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THE PRINCE GEORGE'S COUNTY GOVERNMENT BOARD OF ETHICS

Melanie Barr-Brooks, Chair
Charlene Gallion, Member
Kara N. Hunt, Member
Jason Papanikolas, Member

Hearing Rules of Procedure

I. Authority

These Procedures are promulgated under the authority provided to the Board of Ethics ("Board") by Section 2-292(i) of the Prince George's County Code of Ethics. The Board of Ethics shall be assisted in carrying out its responsibilities by the Office of Ethics and Accountability ("OEA"). Any person may file with the Board a complaint alleging a violation of any of the provisions of the Prince George's County Code of Ethics ("Ethics Code").

These complaints shall be written and under oath and may be referred to OEA or other legal counsel, if appropriate, for investigation and review. If, after receiving an investigative report, the Board determines that there are insufficient facts upon which to base a determination of a violation, it may dismiss the complaint. If there is a reasonable basis for believing a violation has occurred, then the subject of the complaint shall be afforded an opportunity for a hearing conducted in accordance with these rules of procedure for actions taken on the record. Any final determination resulting from the hearing shall include findings of fact and conclusions of law. Upon a finding of a violation, the Board may take any enforcement action provided for in accordance with Section 2-297 of the Ethics Code.

II. Scope of Part

Pursuant to these procedures:

- (1) The Board shall be responsible for hearing and deciding, on the advice of OEA (or other legal counsel if appropriate), all complaints filed regarding alleged violations of the Ethics Code by any person.
- (2) The Board proposes to take final action against a person for a violation of the Ethics Code; or
- (3) A person is aggrieved by a notice, order, decision, or other action of the Board.

III. Opportunity and Preparation for Hearing

- (1) Hearings are scheduled a minimum of thirty (30) days in advance.

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- (2) The OEA staff prepares schedules based on caseload and case type.
- (3) The OEA will give notice, in writing, requiring the attendance of opposing parties and identified witnesses. The notice shall be sent via email and regular mail.
- (4) Hearing notices must include the following:
 - (i) A brief description of the complaint;
 - (ii) Statement as to the violations asserted;
 - (iii) A reference to specific statutes and pertinent rules;
 - (iv) Relevant deadlines for hearing procedures;
 - (v) The date, time, and place of the hearing;
 - (vi) A statement advising the opposing parties have the right to secure legal representation;
 - (vii) A statement advising of the circumstances in which the Board of Ethics reserves the right to adjourn a hearing resulting from the failure of a party to appear or failure to appear may result in an adverse action against the party;
 - (viii) The right of a party to call witnesses and submit documents or other evidence under Part V of these Procedures.
- (5) Other Situations:
 - A. In all other situations, any person aggrieved by a notice, order, decision, or other action of the Board may request a hearing on the matter.
 - B. The request must:
 - (i) be in writing;
 - (ii) state the grounds on which the person is contesting the notice, decision, order, or other action; and
 - (iii) unless a different time is specified by law or in these Procedures, be filed within 10 business days of the notice, decision, order, or other action.
- (6) The OEA coordinates and secures accommodations for parties requesting special services and transcription services for the hearing.
- (7) The OEA, prior to the hearing, shall prepare case documentation for the Board.
- (8) The hearing may be conducted in person or virtually.
- (9) Except as otherwise provided by law or these Procedures, all hearings must be conducted in an orderly but informal manner.
- (10) Postponements.

A party desiring to have a hearing continued or postponed shall, at least five calendar days prior to the scheduled hearing, file a written request for such postponement or continuance with OEA. Such motion shall not be granted by

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OEA except for good cause shown. If such a request is denied by OEA, the party requesting the postponement or continuance may then address the request to the Board of Ethics. It shall be the responsibility of OEA to fix a new date for the continued or postponed hearing when a continuance or postponement is granted.

IV. Delegation of Hearing Authority

A. In general.

Hearings may be conducted by:

- (1) The Board; or
- (2) A hearing officer designated by the Board.
- (3) The hearing officer shall be a licensed attorney in good standing in the State of Maryland.

B. Scope of delegation.

The Board may delegate to a hearing officer the authority to issue one or more of the following:

- (1) Proposed findings of fact.
- (2) Proposed conclusions of law.
- (3) Proposed orders.

V. Conduct of Hearing/Contested Hearing

- (1) The Board, by OEA, will schedule the date and time of the hearing. The OEA reserves the right to modify the schedule as needed.
- (2) All hearings shall be conducted pursuant to the provisions of the Ethics Code, these Hearing Rules of Procedures, and the Maryland Open Meetings Act.
- (3) Ex-Parte communication with the Board is prohibited.
- (4) No hearing shall be conducted, or decision shall be made in any case without a quorum. The lack of a quorum shall result in cases being rescheduled.
- (5) The Chair or the Chair's designee (in the Chair's absence) presides over the hearing and states the purpose of the hearing.
- (6) The Chair calls the hearing to order and reads the alleged charge for a case.
- (7) OEA Legal Counsel (or other legal counsel if appropriate) shall present the case to the Board.
- (8) Board Legal Counsel (or other legal counsel if appropriate) shall administer the oath to all participating parties intending to testify.
- (9) For transcription purposes, each party must state his/her name before presenting a case, and each time a party gives testimony.
- (10) The Board shall have the right to question any party under oath.

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- (11) In general, except as otherwise provided by law or these Procedures, formal rules of evidence and trial procedures do not apply.
- (12) Right to Submit - On a genuine issue of fact, a party is entitled to:
 - (i) Call witnesses;
 - (ii) Offer evidence, including rebuttal evidence;
 - (iii) Cross-examine any witness that another party or the Board of Ethics calls; and
 - (iv) Present summation and argument.
- (13) Scope - the Board (or Hearing Officer):
 - A. May admit probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative effect to that evidence;
 - B. May not exclude evidence solely on the basis that it is hearsay;
 - C. Must give effect to a privilege recognized by law;
 - D. May receive documentary evidence in the form of copies or excerpts or through incorporation by reference;
 - E. May take official notice of a fact that is judicially noticeable or that is general, technical, or scientific and within the specialized knowledge of the Board of Ethics; and
 - F. May exclude evidence that is:
 - (i) Incompetent;
 - (ii) Irrelevant;
 - (iii) Immaterial; or
 - (iv) Unduly repetitious.
- (14) The charging, petitioning, or appealing party, or its legal representation presents its case and introduces evidence.
- (15) The Board, with notice to the parties, may note general and scientific facts within their specialized knowledge. Parties shall be allowed to contest facts so noted.
- (16) After the charging party has presented its case, the opposing party reserves the right to ask the charging party questions regarding the testimony and evidence presented.
- (17) The opposing party or his or her legal representative presents their case and introduces evidence.
- (18) After the opposing party has presented his or her case, the charging party reserves the right to ask the opposing party questions regarding the testimony and evidence presented.
- (19) The Board may receive and consider all relevant testimony, witness, and documentary evidence. The Board may in its discretion refuse to receive or to give probative value to incompetent, repetitious, or evidence inadmissible in a court of law.

- A. Upon the conclusion of cross-examination, both parties exercise their right to make closing statements.
- B. At the conclusion of contested cases on the given day, the Board deliberates and may render a decision(s).

VI. Adjudication/Final Decisions

- (1) All evidence offered and received by the Board in any case shall be made a part of the record.
- (2) The Board will utilize its experience, technical competence, and specific knowledge in the evaluation of the evidence presented.
- (3) The evidence in the record is the only evidence of a case and is the only evidence the Board shall consider in rendering a decision.
- (4) Decisions
 - A. At the conclusion of the hearing, the Chair (and appropriate legal counsel) shall submit the decision for a vote of the Board and transmit it to OEA. Board Counsel (or other legal counsel if appropriate), researches and compiles the notes and evidence, and prepares Findings of Fact, Conclusion, and Order summarizing hearing proceedings and itemizing the BOE's decisions.
 - B. The final decision must be in writing and contain separate statements of
 - (i) The findings of fact;
 - (ii) The conclusions of law; and
 - (iii) The decision or order.
 - C. Submission of the decision officially ends the responsibility of the Board for the case(s) presented before them.
- (5) The OEA shall notify opposing parties of the Board's decision via Findings of Fact, Conclusion, and Order, within seven (7) business days of a decision. A copy of the final decision must be emailed and mailed by regular mail to each party or that party's attorney of record.

VII. Appeals

- (1) Any party aggrieved by the decision of the Board has thirty (30) calendar days to file an appeal by Petition for Judicial Review with the Circuit Court of Prince George's County pursuant to the Maryland Rule, Title 7, Chapter 200.
- (2) Once OEA is made aware of an appeal, OEA shall notify the Board of the appeal and all parties to the hearing. Board Counsel (or other legal counsel if appropriate) shall

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prepare the record, including stating that the appealing party must secure and cover the cost for a transcript of the hearing proceedings.

- (3) Board Counsel (or other legal counsel if appropriate), represents the Board in Circuit Court.
- (4) There is no further action by OEA unless so ordered by the Circuit Court.