood without legal assistance;~~
- ~~2. There is a clause that encourages the employee to seek review of the agreement prior to signing;~~
- 3. It is clear, what, if any, appeal rights the employee is giving up by signing the agreement.

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. ~~Except as provided in subsection (d), a~~ written request for intervention must be submitted to the Presiding Officer at least ~~five~~ **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 ~~applicable ordinance(s)~~ 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 ~~pre-hearing~~ 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. ~~Parties shall exchange, review, discuss and agree upon documents and witness lists no less than two (2) weeks prior to any scheduled pre-hearing conference or hearing, unless another time period is specified in the hearing or pre-hearing~~

~~order. Disagreements that cannot be resolved shall be brought to the attention of the Presiding Officer.~~

- 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).
- ~~C.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 or motion~~ 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 ~~pre-hearing~~ 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 ~~seven ten (10) calendar (7) days~~ prior to the appearance or production ordered.
- F. Subpoena requests require three (3) business days for the Presiding Officer to process.
- ~~F.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 (3) days** of receipt of the subpoenas or such other time as specified by the Presiding Officer.
- ~~G.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 ~~Parties have~~ has the right to be represented by a person of ~~his/her~~ their choosing at ~~his/her~~ 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 ~~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 ~~the~~ 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(s)~~ 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 ~~ordinance(s), statute, or case law~~ law or collective bargaining agreement, the standard of proof is a preponderance of the evidence.

5.32 PRESIDING OFFICER'S COMMISSION'S OR HEARING EXAMINER'S DECISION ON ORIGINAL APPEAL

- A. **Issuance:** The ~~Presiding Officer~~ 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 (30) days** from the close of the record. (See ~~Section VII~~, Rule 7.01, "Commission's Decision," for exception.)
- B. **Judgment on Relief Requested:** Unless proscribed by applicable ordinance(s) law or collective bargaining agreement, the ~~Presiding Officer's~~ Commission's or Hearing Examiner's decision may affirm, ~~reverse~~, modify, ~~reverse~~, or remand the Department's decision or other action that is the subject of the appeal.
- C. **Contents:** Decisions of the ~~Presiding Officer~~ 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, ~~pre-hearing~~ prehearing determinations, and other similar information.
 - 2. **Finding.** The individual facts that the ~~Examiner~~ 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 ~~Presiding Officer's~~ Commission's or Hearing Examiner's decision as to the outcome of the appeal (affirms, modify, reverse, or remand) based upon a consideration of the whole record and supported by ~~substantial~~ a preponderance of the evidence in the record.
 - 5. **Postscript.** Information regarding subsequent procedural step(s), if any, for appealing the ~~Presiding Officer's~~ 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 ~~PETITION FOR REVIEW NOT FILED~~ FURTHER REVIEW NOT SOUGHT

~~If neither party files a timely petition for review, and the Commission does not, upon its own initiative, decide to review the matter within the time for filing a petition for review, the decision of the Presiding Officer shall be adopted as the order of the Commission. 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 adopted as 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~~ 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. ~~The Presiding Officer~~ 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.

5.35.03 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.

5.35.04 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. COMMISSION REVIEW OF PRESIDING OFFICER'S DECISION 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 REVIEW ON MOTION OF COMMISSION

- ~~A. The Reviewing Officer shall review decisions issued by a Presiding Officer and recommend an action to the Commission at its next scheduled meeting, following the review.~~
- ~~B. The Reviewing Officer or any Commissioner may move to review, affirm or modify all or any part of a Presiding Officer's decision or remand for further proceedings.~~

- ~~C. The Commission shall vote on the Commissioner's motion no later than the next regularly scheduled Commission meeting following the review.~~

6.02-6.01 PETITION FOR REVIEW OF ~~PRESIDING OFFICER~~ HEARING EXAMINER FINAL DECISION

Any party may file a petition for review with the Commission of all or any part of the ~~Presiding Officer's 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 (10) days** following the date of the issuance of the ~~Presiding Officer's 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.

6.03 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. ~~If the Commission decides to review the decision, it~~ The Commission will issue an order setting forth the issues it will review, and whether the Commission requires additional briefing by the parties.

6.04 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 ~~parties~~ 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 ~~Presiding Officer~~ Hearing Examiner shall forward a tape recording of the proceedings to the Commission together with an index showing the names of the witnesses and the location on the tape recording where the testimony may be found and a list of the exhibits and an identification of the tape or witness, where the exhibit is identified, offered for admission, and a ruling made. If all or part of a tape recording is not audible, the ~~Presiding Officer~~ Hearing Examiner may prepare and certify a summary of that portion of the testimony in the proceedings based on ~~his or her~~ their notes and memory.
- B. Where the parties agree that the testimony or facts are not in dispute, the ~~Presiding Officer~~ 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 ~~his or her~~ such party's own expense.

- C. When the ~~Presiding Officer~~ Hearing Examiner believes that the tape of proceedings adds an extra dimension to the testimony, the ~~Presiding Officer~~ Hearing Examiner may supplement the transcript with the tape recording. For example, the tone of voice of a witness may be expressive, or the manner of speaking may be informative.
- D. The ~~Presiding Officer~~ Hearing Examiner may order post-hearing conferences for the purpose of preparing the record for review.

~~6.05~~ 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 (7) 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.

~~6.06~~ 6.05 TRANSFER OF CASE FILE

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

~~6.07~~ 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.

~~6.08~~ 6.07 STANDARD OF REVIEW FOR COMMISSION REVIEW OF PRESIDING OFFICER 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 ~~Presiding Officer~~ Hearing Examiner where the decision is not supported by substantial evidence, or misapplies the ~~Personnel Ordinance or rules or law~~, or fails to do substantial justice. The party seeking review of the decision of the ~~Presiding Officer~~ Hearing Examiner shall have the burden of showing error of fact or law.

~~6.09~~ 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.

~~6.10~~ 6.09 COMMISSION DECISION ON APPEAL OF HEARING EXAMINER DECISION

If the Commission reverses or modifies the ~~Presiding Officer's~~ 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 ~~issue~~ render its final decision within **ninety (90) calendar (90) days** ~~of the close of record~~ after the hearing is completed, as set forth in SMC 4.04.260. 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 ~~Charter and Ordinance 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 (15) 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 _____ day of _____, 2014 2026

SEATTLE CIVIL SERVICE COMMISSION

APPROVED BY:

/s/ Eric de los Santos Denise Wells, Commission Chair

/s/ Angelique M. Davis Ray Ceaser, Commissioner

/s/ Steven A. Jewell Steve Zwerin, Commissioner

Filed:
City of Seattle, City Clerk



Save the Date

October 20 and 21, 2026

9:00 AM - 4:00 PM (PDT)

Foster Garvey is pleased to announce that the **45th Annual Civil Service Conference**, hosted in partnership with **Public Safety Testing**, will take place October 20 and 21, 2026, from 9:00 a.m. to 4:00 p.m. each day.

Please mark your calendars! An invitation with a formal agenda, admission prices and details on how to RSVP will be distributed in the coming months. Planned topics include:

- Public Safety Testing's All-Agency Business Meeting
- Basic Training for New Commissioners & Staff
- Best Practices for Avoiding Discrimination and Harassment Claims
- Candidate Disqualification
- Fair Chance Act Update
- How Investigations May Impact Cause
- Public Records and Investigations
- Qualifications for Police Chiefs and Sheriffs
- Fourth Edition of Model Rules Update
- Foster Garvey's Annual Legal Update
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The conference will be hosted virtually via Zoom.

About the Conference. For more than four decades, the Civil Service Conference has provided civil service commissioners, secretaries and examiners, other local human resources officials, and legal counsel with practical information on best practices and emerging issues.

Submit your ideas for our discussion!

Is there an issue or topic that you would like to see covered at this year's conference?

Please send your suggestions to events@foster.com and we will do our best to weave it into the conversation.