

## **CIVIL SERVICE COMMISSION**

### **STANDING ORDER FOR DISCIPLINARY APPEAL PRE-HEARING TELEPHONE CONFERENCE AND SUBMISSIONS**

A pre-hearing telephone conference is required to be held with the Civil Service Commission Presiding Officer at least twenty (20) days prior to the date of the scheduled disciplinary appeal hearing.

The representative for the City is responsible for timely scheduling and initiating the telephone conference. It is the responsibility of the Appellant or Appellant's representative to provide a valid contact number to the City representative. The Presiding Officer's contact information is specified on Exhibit "A" attached hereto.

The Appellant or the Appellant's representative and the City Attorney or Employee Relations representative assigned to the case are required to participate and should be fully prepared at the time of the telephone conference to discuss all relevant case issues.

The purpose of the pre-hearing telephone conference is to identify and resolve any discovery or evidentiary issues and to appropriately streamline presentation of the case at the hearing. The following timelines apply unless otherwise agreed to by the Presiding Officer and the participants.

An initial exchange of Exhibit and Witness lists should take place between the participants at least five (5) working days before the date scheduled for the pre-hearing telephone conference. No later than five (5) working days before the date scheduled for the pre-hearing conference, the participants should also discuss and agree upon any statement of stipulated facts to be presented to the Commission and agree upon any joint exhibits to be presented to the Commission with the hearing agenda and packet.

Any objections to the Exhibit or Witness lists should be exchanged in writing between the participants no later than three (3) working days before the date scheduled for the pre-hearing telephone conference. As many issues as possible should be resolved between the participants prior to the telephone conference. All motions and supporting papers shall be in writing and shall be filed with the Presiding Officer no later than five (5) working days before the date scheduled for the pre-hearing telephone conference.

At least two (2) working days prior to the time scheduled for the pre-hearing telephone conference, each participant must submit their list of proposed Exhibits and Witnesses, any joint statement of stipulated facts, and all joint exhibits agreed upon by the participants, to the Presiding Officer by email or personal service.

During the pre-hearing telephone conference, the participants must be prepared to discuss:

- 1) The basic theory of their case or defense.
- 2) What evidence they will be introducing and why.
- 3) What witnesses they will call and why.
- 4) Any evidentiary disputes.
- 5) Any disputes as to number or type of witnesses.
- 6) Each party's time estimate for their presentation at the hearing.
- 7) Any other anticipated issues or special circumstances.

**Participants are cautioned to consider the matters to be discussed at the pre-hearing conference very seriously, and to be fully prepared to discuss the items listed above with the Presiding Officer at the pre-hearing telephone conference. It is the responsibility of the Appellant, whether appearing before the Presiding Officer and the Commission through a representative or on his or her own behalf, to comply with this Standing Order and all other rules relating to the conduct of the hearing before the Commission.**

At the pre-hearing conference, the Presiding Officer shall determine the total amount of time required for the hearing based upon the reasonable representations of the participants, and shall specify the time allotted for the hearing in the Presiding Officer's order. Factors affecting the Presiding Officer's allotment of time for the hearing include, but are not limited to, the number of charges against the Appellant, the complexity of the charges, the number and complexity of exhibits, the amount of evidence stipulated to by the participants, the number of witnesses and estimated length of testimony, and the severity of the disciplinary charges.

The amount of time specified for the hearing may not be exceeded by the participants absent a showing of good cause, which may include, but not be limited to, unanticipated evidence, evasive or particularly difficult witness examination or cross examination, and similar unanticipated or unforeseen events. The amount of additional time allocated and used by the participants for direct and cross examination of witnesses may be tracked by the Clerk of the Commission.

The final lists and documents, stipulated facts, and joint exhibits, must be exchanged and provided to the Secretary of the Civil Service Commission at the City Clerk's Office, clearly identifying that the submittals are for the Civil Service Commission, identifying the hearing by title, and specifying the relevant hearing date(s), no later than seven (7) days before the scheduled hearing so that there is adequate time for City staff to prepare the packets for the Commissioners.

The Presiding Officer may waive any of the time requirements in this Standing Order for good cause, including occasions when compliance with a time requirement is rendered impossible or impracticable because of the date upon which the hearing is

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scheduled. For the purposes of this Order, the term "working day" means any day from 8 a.m. to 5 p.m., Monday through Friday, excluding holidays when San José City Hall is closed.

Dated: 10/7/10



MARGARET G. AKDENIZ  
Presiding Officer

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09/23/2010

## EXHIBIT A

San Jose Civil Service Commission Presiding Officer:

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