

HEARING AND DISPOSITION PROCEDURE

- 1) ***Representation By Counsel or In Pro Per.*** The complainant and the public servant may represent himself or herself, or may be accompanied and represented by an attorney who is licensed to practice law in the State of Michigan.
- 2) ***Hearing Record.*** Each administrative hearing shall be recorded by electronic or stenographic means to preserve the evidence.
- 3) ***Oath of Witnesses.*** All witnesses shall be placed under oath prior to the commencement of their testimony.
- 4) ***Professionalism.*** Administrative hearings shall be conducted in a professional manner.
- 5) ***Burden of Proof.*** The complainant shall have the burden of proving the alleged violation of the Ordinance **by a preponderance of the evidence.** In the case of an investigation initiated by the Board, the independent counsel designated by the Board shall bear this burden of proof. In either case the Board shall consider the evidence impartially. The respondent shall have the right to be present, to be represented by counsel, to testify, to produce and examine witnesses, to cross examine adverse witnesses, and to introduce such other evidence that is relevant and material to the issues determined by the presiding hearing officer.
- 6) ***Presentation and Admission of Evidence.*** The admission of evidence shall not be limited by the Michigan Rules of Evidence during the conduct of administrative hearings, **except for those Rules with respect to privilege which are governed by common law as modified by state statute or court rule.** In addition, pursuant to Section 2-111(3) of the 1997 Detroit City Charter, the admission of any evidence where the admission would be contrary to due process of law is prohibited.
- 7) ***Briefs on Legal Issues.*** Where deemed necessary, the parties may be required to submit briefs on relevant legal issues prior to, or within seven (7) calendar days after the conclusion of an administrative hearing.

8) **Disposition of Complaints or Board Investigations.** The Board shall review all evidence presented and shall render a written decision on the basis of a majority vote of the members present and serving within ninety-one (91) calendar days following the date of receipt of the complaint or the Board's initiation of an investigation. Under extraordinary circumstances the Board may extend this time by an additional twenty-eight (28) day period in accordance with Section 2-6-115(a) of the Ethics Ordinance.

In accordance with Section 2-6-115(c) of the Ethics Ordinance, the Board shall make findings of fact and conclusions of law as to whether a violation of the Ethics Ordinance has occurred. This decision shall be entitled "In re: [name of public servant]", and dated as of the date of issuance. Upon finding by a preponderance of the evidence that a violation of the Ethics Ordinance has occurred, the Board shall take such action as provided for in Section 2-6-115 or in Section 2-6-116 of the Ethics Ordinance.

The Board shall prepare an official record of the hearing, which shall include the notice of hearing, all documents considered by the Board, and a transcript of the evidence presented at the hearing. One (1) copy of this decision shall be provided to the complainant(s), one (1) copy shall be provided to the public servant, one (1) copy shall be provided to the Office of the City Clerk, one (1) copy shall be provided to the Municipal Reference Library, and one (1) copy shall remain in the Board file.