

ARLINGTON COUNTY, VIRGINIA
CIVIL SERVICE COMMISSION

HEARING RULES

October 2016

To The Appellant: This document contains the Commission's Hearing Rules and the Hearing Procedures provided by the County Manager in Administrative Regulation 2.7. You should review this entire document carefully. It contains important information about scheduling a hearing, how to prepare and submit your documents, and how the hearing will be conducted.

The Commission will notify appellants of their eligibility for a hearing along with the anticipated dates of the Commission's and the County's availability. The Commission will request that each appellant identify specific dates of availability that are consistent with the Commission's availability. The Commission will offer a hearing date to the appellant within the specified dates, if provided by the appellant.

Failure to comply with scheduling and hearing procedures, such as but not limited to, repeated failure to appear, and/or cancellation of an agreed upon date without just cause, may result in the appellant's forfeiture of all rights to a hearing. If the appellant is offered another hearing date, the appellant may be superseded in priority for rescheduling by all other pending appeals, unless it is in the Commission's interest to adjust the priority for reasons of efficiency or convenience.

Hearings will be conducted in accordance with the procedures set forth in Administrative Regulation 2.7, Chapter 19, Grievances. Please note particularly and in addition:

1. To the extent possible, documents shall be marked for easy identification and tabbed for easy reference where necessary. Notwithstanding exhibit numbers or tabs, the appellant and County must number all pages of their documents continuously in the bottom right corner. The numbers may be handwritten and should be large enough and placed to be easily read. The appellant will designate all page numbers preceded by the letter A for example, A1, A2. The County will designate all page numbers preceded by the letter C.
2. Appellants may be assisted by a representative of their choice. The appellant is not required to be represented by counsel, but may elect to be.
3. The parties are responsible for arranging the appearance of their witnesses. The Commission does not have subpoena power, nor does it otherwise compel appearances.
4. The proceedings shall be informal so long as the informality is compatible with the requirements of justice and due process and with the goal of presenting sufficient evidence for the Commission to make a fair, impartial, reasonably informed decision. Any objections to the admission of testimony or evidence made by either party will be considered and ruled on by the Chairman after discussion with the Commission members.

5. In all cases except dismissals, demotions, suspensions in excess of twenty (20) days, or reductions in salary, the appellant will make an opening first. Otherwise, the County will make its opening statement first.
6. Either party may request that witnesses not be admitted to the hearing until after giving testimony. The Commission may honor such requests or may, on its own initiative, require exclusion.
7. Following presentation of the opening statements, testimony and evidence shall be presented in support of the opening party's case. Each party shall have the right to cross-examine all witnesses. The responding party shall then present evidence in support of his or her case. Rebuttal evidence may be offered. Commission members may question witnesses at any time during the hearing. Additional exhibits not previously offered by the appellant or the County, at the discretion of the Commission Chair, may be received and made a part of the record.
8. Brief closing statements summarizing the position of each party may be offered.
9. At the conclusion of the hearing, the Commission will decide when it will meet in executive session to consider the evidence and render a decision on the case. Such decision will become effective as designated by the Commission.
10. The minutes will constitute the official record of the proceedings and will be available for public review after approval by the Commission by contacting the Clerk of the Commission. Recording the hearing electronically or by court reporter for purposes of the official record will not be permitted.
11. Upon appointment, each member of the Civil Service Commission shall review the provisions of the Virginia Code 15.2-1507 concerning conflict of interest in hearing appeals and shall subsequently recuse him/herself should such conflict of interest occur.

Hearing Rules interpreting Administrative Regulation 2.7 (2007 revision), Chapter 19, Section 8.4.3, Civil Service Commission Hearing.

- a. The Commission will notify appellants of their eligibility for a hearing along with the anticipated dates of the Commission's availability. The Commission will request that each appellant identify specific dates of availability that are consistent with the Commission's availability. The Commission will offer a hearing date to the appellant within the specified dates, if provided by the appellant.
- b. Repeated failure without just cause to comply with scheduling and hearing procedures, such as but not limited to, failure to appear, and/or cancellation of an agreed upon date, may result in the appellant's forfeiture of all rights to a hearing. The County Manager, at his discretion, as provided elsewhere in these

regulations will make such rulings of non-compliance. In cases pending before the Commission when the grievant is otherwise eligible for a hearing, the County Manager will consider the recommendation of the Commission on the merits of a non-compliance notice before issuing a determination.

Hearing Procedures:

1. The Commission does not have authority to formulate policies or procedures or to alter existing policies or procedures.
2. The Commission has the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing. At the request of either party, the hearing may be private at the discretion of the Commission Chair. This determination shall be entered in the hearing minutes.
3. The County shall provide the Commission with copies of the grievance record prior to the hearing and all relevant files intended to be used in the grievance proceeding. The County shall provide the grievant and his/her attorney with the same documents furnished to the Commission, at least ten days prior to the scheduled Commission hearing. To assist with the administration of the hearing, any party wishing to make the meeting private is encouraged to make the request at least ten (10) days before the scheduled hearing date.
4. The Commission has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence.
5. All evidence shall be presented in the presence of the Commission and the parties, except by mutual consent of the parties.
6. Documents, exhibits and lists of witnesses shall be exchanged between the parties at least 10 days in advance of the hearing.
7. The majority decision of the Commission, acting within the scope of its authority, is final, subject to existing policies, procedures and law.
8. The Commission shall provide its decision within 7 days to the grievant and the County.
9. The County Manager may set other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

Hearing Rules interpreting Administrative Regulation 2.7 (2007 revision). The following is taken directly from Chapter 19, Section 10, Failure to Comply with the Grievance Procedure.

- 10.1 Failure of either party to comply with the substantial requirements of the Grievance Procedure without just cause will result in a decision in favor of the other party on any grievable issue. However, before this can occur, the party alleging noncompliance will provide written notice to the other party who will have five (5) work days from receipt to correct the issue.
- 10.2 The party claiming noncompliance must provide a copy of the written notice to the County Manager. The County Manager may require written statements from the parties to explain or provide just cause for noncompliance.
- 10.3 The County Manager will determine compliance or noncompliance. The decision of the County Manager may be appealed by filing a petition with the Circuit Court within 30 calendar days of receipt of the compliance determination.

Hearing procedures adopted May 1985
Amendment (#12) approved July 2004
Amendment (#13) approved June 2007
Amendment (#14) approved October 2016