

RULE 14

APPEAL TO HEARING OFFICER

SECTION 1: APPEAL TO HEARING OFFICER

The Hearing Officer is duly appointed by the City Council.

The written notice of appeal to the Hearing Officer must be filed within seven (7) calendar days from the date of receipt of the (1) written notice of a dismissal, demotion, or suspension or (2) written dated answer rendered by the Department Director to a formal grievance. Probationary employees, employees suspended for two (2) days or less, and employees in violation of Rule 12, Section 2(O), are not entitled to the provisions of Rule 12, Appeal to Hearing Officer.

The written notice of appeal to the Hearing Officer shall include the following information: 1) name and classification of the aggrieved employee, 2) grievance filing date, 3) request for a hearing, and 4) whether the employee will be represented by counsel and/or a SV Employees' Council representative.

The hearing date shall be no earlier than fifteen (15) and no later than thirty (30) calendar days from the date on which the Hearing Officer receives the dated appeal. Hearings shall be held in closed session unless the aggrieved employee requests, in writing, an open, public hearing.

The Hearing Officer will notify the aggrieved employee, his representative(s), and the City Manager, of the date, time, and location of the hearing. Such notice will be in writing. The employee shall have the right to be accompanied by legal counsel and other representatives, at his own expense, of his choice. A listing of such legal counsel and representative(s) shall be furnished to the Hearing Officer and the City a minimum of ten (10) calendar days prior to the hearing. If the employee chooses to have a representative or legal counsel present, the City will do so as well. Failure to provide advance notice shall constitute a waiver of the employee's right to have a representative or legal counsel present.

At least ten (10) calendar days prior to the hearing, both the aggrieved employee and the City shall disclose to each other and the Hearing Officer the witnesses each anticipates calling and any documents each anticipates presenting. No other witnesses or documents will be considered by the Hearing Officer unless the party can show that it was newly discovered, there was prompt disclosure, and the evidence is crucial. In addition, the Hearing Officer may, at his discretion, exclude certain witnesses or documents even if timely disclosed if he finds such evidence to be irrelevant, cumulative, redundant, or overly prejudicial.

In an investigation or hearing conducted by the Hearing Officer, he shall have the power to examine witnesses under oath and compel their attendance or production of evidence by subpoena issued in the name of the City and attested by the City Clerk. It shall be the duty of the Chief of Police to cause such subpoenas to be served.

The Administrative Services Director or designee acts as facilitator during the proceedings.

The City's case shall be presented to the Hearing Officer first. At the conclusion of the City's case, the aggrieved employee will then state his case in opposition. Each side may call disclosed witnesses that they believe are relevant. Cross-examination of witnesses is permitted.

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Within seven (7) calendar days following the completion of the hearing, the Hearing Officer shall furnish the City Manager with a summary of the hearing and his written recommendation. Within seven (7) calendar days following receipt of the Hearing Officer's summary, the City Manager shall furnish the aggrieved employee with a written decision, which shall be final and binding.

If the appeal is the result of a grievance involving the City Manager, the Hearing Officer will provide a summary of the hearing and his/her written recommendation to the Mayor and City Council for a final decision within the time frames previously outlined.

An employee's failure to request or attend a hearing before the Hearing Officer shall constitute a waiver of the employee's rights to further administrative and/or legal proceedings.