

**PERSONNEL DEPARTMENT POLICY**  
**San Luis Obispo County**

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<b>Topic: Hearing Officer Guidelines/Process</b>	
<b>Subject:</b> Discipline	<b>Revised:</b> August 2004
<b>CSC Rule:</b> 4.05(b), step 3(d)	<b>Approval:</b> _____
<b>Location:</b> P:\PERSONNEL DEPT. POLICIES - 2004\Final Policies 2004\DISCIPLINE\Hearing Officer Guidelines Process.doc	<b>Date:</b> _____
	<b>Note:</b> Original signed copy on file in Personnel Department.

The following guidelines and procedures apply to hearings conducted by Board of Supervisors appointed Hearing Officers pursuant to Civil Service Rule 4.05 (b) Step 3 (d) matters not covered by the Civil Service Ordinance and Rules.

**A. HEARING OFFICER GUIDELINES**

1. The Hearing Officer sets the date, time and location of the hearing based upon the mutual availability of the parties.
2. Written materials should be provided to the Hearing Officer prior to the hearing. This includes a statement developed jointly by the parties to the grievance summarizing the facts and points of issue in the case. Supplemental information backing up the points of dispute should also be provided at this time so that the hearing officer has a chance to absorb the information before the hearing.
3. Each party is responsible for providing copies of all documents to the other side.
4. The hearing should be set within two weeks of receiving completed information from both sides.
5. The hearing should be as informal as possible in terms of both structure and rules of evidence.
6. The hearing officer swears in all witnesses by oath or affirmation at the time they initially testify.

"Do you swear that you will tell the truth, the whole truth, and nothing but the truth?"
7. Both sides may ask representatives to present their case.
  - a. The grievant's case is presented first since they have the burden of proof.
  - b. The respondent has a chance to respond to statements and to question witnesses called by the grievant.
  - c. Then the respondent presents her/his side.
  - d. The grievant can respond to, or ask questions of, statements made by or witnesses called by the respondent.

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- e. Both sides may provide closing arguments.
8. At the close of the hearing, the hearing officer should indicate approximately when a decision will be made. Generally, a draft decision should be distributed no later than a month after the hearing.
9. In reaching a decision, the hearing officer should consider all the evidence, both written and oral, and remember that the burden of proof is on the grievant. Additionally, since the hearing officer is a representative of the County Administrator, the perspective of the County Administrator should be considered in developing a decision.
10. The findings and decision of the hearing officer should be in a format as shown on the attached. Remember, you are writing to the Board of Supervisors, and they may have very little knowledge of the specifics of the case. Therefore, it is very important that you state the facts and issues clearly, and that the reasons for your conclusion are fully explained. A sample of a Hearing Officer Findings, Decision, and Recommendation and Board cover letter are attached.
11. A draft copy of the findings and decision should be provided to the grievant at least a week before the item is scheduled on the Board of Supervisors' agenda. The parties should be asked to review the materials for accuracy and completeness, not to comment on the conclusions reached by the hearing officer.
12. After the draft has been reviewed and any necessary revisions made, it should be placed on the next available Board consent agenda. If the item is not a consent-ready item, it should not go to the agenda. Further meetings with the parties may be necessary. The Administrative Office may do a cover letter for the item.
13. The findings and decision of the hearing officer are advisory to the Board of Supervisors. However, it is unlikely that the Board will overturn a decision reached by the hearing officer, so it is likely that the decision will stand. Once the Board has acted on the hearing officer's determination, the decision is final.

**B. HEARING PROCESS**

1. Notice of Date and Place: At least five business days prior to the date scheduled for the hearing of an appeal, the Hearing Officer shall notify the appellant and all interested parties in writing of the date and place of such hearing. Any affidavits, exhibits and other evidence should be submitted prior to the hearing date being set. Copies of all documents should be provided to all interested parties.
2. Rights of Parties Involved: At the hearing, the appellant(s), the appointing authority, Personnel Department staff, and any other person(s) whom the Hearing Officer determines to have a legitimate interest in the matter shall be entitled to:
  - a. Testify under oath;
  - b. Question under oath any witnesses or other persons involved in or related to the matter being considered;
  - c. Impeach any witnesses before the Commission; and

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- d. Argue his/her own case.
3. Representation by Legal Counsel: At the hearing, the appellant(s), the Personnel Department staff, and the appointing authority shall be entitled to representation by legal counsel.
4. Failure of Petitioner to Appear: In all appeals, the failure of the appellant to appear in person without good cause shown at the time and place set for hearing shall be deemed a withdrawal of his/her petition and consent to the action, order, or ruling from which the appeal was taken.
5. Evidence: The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be admitted for any purpose, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Irrelevant and repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation.
6. Exclusion of Witnesses and Other Persons: At his/her discretion, the Hearing Officer may exclude from hearings witnesses who are not under examination and any other persons not having a direct interest in the matter being considered.
7. Testimony of Appellant: An appellant may be called to testify and questioned under oath.
8. Burden of Proof: The burden of proof shall be on the appellant.
9. Findings and Decisions: After hearing the appeal, the Hearing Officer may take the matter under submission before making a decision. The decision will be in writing and include findings. This will be forwarded to the Board of Supervisors for final decision. Their decision, either granting or denying the appeal, shall be final. Notice of the results of the hearings shall be mailed promptly to the appellant and other persons deemed to have an interest in the proceedings.
10. Report of Hearings: Appeal hearings may be conducted without a stenographic reported or recording machine unless some person interested in the hearing requests that such hearing be reported or recorded and pays the cost or fee for such reporting or recording.
11. Witnesses: Each party may request the Hearing Officer to direct witnesses to appear at the hearing.