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# City of New Orleans, Louisiana

## Rules for the Ethics Review Board

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1 **Chapter 1. Authority and Definitions**

2 §101. Authority

3 The Ethics Review Board derives its rulemaking authority from Section 9-402 of  
4 the Home Rule Charter and from the New Orleans Municipal Code Division 3.  
5 Code of Ethics, Subdivision 1. Generally, Section 2-719 (9) Rules and  
6 regulations, “The ethics review board, pursuant to section 4-107 of the Home  
7 Rule Charter, shall adopt rules and regulations governing the transaction of its  
8 business.”

9 §102. Definitions

- 10 A. “Board” means the New Orleans Ethics Review Board.
- 11 B. “Code” means the City Code of Ethics, Code of Ordinances City of New  
12 Orleans, Part II, Article VII, Division III.
- 13 C. “Consent Opinion” means a written decision and order of the Board issued  
14 with the agreement of the respondent in order to publicly settle any matter that  
15 appears to be a violation of any law within the Board’s jurisdiction in lieu of  
16 filing charges, holding a public hearing, or filing a civil action.
- 17 D. “Executive Director” means the employee in charge of the day to day  
18 operations of the Board’s staff and business.
- 19 E. “Fact-Finding” means the process whereby the staff gathers information so that  
20 proper disposition can be made by the Board on requests for complaints, advisory  
21 opinions, media reports, oral reports, referrals, or any other source. It includes any  
22 preliminary or other inquiry into jurisdiction, analysis of information, basis and

1 fact of the request, and any other consideration necessary to determine if referral  
2 to investigation or other action is appropriate.

3 F. “Person Aggrieved” means any person who is the subject of a complaint or an  
4 investigation or any person to whom notice of charges is issued.

5

6 **Chapter 2. Organization, Rules, Procedures, and Powers of the Board**

7 §201. Election of Officers

8 A. The Chair, Vice-Chair, Secretary, and other officers as designated by the  
9 Board will be elected for a one-year term at the first meeting held following July  
10 1 of each year.

11 B. In case of a vacancy in office, the Board must elect a new officer who will  
12 serve until the expiration of the vacated term.

13 C. The duties of the Chair include: (1) presiding at all meetings of the Board when  
14 present, (2) acting or directing the staff to act between meetings of the Board on  
15 routine matters involving scheduling, docketing, appearances, continuances, and  
16 postponements, (3) providing direction on behalf of the Board between meetings  
17 to the Board’s counsel during litigation, (4) referring matters to investigation, and  
18 (5) performing all other duties pertaining to the office of Chair or as may be  
19 assigned by the Board.

20 D. In the absence of the Chair, the Vice-Chair will perform all the duties of the  
21 Chair.

22 E. The duties of the Secretary include preparation of minutes at Board meetings  
23 and other duties as may be assigned by the Chair or Board.

1 §202. Powers of the Board

2 A. The Board is empowered to:

- 3 1. Administer and enforce any law within its jurisdiction;
- 4 2. Represent the public interest in the administration of any law within its  
5 jurisdiction;
- 6 3. Offer and enter into consent opinions regarding violations of the  
7 provisions of any law within its jurisdiction;
- 8 4. Refer to fact-finding complaints, advisory opinions, media reports, oral  
9 reports, referrals, or any other source;
- 10 5. Prescribe rules of order, evidence, and procedure to govern its meetings,  
11 hearings, and investigations;
- 12 6. Take such steps as may be necessary to maintain proper order and  
13 decorum during the course of its hearings and other proceedings,  
14 consistent with the resolution of matters coming before it for  
15 consideration; and
- 16 7. Include on the agenda for Board consideration any matter that is of  
17 interest to any Board member and that is within the Board's jurisdiction.

18 §203. Meetings

- 19 A. The Board may meet at such time and place as may be fixed by the Board.
- 20 B. Notice of each meeting must be given to all members of the Board.
- 21 C. Notice of each meeting must be given to the general public in compliance with  
22 the requirements of the Open Meetings Law and may be posted on the website of  
23 the Board.

1 D. All meetings must be open to the public except as otherwise provided by law.

2 §204. Quorum and Voting

3 A. Four members of the Board constitute a quorum for the transaction of the  
4 business of the Board.

5 B. The concurrence of a majority of the members present and voting is required in  
6 order to take action upon an item of business before the Board, except as  
7 otherwise provided by law.

8 C. Brief absences during the consideration of an item of business will not  
9 disqualify a member from voting on said item.

10 §205. Minutes of Proceedings

11 The minutes of the proceedings of the Board must be prepared and maintained by  
12 the Secretary on behalf of and subject to the approval of the Board.

13 § 206. Publication

14 The Board must publish its decisions, opinions, notices, and various other  
15 communications by:

16 (A) Maintaining a copy at the Board's office as a public record,

17 (B) Delivering a copy to the New Orleans Public Library, and

18 (C) Posting the communication on the website of the Board.

19 **Chapter 3. Public Comment**

20 §301. Purpose

21 The purpose of this policy is to encourage public comment in a fair, consistent,  
22 and informative manner at meetings of the Ethics Review Board, exclusive of formal

1 investigatory hearings. Order, decorum, and mutual respect must be maintained at all  
2 times.

3 §302. Oral Comments

4 A. The Board may provide for public comment at any time that it deems  
5 appropriate.

6 B. Public comment generally must be restricted to items covered in the agenda  
7 for the meeting, except as the Board may otherwise provide.

8 C. A person wishing to address an item on the agenda must be present at the  
9 beginning of the meeting. Exceptions may be permitted at the discretion of the  
10 Chair.

11 D. “Comment Forms” must be provided for each public meeting. A person  
12 wishing to comment must complete a “Comment Form” that indicates the  
13 name, title, address of the speaker, and the organization or group represented.  
14 The comment form must also include the subject of the comment and whether  
15 the comment is in favor of, against, or merely informational regarding a  
16 matter before the Board.

17 E. A maximum of three minutes per person, per agenda item may be afforded for  
18 public comment. Additional time may be allocated at the discretion of the  
19 Chair. If there are several speakers for a group or organization, the Chair may  
20 limit the number of speakers.

21 F. Proponents of the proposal speak first, followed by opponents of proposals,  
22 and then by informational speakers.

23 G. Speakers are discouraged from making repetitive comments.

1 H. Unruly behavior, such as booing, hissing, or harassing remarks, is strictly  
2 prohibited. Offenders will be removed from the meeting.

3 §303. Written Comments

4 A. A person wishing to make written comments may submit the comments to the  
5 Board.

6 B. Written comments must identify the agenda items for the meeting to which  
7 they are directed.

8 C. Written comments must indicate the name, title, address of the speaker, and  
9 the organization or group represented. The comment form must also include  
10 the subject of the comment and whether the comment is in favor of, against, or  
11 merely informational regarding a matter before the Board

12 **Chapter 4. Advisory Opinions**

13 §401. General Requirements

14 A. The Board may receive and respond to requests for advisory opinions.  
15 Requests for advisory opinions must be in writing, state the name and address of  
16 the person requesting the advisory opinion, disclose the requestor's interest in the  
17 question presented, identify the governmental agency and any individuals  
18 involved or affected, specifically describe the transaction involved, be signed by  
19 the person making the request, and state sufficient facts to enable the Board to  
20 respond. The Board may decline to render an advisory opinion.

21 B. The Board may, on its own motion, render an advisory opinion regarding any  
22 law within its jurisdiction.

1 C. The Board must send notice and a copy of the advisory opinion to the person  
2 making the request, the governmental agency involved, if any, and any other  
3 affected parties.

4 §402. Dating and Docketing

5 The Executive Director must maintain a docket of advisory opinion requests,  
6 noting the date of receipt of each request and assigning to each request an  
7 appropriate caption and number.

8 §403. Placement on Agenda

9 All requests for advisory opinions must be placed for consideration on the general  
10 or consent agenda as soon as practicable.

11 §404. Consent Agenda

12 A. The staff may prepare a consent agenda consisting only of those advisory  
13 opinions that are based on and consistent with prior opinions and decisions of the  
14 Board or its predecessors.

15 B. If a member of the Board objects to considering a proposed advisory opinion  
16 on the consent agenda, the item may not be considered on the consent agenda but  
17 must be placed on the general agenda.

18 §405. Emergency Opinions

19 If the Executive Director determines that an emergency exists and that an  
20 advisory opinion must be rendered prior to the next regularly scheduled meeting  
21 of the Board, the Executive Director may, after consulting with the Chair of the  
22 Board and legal counsel, issue a written advisory opinion. An emergency opinion  
23 thus issued by the Executive Director may be relied upon until the Board adopts a

1 contrary or qualifying opinion. The emergency opinion must be placed on the  
2 general agenda at the next meeting of the Board, and the Board may confirm,  
3 modify, or reject the opinion.

4 §406. Presentation of Requests

5 A request for an advisory opinion must be presented to the Board by the staff.  
6 Following the presentation, the Board may decline the request, defer action  
7 thereon pending further fact-finding, declare its opinion, or take the request under  
8 advisement.

9 §407. Withdrawal

10 The Board may allow a request for an advisory opinion to be withdrawn if the  
11 person who submitted the request provides written reasons for withdrawal that the  
12 Board deems sufficient.

13 §408. Notification

14 The staff of the Board must mail the advisory opinion to the person who requested  
15 the advisory opinion and all affected parties, including the governmental agency  
16 involved, if any, within 10 days after issuing the opinion.

17 §409. Reconsideration

18 A person may file a request for reconsideration of an advisory opinion rendered  
19 by the Board within 20 days from the date of mailing of the advisory opinion.

20 **Chapter 5. Complaints**

21 §501. Who May File a Complaint.

22 Any person may file a complaint concerning violations of this article with the  
23 Board.

1 §502. Dating and Docketing

2 The staff must note on each complaint the date of its receipt and must maintain a  
3 docket upon which each complaint must be given an appropriate caption and  
4 number.

5 §503. General Requirements

6 The Board or Chair may receive sworn and non-sworn complaints but may  
7 dismiss non-sworn complaints without further consideration.

8 §504. Sworn Complaints

9 A. A sworn complaint may be based upon firsthand knowledge, on other  
10 evidence, or on information and belief. It must be signed and its veracity sworn.

11 B. Upon consideration of a sworn complaint, the Board may close the file, refer  
12 the complaint to investigation, or take such other action as it deems appropriate.

13 C. If the Board decides that a sworn complaint does not present a potential  
14 violation of any law within its jurisdiction or of any regulations or orders issued  
15 by the Board, the Board may vote not to initiate an investigation. It must notify  
16 the complainant that the Board declined to initiate an investigation and may then  
17 close the file.

18 §505. Consideration of Information Concerning Possible Violations

19 The Board may consider any matter that it has reason to believe may be a  
20 violation of any law within its jurisdiction, including but not limited to, a notice or  
21 report sent to the Board by the Inspector General. The Board may close the file,  
22 refer the matter to investigation, or take such other action as it deems appropriate.

23 §506. Fact-finding

1           Upon majority vote of the member of the Ethics Review Board, the Executive  
2           Director may refer media reports or oral reports to fact-finding. At the conclusion  
3           of fact finding the Executive Director may take such action deemed necessary  
4           including, but not limited to, closing the file, referring the matter to investigation,  
5           or taking such other action deemed appropriate.

6   §507. Withdrawal

7           A. If a complainant wishes to withdraw the complaint prior to the Board's  
8           commencement of its investigation, withdrawal may be allowed, but the Board  
9           may, by majority vote of its members present and voting, determine the issues to  
10          be of such importance as to warrant ordering the investigation in its own right and  
11          in the interest of the public welfare.

12          B. The Executive Director must notify the complainant and subject of the  
13          complaint, by mail, of the Board's decision with respect to the complainant's  
14          request for withdrawal within 10 days after the vote occurs.

15   §508. Complaints; Action by the Board

16          The Board must consider any sworn complaint concerning a violation of any law  
17          within its jurisdiction or of any regulations or orders issued by the Board. The  
18          complaint may be based on firsthand knowledge or on information and belief.

19          Upon consideration of a complaint, the Board may close the file, refer the  
20          complaint to investigation, or take such other action as it deems appropriate.

21   §509. Notification

1 A. The Board must send notice and a copy of a complaint, by certified mail, to the  
2 subject of the complaint and complainant within 10 days after the Board refers the  
3 matter to investigation.

4 B. The Board must send, by certified mail, a copy of the vote and explanation of  
5 the matter to the subject of a complaint or other matter within ten days after the  
6 vote occurs.

7

8 **Chapter 6. Investigations**

9 §601. Board Investigation

10 A. The Board may investigate any matter by gathering evidence it deems  
11 appropriate, including questioning the subject of the complaint and the  
12 complainant while conducting an investigation. All investigations must  
13 remain confidential unless the Board decides that charges should be filed.

14 B. The Chair or Executive Director may refer any matter within the jurisdiction  
15 of the Board to preliminary investigation by the Office of Inspector General.

16 C. The Chair or Executive Director must afford the person who is the subject of  
17 the investigation 30 days from notification within which to respond.

18 §602. Investigation of Complaints

19 A. The Board must investigate any sworn complaint it receives.

20 B. The Board may investigate non-sworn complaints, notices or reports from the  
21 Inspector General, and any other matter within its jurisdiction.

22 §603. Post-Investigation Procedures

1           When an investigation is completed and the report reviewed by the Board, the  
2           Board must decide whether (1) further investigation is necessary, (2) charges  
3           should be filed and the case noticed for public hearing, (3) a consent opinion  
4           should be offered, or (4) the file should be closed in order to serve the public  
5           interest or because no violation occurred.

6           **Chapter 7. Consent Opinions**

7           §701. General

8           The Board may offer a consent opinion to a person alleged to have violated any  
9           law within its jurisdiction.

10          §702. Procedures

11          If the Board decides to offer a consent opinion, the Chair may direct the staff to  
12          prepare a draft that will be sent to the subject of the allegation for acceptance,  
13          modification, or rejection. If the subject of the allegation accepts the terms of the  
14          proposed consent opinion, then the opinion will be placed on the Board’s agenda  
15          for review. The Board may reject a proposed consent opinion and take further  
16          appropriate action. If accepted by the Board, the opinion will be published. If the  
17          subject of the allegation refuses the terms of the proposed consent opinion, then  
18          the item must be placed upon the Board’s agenda for further action.

19          **Chapter 8. Hearings**

20          §801. Private Hearings

21          The procedures governing a private hearing will be, to the extent practicable,  
22          identical to public hearing procedures, except that a private hearing is closed to  
23          the public.

1 §802. Initiating Public Hearings

2 A. A public hearing is initiated by order of the Board through the issuance of  
3 charges.

4 B. The Board must fix the time and place of the public hearings.

5 C. The charges must contain:

6 1. The name of the person charged;

7 2. The date of the meeting at which the Board voted to file charges;

8 3. The allegations that will be explored at the public hearing and the  
9 pertinent provisions of law alleged to have been violated;

10 4. The name of the trial attorney, if designated; and

11 5. The date, time, and location, if fixed, of the public hearing, or if not

12 fixed, a commitment that the Board will, in supplemental correspondence, inform  
13 the person charged of the date, time, and location of the public hearing at least 30  
14 days prior to the public hearing.

15 §803. Notice of Public Hearings

16 The Board must post notice of public hearings in compliance with the  
17 requirements of the Open Meetings Law and on the Board's website.

18 §804. Continuance of Public Hearings

19 A. A matter fixed for public hearing and not reached or resolved may be  
20 continued to another date by the Board.

21 B. The Board or the Chair may grant, with respect to any one or more respondents  
22 involved, a continuance of any public hearing; in the Board's discretion, the

1 public hearing may proceed as to those respondents to whom no continuance was  
2 granted.

3 C. With the Board's approval, a hearing may be continued by consent of all  
4 interested parties.

5 §805. Procedure in Hearings

6 A. Except in the case of private hearings, all hearings conducted under the  
7 provisions of this Chapter must be open to the public.

8 B. Respondents and witnesses are subject to cross-examination. Each member of  
9 the Board may also examine and cross-examine any witnesses.

10 C. The Board may require that the respondent and trial attorney stipulate to all  
11 undisputed facts.

12 D. When a pending matter involves substantially the same question of law or fact  
13 as presented in a prior public hearing, the Board may admit as evidence any part  
14 of the record of such previous public hearing as the Board or Chair deems  
15 relevant. However, in the application of this Rule, neither the respondent nor the  
16 trial attorney may be deprived of the right to cross-examine any adverse witness.

17 E. The Board may invite any member of the Louisiana State Bar Association to  
18 present oral or written argument on any question of law. An oral argument may be  
19 presented at a hearing when all parties have had the opportunity to be present or  
20 represented. A written argument must be served on all parties or their counsel.

21 §806. Evidence

22 A. The Chair has power to rule on procedural and evidentiary matters, unless the  
23 Board approves a motion to overrule the decision of the Chair.

1 B. The Board may limit corroborative evidence.

2 C. When a ruling is made excluding evidence, counsel may dictate into the record  
3 as a proffer the facts to be proven if the excluded evidence had been admitted, and  
4 that proffer will be made available to be considered in the event of appellate  
5 review.

6 D. The charges may be revised to conform to the evidence admitted, even if this  
7 revision goes beyond the scope of the original complaint.

8 E. The Board must give effect to the rules of privilege recognized by law.

9 F. All evidence of which the Board desires to avail itself, including records and  
10 documents in the possession of the Board, must be offered and made a part of the  
11 record. Documentary evidence may be received in the form of copies or excerpts  
12 or by incorporation by reference. In case of incorporation by reference, the  
13 materials so incorporated must be available for examination by the parties before  
14 being received in evidence.

15 G. The Board may take notice of judicially cognizable facts, federal census data,  
16 and such other matters as may be deemed appropriate.

17 H. The Board may take notice of the provisions of any law within its jurisdiction  
18 without the necessity of an offer in evidence.

19 §807. Subpoena of Witnesses and Production of Evidence

20 A. The Board has the power to order the appearance of witnesses and to compel  
21 the production of evidence pertinent to the issues involved in any public hearing.

22 B. A respondent may apply for a subpoena to require that a witness appear at a  
23 public hearing. The application must be received in writing, at least 10 days

1 before the date fixed for the hearing, and must give the name and physical address  
2 of the witness to whom the subpoena is directed.

3 C. In lieu of the issuance and service of formal subpoenas to public employees,  
4 the Board may request any public entity or official to order any designated  
5 employee under its supervision to attend and testify at any public hearing.

6 D. A respondent desiring the production of evidence at a public hearing must  
7 apply for an appropriate order. The application must be received in writing, at  
8 least 10 days before the date fixed for the hearing. The application must describe  
9 the evidence to be produced in sufficient detail for identification, must give the  
10 full name and physical address of the person required to make such production,  
11 and must include certification by the respondent or counsel regarding the  
12 materiality of production to the issues.

13 E. A subpoena duces tecum must be returnable at the public hearing or at such  
14 earlier date, time, and place as specified therein.

15 F. Authenticated copies of books, papers, photographs, or other items in the  
16 custody of any agency of the state, or any subdivision thereof, that have been  
17 subpoenaed may be admitted in evidence with the same effect as the originals, but  
18 if original books, papers, photographs, or other items are subpoenaed, they must  
19 be produced and made available for inspection, even though authenticated copies  
20 may be subsequently introduced.

21 G. The Board or its Chair may issue an appropriate order at any time recalling any  
22 subpoena, subpoena duces tecum, or request issued under the provisions of this  
23 rule. The respondent may likewise obtain an order from the Board recalling any

1 subpoena, subpoena duces tecum, or request issued or caused to be issued by the  
2 respondent.

3 §808. Sequestration of Witnesses

4 The Board may order that the witnesses in any hearing be sequestered on its own  
5 motion or if requested by a respondent or the trial attorney. This rule does not  
6 preclude a respondent from hearing the testimony of any other witnesses. If so  
7 ordered, all witnesses must be administered an oath and admonished not to  
8 discuss their testimony until the conclusion of the proceeding, except with  
9 counsel.

10 §809. Summary Disposition of Charges

11 A. At any time after the Board has filed a charge, a respondent may file a written  
12 request for summary disposition with the Board on any of the following grounds:

- 13 1. The Board lacks jurisdiction of the subject matter, or of the respondent;
- 14 2. The charges have not been initiated in the manner prescribed by the  
15 Rules;
- 16 3. The charges, if true, would not constitute an ethics violation under local  
17 or state law.
- 18 4. The time in which to commence action as provided by any law within  
19 the Board's jurisdiction has passed; or
- 20 5. The affidavits and other documents filed in connection with the charges  
21 show that there is no genuine issue of material fact and that the respondent  
22 is entitled to summary dismissal as a matter of law.

1 B. A request for summary disposition may be supported by sworn affidavits and  
2 must be accompanied by written argument or brief. The Board may require that  
3 copies of the motion and affidavits be furnished to the trial attorney and any other  
4 respondents, and may invite opposing motions and affidavits within a specified  
5 time.

6 C. When a request for summary disposition has been filed with the Board in any  
7 proceeding, the trial attorney for the Board may submit oral or written argument  
8 or brief in connection therewith and must provide the respondent or respondent's  
9 attorney with a copy thereof.

10 D. If the Board denies the request for summary disposition or refers it to the  
11 merits, it may reconsider the summary disposition at any time.

12 E. The Board may summarily dispose of charges on any of the grounds listed  
13 above at any time.

14 F. The Board must send to the respondent, by certified mail, a copy of the  
15 decision within ten days after making the decision.

16 §810. Consolidation of Public Hearings

17 When public hearings of two or more respondents involve similar or related  
18 circumstances, the Board may order a joint hearing of all respondents or may  
19 order separate hearings for specified respondents, subject to objection by  
20 respondent.

21 §811. Transcripts of Public Hearings

1 The proceedings of all public hearings must be recorded, but will be transcribed  
2 only upon order of the Board or upon request made by a respondent therein,  
3 accompanied by proffer of such cost as may be determined by the Board.

4 §812. Witness Fees in Public Hearings

5 A. The Board may order that a subpoenaed witness is entitled to receive the same  
6 mileage and fees as are allowed witnesses in civil cases by local courts.

7 B. If a witness is subpoenaed by a respondent, the Board may order the witness  
8 fees and mileage to be paid by respondent.

9 C. The Board may, before issuing a subpoena, require the party requesting the  
10 subpoena to deposit with the Board a sum sufficient to cover the mileage costs  
11 and witness fees pending a final determination of costs by the Board.

12 §813. Costs of Public Hearings

13 The Board may order the costs of any public hearing, or any portion of such costs,  
14 including the costs of recording and transcribing testimony, to be paid by the  
15 respondent depending on the outcome of the hearing, cooperation of the  
16 respondent in the process, the severity and duration of the violation, and any other  
17 matters determined necessary by the Board.

18 §814. Board Action Following Public Hearings

19 A. Following the close of a public hearing, the Board may either render its  
20 decision or take the matter under advisement. The decision may be made orally by  
21 dictating findings of fact and conclusions of law into the record or may be made  
22 by written opinion. If the matter is taken under advisement, the Board has 90 days  
23 to render a decision.

1 B. Except as otherwise specifically ordered by the Board, the decision of the  
2 Board is final upon the date the decision is rendered.

3 C. The Executive Director must send, by certified mail, notice of the Board's  
4 decision to the person charged and to the complainant within 10 days after the  
5 Board's decision.

6 §815. Rehearings

7 A. A person aggrieved may apply in writing to the Board for a rehearing within  
8 20 days from the date of mailing the Board's decision. The grounds for an  
9 application for a rehearing are that:

- 10 1. The decision or order is clearly contrary to the law and the evidence;
- 11 2. The party has discovered, since the hearing, evidence important to the  
12 issues which could not have been, with due diligence, obtained before or  
13 during the hearing;
- 14 3. There is a showing that issues not previously considered ought to be  
15 examined in order to properly dispose of the matter; or
- 16 4. There is other good ground for further consideration of issues and the  
17 evidence in the public interest.

18 B. The application of an aggrieved party for a rehearing must set forth the  
19 grounds that justify such action and must be accompanied by a written brief or  
20 argument in support thereof.

21 C. If the Board grants a rehearing, the Board must announce a time and place for  
22 the rehearing. The rehearing must be confined to those grounds upon which the  
23 rehearing was ordered.

1 **Chapter 9. Pre-hearing Procedures**

2 §901. Discovery

3 A. Any person who is to be the subject of a public hearing is entitled to the  
4 following, upon written request to the Board at least 15 days prior to the date of  
5 the scheduled hearing:

6 1. A certified copy of the transcript of the private hearing, if there was a  
7 private hearing;

8 2. The name and address of each individual that the staff intends to call at  
9 the proposed hearing, together with any written statements obtained by the  
10 staff from such persons; and

11 3. A copy of each physical document that the Board's staff intends to  
12 introduce before the Board at the proposed hearing.

13 B. The trial attorney and a respondent may obtain discovery regarding a matter  
14 that is not privileged and that is relevant to the pending public hearing. It is not  
15 ground for objection that the information sought will be inadmissible at the  
16 hearing if the information sought appears reasonably calculated to lead to the  
17 discovery of admissible evidence.

18 C. The trial attorney or a respondent may take depositions on oral examination  
19 pursuant to the provisions of applicable Code of Civil Procedure Articles of those  
20 persons whose names and addresses have been furnished to the respondent. The  
21 taking of these depositions must not unreasonably impede the scheduled hearing.

22 The depositions may be admissible in the public hearing, if ordered by the Board.

1 D. The trial attorney and any respondent may serve upon each other written  
2 interrogatories, pursuant to the provisions of applicable Code of Civil Procedure  
3 articles, to be answered by the party served within 15 days of receipt.

4 §902. Motions and Exceptions

5 A. Motions and exceptions may be made before, during, or after a public hearing.  
6 All motions and exceptions must be filed at least five days prior to the day when  
7 the motion or exception is sought to be heard, except for good cause as  
8 determined by the Board.

9 B. Motions and exceptions made before or after the public hearing must be in  
10 writing and accompanied by a memorandum that sets forth a concise statement of  
11 the grounds upon which the relief sought is based and the Board's legal authority  
12 for granting the requested relief.

13 C. Motions and exceptions made during the course of the public hearing may be  
14 made orally since they become part of the transcript of the proceedings.

15 §903. Pre-hearing Notices

16 A. By order of the Board and not less than 10 days prior to a public hearing, the  
17 trial attorney and any respondent must mutually exchange pre-hearing notices that  
18 set forth:

19 1. A brief but comprehensive statement of the party's contentions,  
20 including a list of the legal authorities to be relied upon at the hearing in  
21 support of the party's legal position.

22 2. A detailed itemization of all pertinent facts established by stipulations  
23 and admissions.

- 1                   3. A detailed itemization of the contested issues of fact.
- 2                   4. A detailed itemization of the contested issues of law.
- 3                   5. A list and brief description of all exhibits to be offered in evidence by a
- 4                   party, identified by the exhibit number to be used at the hearing and
- 5                   accompanied by the following:

6                               (a) Stipulations as to the exhibit's authenticity or admissibility,

7                   noted on the exhibit list;

8                               (b) Copies of all documents to be offered in evidence, attached to

9                   the notice.

10                   6. A list of witnesses a party may call and a short statement as to the

11                   nature of their testimony.

12                   7. A statement as to any other matter not included in any of the previous

13                   headings which may be relevant to a prompt and expeditious disposition

14                   of the case.

15                   B. Exhibits to be used for impeachment or rebuttal need not be included on the

16                   list. No witnesses other than the witnesses listed may be called to testify, except

17                   for good cause or for impeachment and rebuttal witnesses.

18   §904. Pre-hearing Conference

19                   A. The Board may require the holding of a pre-hearing conference. All parties to

20                   the hearing must appear at the specified time and place to consider:

21                               1. Simplification of issues;

22                               2. Possibility of stipulations, admissions of fact, or introduction of

23                   documents;

- 1                   3. Limitations on witnesses; and
- 2                   4. Such other matters as may be pertinent.

3           B. If a pre-hearing conference is held, the Board may issue an order setting forth  
4           the actions that took place at the conference. This order controls the subsequent  
5           course of the proceedings unless modified by further order for good cause and is  
6           binding on all parties whether or not they were present at the conference.

7    **Chapter 10. Penalties**

8    §1001. Penalties for Violations; Criteria

9           A. After a public hearing and upon finding a violation of any law within its  
10          jurisdiction, the Board may impose penalties or other sanctions consistent with the  
11          provisions of any law within its jurisdiction and consistent with New Orleans City  
12          ordinance Part II, Article VII, Division III, Sections 2-716 (Civil Penalties) and 2-  
13          717 (Criminal Penalties).

14          B. In determining the amount of the penalty or the type of sanction to impose, the  
15          Board may consider:

- 16               1. The nature, circumstances, extent, and gravity of the violation;
- 17               2. The degree of culpability of the person charged;
- 18               3. The person’s history of previous offenses;
- 19               4. The existence of prior notice that the described conduct was prohibited;
- 20               5. The person’s ability to pay;
- 21               6. The financial or other loss to the governmental entity;
- 22               7. The damage suffered by the governmental entity; and
- 23               8. Any other matters that justice requires.

1 C. Upon finding a violation of the Code or any other law within its jurisdiction,  
2 the Board has 60 days in which to determine the proper penalty or sanction to  
3 impose for such a violation.

4 D. The Board must notify the respondent, by mail, of the Board's decision with  
5 respect to the assessment of penalties or other sanctions within 10 days of the  
6 Board's final decision.

7 **Chapter 11. Records and Reports**

8 §1101. Custodian

9 The Executive Director is the custodian of all records, reports, and files of the  
10 Board, including electronic reports and files.

11 §1102. Copies

12 A. The public may request and obtain copies of any public documents or reports  
13 filed with the Board. The fees for such copies may be determined by the Board.

14 B. Copying fees that exceed \$50.00 must be paid by check or money order.

15 §1103. Records and Reports; Accepting and Filing

16 A record or report submitted pursuant to this Chapter is considered accepted and  
17 filed upon receipt by the staff or upon acknowledgment of receipt by the Board's  
18 electronic filing system, unless the record or report is not in compliance with the  
19 requirements established by this Chapter or by law. The name of a person  
20 submitting records and reports that are accepted and filed must be listed on the  
21 Board's agenda. The records and reports that are not in compliance with the  
22 requirements established by this Chapter or by law must be placed upon the  
23 Board's agenda for further action by the Board.

1 **Chapter 12. Electronic Records**

2 §1201. General

3 The Board recognizes the importance of immediate public access to publicly  
4 disclosed information.

5 §1202. Methods of Filing

6 The Board may allow reports to be electronically filed via the Board website or  
7 electronic mail.

8 §1203. Time of Filing

9 A record electronically filed is deemed timely if received electronically by  
10 midnight at the end of the day on the filing deadline. The time of the Board's  
11 system is controlling in the event of a dispute as to the time of receipt.

12 §1204. Refusal of Electronic Reports

13 The staff of the Board may refuse to accept for filing an electronic report that  
14 contains a computer virus that could compromise the computer system of the  
15 Board. The filer must be promptly notified of the refusal so that an alternative  
16 method of delivery may be attempted.

17 **Chapter 13. Miscellaneous**

18 §1301. Relations with Inspector General

19 The Board and Inspector General will work in cooperation to enforce the City  
20 Code of Ethics and promote public faith in government ethics.

21 §1302. Annual Report

22 The Board must prepare and submit an annual report to the City Council and  
23 Mayor detailing the activities of the commission during the prior year. The format

1 for the report must be designed to maximize public and private understanding of  
2 the commission's operations. The report may recommend changes to the text or  
3 administration of this Chapter. Additionally, the annual report must be posted on  
4 the website of the Board, and a copy must be sent to the Inspector General.

5 §1303. Review of Board Rules

6 The Board will periodically, no less than every five years, review substantive  
7 provisions of the Code, the enforcement of the Code, and the Board's rules,  
8 regulations, and administrative procedures to determine whether they promote  
9 integrity, public confidence, and participation in city government and whether  
10 they set forth clear and enforceable, common-sense standards of conduct. After at  
11 least one public hearing, the Board may recommend legislative amendments to  
12 the Code or any other provision of law necessary to enhance the ethical conduct  
13 of public affairs.

14 §1304. Method of Amendment

15 These rules may be amended by a majority vote of the members of the Board at  
16 any regular or special meeting of the Board for which proper notice has been  
17 given under the Open Meetings Act, provided that each member has received a  
18 copy of the proposed rule change at least 72 hours before the meeting. In the  
19 event of an emergency, the Board may amend its rules by a two-thirds vote of  
20 members present and voting, but such change must be ratified at the next regular  
21 or special meeting of the Board in accordance with procedures as stated in the  
22 preceding sentence.