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Where Values Make The Difference

MEMORANDUM

DATE: November 7, 2013

TO: Mayor and Council

THRU: Rich Dlugas, City Manager

FROM: Debra Stapleton, Human Resources Director

SUBJECT: Resolution 4729: Merit System Board Rules of Procedure

Recommendation: Adopt Resolution 4729 repealing the Merit System Board Hearing Procedures in their entirety and replacing with the Merit System Board Rules of Procedure

Background and Discussion:

The Merit System Board's current hearing procedures were adopted in January 1989. Since then, many of the procedures have been superseded or otherwise affected by changes in statutes and case law relating to disciplinary appeal proceedings. Additionally, the existing hearing procedures are silent with respect to several aspects of pre- and post-hearing procedures requiring the parties and the Merit System Board to work out the process on a case-by-case basis and increasing the potential for unnecessary conflict and controversy.

The revised hearing procedures conform to recent changes in the law. They also establish standard procedural steps and timeframes for many pre-hearing, hearing, and post-hearing activities but allow for flexibility where the parties are able to reach agreement. The procedures clarify the Board's discretion and authority and its ability to act where the parties do not agree. The revisions take into account the City's recent experiences with Merit System Board hearings as well as feedback received from the participants in the process. The changes are intended to make the Merit System Board hearing process transparent, efficient, and fair, and to clarify the rights, responsibilities, and roles of all parties involved.

Among other things, the revised Merit System Board Rules of Procedure:

- Establish standard pre-hearing procedures for scheduling and pre-hearing conferences and orders, exchange of exhibit and witness lists, and pre-hearing statements and objections.
- Establish timeframes for pre-hearing and post-hearing procedures and objections;
- Provide a standard method for requesting the appearance of witnesses;

- Authorize the designation of an attorney to provide advice to the Merit System Board;
- Establish procedures for conducting the hearing;
- Clarify the roles of the various participants in the hearing;
- Clarify the public nature of the hearing and provide for the use of executive sessions consistent with the requirements of Open Meetings Law;
- Clarify the burden of proof and order of presentation and questioning during the hearing;
- Clarify the nature and scope of the Board's deliberations and recommendations;
- Incorporate statutory requirements relating to the use of hearing officers, exchange of exhibits and witness lists, and board findings in proceedings involving law enforcement officers; and
- Establish post-hearing procedures including a process for raising objections.

The rewritten Merit System Board Rules of Procedure were provided to the five regular members of the Merit System Board for their review and input.

Motion: Adopt Resolution 4729 repealing the Merit System Board Hearing Procedures in their entirety and replacing with the Merit System Board Rules of Procedure.

RESOLUTION NO. 4729

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, REPEALING THE MERIT SYSTEM BOARD HEARING PROCEDURES IN THEIR ENTIRETY AND REPLACING WITH THE MERIT SYSTEM BOARD RULES OF PROCEDURE

WHEREAS, the City of Chandler Charter authorizes the Merit System Board to hear disciplinary appeals by employees of suspensions, demotions, and dismissals, and provide advisory opinions to the City Manager based on its findings.

WHEREAS, by Charter, rules and procedures for disciplinary appeal hearings before the Merit System Board are to be approved by the City Council.

WHEREAS, the Merit System Board Hearing Procedures were adopted in January 1989, and have not been updated since that time.

WHEREAS, a complete revision of the procedures is necessary to conform to changes in the law and to clarify the rights, responsibilities, and roles of all parties involved.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

1. That the City of Chandler Merit System Board Hearing Procedures are repealed in their entirety.

2. That the City of Chandler Merit System Board Rules of Procedure, in the form attached hereto as Exhibit A, are hereby adopted.

3. That City staff is hereby directed to take such further action as necessary to implement this resolution.

PASSED AND ADOPTED BY THE City Council of the City of Chandler, Arizona, this ___ day of November, 2013.

ATTEST:

_____ _____

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4729 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ___ day of November, 2013 and that a quorum was present thereat.

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Resolution No. 4729
Exhibit A

CITY OF CHANDLER
MERIT SYSTEM BOARD RULES OF PROCEDURE

Rule 1 -- Purpose and Scope. These Rules are established to facilitate a fair and orderly process for the conduct of a Board hearing of an appeal of a suspension, demotion, or dismissal ("Board Hearing"), These Rules shall apply to all matters before the City of Chandler Merit System Board (the "Board") unless inconsistent with the City Charter, City Code, or other law.

Rule 2 -- Composition of the Board. The Board shall be composed of those persons appointed to serve as Members of the Board as set forth in § 4.02(c) of the Chandler City Charter.

2.1. *Chairperson.* The Board Members shall elect one Member among themselves to serve as Board Chairperson ("Chairperson"). The Chairperson shall serve as the presiding officer for the Board.

2.2. *Vice-Chairperson.* The Board Members shall also elect one Member among themselves to serve as Vice-Chairperson of the Board ("Vice-Chairperson"). The Vice-Chairperson shall act as the presiding officer for the Board in the absence of the Chairperson.

2.3 *Secretary.* The Human Resources Director shall designate a City Employee to serve as Secretary for the Board ("the Secretary"). The Secretary shall not be a Member of the Board and will not have any voting rights. The Secretary shall not have any personal involvement in or personal interest in the business that may come before the Board. The Human Resources Director may from time to time designate a new Secretary in the Human Resources Director's discretion in accordance with the staffing and resource availability to the City.

2.4 *Board Attorney.* The City Attorney shall designate an attorney to provide legal advice to the Board ("the Board Attorney"). The Board Attorney shall not be a Member of the Board and will not have any voting rights. The Board Attorney shall not have any personal involvement in or personal interest in the business that may come before the Board. The City Attorney may from time to time designate a new Board Attorney in the City Attorney's discretion in accordance with the staffing and resource availability to the City. The Board may seek guidance from the Board Attorney regarding legal and procedural issues affecting the business before the Board.

Rule 3 -- Meetings of the Board. The Board will not hold regularly scheduled meetings. The Board may schedule special meetings as necessary to conduct such business as may properly come before the Board including any personnel appeals which are referred to the Board. Meetings of the Board shall be scheduled upon the call of the Chairperson.

3.1 *Alternative Members.* If prior to any meeting the Chairperson determines that less than all five Members of the Board are expected to be present at the meeting, the Chairperson may determine if any Alternative Members appointed pursuant to § 4.02(c) of the City Charter are available. If available, the Chairperson may designate an Alternative Member to serve at the meeting. In the event that the Meeting of the Board is for purposes of considering a personnel appeal, the Alternative Member shall be designated to serve for the entirety of any Board Meetings related to said personnel appeal. Further, no Alternative Member shall be designated to serve for any meeting of the Board related to a personnel appeal, unless such Alternative Member will be available for substantially all of the Meetings related thereto

3.2 *Public Meetings.* All Board meetings shall be held in accordance with the provisions of the Arizona Open Meeting Act, A.R.S. § 38-431 *et seq.* The Board may from time to time hold executive sessions as provided in A.R.S. § 38-431.03.

3.3. *Quorum.* At the commencement of each meeting of the Board, the Chairperson shall call the Hearing to order and determine if a quorum is present. Three Members of the Board shall constitute a quorum. The Board shall not conduct any business unless a quorum is present.

3.4 *Meeting Minutes.* The Secretary shall prepare or direct the preparation of written minutes and/or a recording (audio or video) of each Meeting in accordance with A.R.S. § 38-431.01.

3.5 *Agendas.* Under the direction of the Chairperson, the Secretary shall prepare an agenda for each meeting of the Board and shall make all postings and notices as may be required by law.

3.6 *Routine Matters.* Meetings held for conducting such routine business matters as may come before the Board shall be conducted in accordance with the same meeting rules and procedures as are adopted from time to time by the Chandler City Council.

3.7 *Personnel Appeals.* Meetings for the purpose of considering personnel appeals as set forth in the City of Chandler Personnel Rules shall be scheduled and conducted as set forth in Rules 4 through 17.

3.8 *Computation of Time.* Unless otherwise noted, any reference in these Rules to a certain number of days shall be deemed to refer to business days in which the City Manager's office is open for business. Whenever the final day of a time period stated in these Rules falls on a weekend or holiday, the expiration of such time period shall be deemed to fall on the next business day after the expiration of the time period stated.

PERSONNEL APPEALS

Rule 4 -- Notice of Appeal. When the Human Resources Director receives a valid employee appeal requiring a hearing with the Board, the Director, or designee, shall notify the Chairperson of the employee appeal. When so notified, the Chairperson will presume that the appeal was validly filed and that a hearing by the Board is necessary in accordance with Rule 5 of the City of Chandler Personnel Rules.

4.1 Hearing Officers. Within five (5) days of receipt of an employee appeal, the Chairperson shall decide whether or not to appoint a hearing officer as provided in Personnel Rule 5, Section 9, or elect for the Board to hear the Appeal. If the Chairperson does not appoint a hearing officer within five (5) days of receipt of the appeal, the matter shall be deemed to be heard by the Board.

4.2. Hearing Officer Procedures. If the Chairperson elects to appoint a hearing officer, the Hearing Officer shall conduct pre-hearing procedures and a hearing in accordance with these Rules. The Hearing Officer shall have the same powers and duties as the Chairperson until such time as the Hearing Officer issues a Report in accordance with Rule 10.6. After issuing the Report, the Hearing Officer shall have no further responsibility.

4.2.1 Hearing Officers in Law Enforcement Matters. For those hearings subject to the provisions of A.R.S. § 38-1101(I), a Party may request a change of the appointed Hearing Officer within ten (10) days of notification of such appointment by the Chairperson. The Chairperson shall make any decisions necessary to comply with the provisions of A.R.S. § 38-1101.

Rule 5 -- Scheduling Conference. After receiving notice of an appeal, the Chairperson may set a time for a pre-hearing Scheduling Conference. A pre-hearing Scheduling Conference shall be held within ten (10) days of the Board's receipt of the notice of appeal unless the Chairperson extends the date for good cause shown. The Scheduling Conference may be conducted in person or telephonically at the discretion of the Chairperson. In matters to be heard by a Hearing Officer, the Scheduling Conference shall be held within ten (10) days of the appointment of the Hearing Officer.

5.1 *Scheduling Conference Memorandum.* Prior to the date of the scheduling conference, the City's Representative shall make contact with the Appellant to discuss the matters set forth below. The Parties shall then submit a joint memorandum to the Chairperson at least three (3) days before the Scheduling Conference which addresses the following subjects:

1) A brief summary of each Party's position;
2) A proposed date for the exchange of lists of witnesses and exhibits or any supplemental witness lists if the Parties desire a date different from that set forth in these Rules
3) Estimated time for the hearing;
4) A Proposed time frame for hearing dates;

5) Any request to expedite or consolidate the matter.

The City's Representative shall initiate preparation of the joint memorandum. If the Parties are unable to agree on any of the matters to be set forth, the memorandum shall note each Party's respective position.

5.2 *Scheduling Order.* If a Scheduling Conference is held, the Chairperson shall issue a Scheduling Order within five (5) days which shall govern the schedule for the remainder of the proceedings unless modified by the Chairperson for good cause shown. If the Chairperson determines that a Scheduling Conference is unnecessary, the Chairperson may issue a Scheduling Order at any time. The Scheduling Order may address any of the matters set forth above or any other matters the Chairperson deems important to the orderly progression of the proceedings. The Scheduling Order may also include a date for a Pre-Hearing Conference and a date for commencement of the Board Hearing. Alternatively, the Scheduling Order may establish a range of possible dates for scheduling with direction to the Secretary to schedule such dates consistent with schedules for the Board Members, Parties, and representatives. The Secretary shall facilitate the scheduling of Board Members or Alternate Board Members for the Hearing as necessary.

Rule 6 -- Witnesses and Exhibits.

Unless a different date is established by a Scheduling Order from the Chairperson, the Parties shall exchange an initial list of witnesses and exhibits within five (5) days following the issuance of the Scheduling Order. The witness list shall include the name of the witness, the title of the witness, the department or division if the witness is a City employee, and a brief summary of the substance of each witness's anticipated testimony. If the witness is not a City employee, the list shall also include the address, e-mail, and telephone number, if known, of such witness. Each Party shall also provide the other Party with a copy of any exhibits listed by that Party unless the exhibit is of such a nature that it does not lend itself to practical reproduction in which case the Party shall make the exhibit available for inspection by the other Party upon reasonable request.

6.1 *Supplemental Witnesses and Exhibits.* Within ten (10) days of the exchange of Lists of Witnesses and Exhibits, a Party may submit to the other Party a supplemental list of witnesses and exhibits which shall be limited to additional witnesses or exhibits not reasonably anticipated to be necessary until recognition of issues raised by the other Party's List of Witnesses and Exhibits.

6.2 Witnesses or exhibits not included in a Party's Initial or Supplemental List of Witnesses and Exhibits may not be introduced at the hearing absent good cause shown for the failure to include such witness or exhibit therein.

6.3 *Objections to Witnesses or Exhibits.* If either Party objects to any witnesses or exhibits listed by the Other Party, that Party must file its objections with the Chairperson no later than five (5) days prior to the Pre-Hearing Conference if one is

held or ten (10) days prior to the Hearing if no Pre-Hearing Conference is held. The non-objecting Party may respond to the objection.

Rule 7 -- Pre-Hearing Conference

7.1 If the Chairperson determines that it would aid the disposition of the appeal, the Chairperson may schedule a Pre-Hearing Conference at least two (2) days prior to the Board's hearing of the Appeal. At least one representative of each Party who will be responsible for the presentation of the Party's position during the Board hearing shall attend the Pre-Hearing Conference. At the Pre-Hearing Conference, the Chairperson may make such rulings and orders which will facilitate a fair and efficient Board Hearing including but not limited to:

1) Which witnesses or exhibits may be presented;
2) Limitations on time for the Hearing;
3) The Issues to be decided by the Board at the Hearing;
4) Resolving any motions or other outstanding issues between the Parties;

7.2 *Pre-Hearing Statement.* Each Party must submit a Pre-Hearing Statement to the Board no fewer than five (5) days before the scheduled hearing. The Pre-Hearing Statement must include:

(1) A one-page summary of the issues to be presented at the Hearing;

(2) A witness list (names, titles, occupations and department or division if City employee), and a brief summary of the substance of each witness's testimony; and

(3) Any exhibits or other material to be considered by the Board.

Each Party shall submit seven (7) copies of its Pre-Hearing Statement to the Board. Pre-Hearing Statements and supporting materials must be placed in a 3-ring binder or notebook, paginated, and organized with a table of contents and corresponding index tabs.

Rule 8 -- The Hearing.

8.1 *Commencement of the Hearing.* At the outset of the Hearing, the Chairperson shall state the date, time and place of the Hearing, request a roll call for Board Members present from the Secretary, and provide a brief description of the issues to be considered during the Hearing. The Chairperson may also announce any modifications to the anticipated order of proceedings set forth in these Rules.

8.2 *Exclusion of Witnesses.* At the request of either party or a Member of the Board, the Chairperson may ask witnesses who are anticipated to testify during the Hearing to excuse themselves from the hearing room until such time as they are called for testimony. However, the Appellant, the Appellant's attorney (if applicable), the City's

department representative, and the City's attorney shall not be excluded from the Hearing.

8.3. *Informal Hearing.* The Hearing shall be an informal, fact-finding process. The formal rules of evidence applicable in state and federal court proceedings shall not apply. However, the Chairperson may make rulings limiting the presentation of evidence that is irrelevant, redundant, incompetent, or otherwise offered for harassment or other purposes inconsistent with the purpose of the Hearing. The Chairperson may also require that appropriate foundation be established for any exhibits offered for consideration by the Board. All participants are required to act respectfully and considerately throughout the Hearing.

8.4 *Length of Hearing.* Unless modified by an Order from the Chairperson, each Party will have the amount of time designated below to present that Party's opening statement, question witnesses, cross-examine the other Party's witnesses, and present the Party's closing statement. Questions or other discussion from Board Members shall not be deducted from either Party's allotment of time.

Appeal of Suspension	2 hours
Appeal of Demotion	4 hours
Appeal of Dismissal	8 hours

8.5 *Order of Presentation.* Unless modified by Order of the Chairperson, the Hearing shall proceed in the following order:

1) The City may make an opening statement.

2) The Appellant may make an opening statement. The Chairperson may allow the Appellant to defer the Appellant's opening statement until the close of the City's evidence if the Appellant so requests.

3) The City may present its witnesses and exhibits.

4) The Appellant may present its witnesses and exhibits.

5) The City may present rebuttal evidence which is limited to responding to issues raised by the Appellant's presentation of evidence.

6) The Chairperson may permit surrebuttal testimony from the Appellant if the interests of fairness are served.

7) Members of the Board may request that witnesses be recalled for further testimony.

8) The City may make a closing argument.

9) The Appellant may make a closing argument.

10) The City may make a rebuttal closing argument limited to responding to new points raised in the Appellant's closing argument.

11) The Chairperson may open the floor to Board Members to ask questions of either Party about the issues in the case. Such questions shall not be for purposes of soliciting new evidence but rather limited to questions about the closing arguments offered by the Parties.

12) After the Chairperson is satisfied that all Parties have had a fair opportunity to present their case, the Chairperson shall declare that the time for taking of evidence and hearing argument by the Parties is concluded and open the matter for deliberation by the Board.

8.6. *Questioning of Witnesses*: The questioning of witnesses shall proceed in the following order:

1) The Party calling the witness shall have direct examination;
2) The other Party may cross-examine the witness;
3) The Party calling the witness may have rebuttal examination with questioning limited to new issues raised in cross-examination;
4) Members of the Board may ask final questions of the witness. The Chairperson may allow each Party to ask additional questions of witnesses to clarify or challenge testimony offered in response to Board Member questions.

Rule 9 -- Burden of Proof. At the Hearing, the City shall have the burden to prove by a preponderance of the evidence that the Appellant engaged in conduct or a level of performance that constitutes grounds for disciplinary action under the City's Personnel Rules.

Rule 10 -- Board Deliberation And Recommendation. At the conclusion of the presentation of evidence and argument by the Parties, the Board may deliberate regarding its findings and recommendations for the City Manager. .

10.1 *Executive Session*. The Board may convene in Executive Session to deliberate consistent with A.R.S. § 38-431.03. All Board members present at the Hearing may participate in the deliberation regarding the Board's findings and recommendation. Unless the Chairperson determines that another person's presence would serve the purposes thereof, attendance at any Executive Session of the Board shall be limited as follows:

1) Board Members who will participate in the deliberation
2) The Board Secretary
3) The Board Attorney
4) The Human Resources Director, or designee

Only Board Members shall participate in the deliberations.

10.2 *Findings.* After deliberation, the Board shall make its findings as to whether the City proved by a preponderance of the evidence that Appellant engaged in conduct or a level of performance that constitutes grounds for disciplinary action under the City's Personnel Rules In order to aid the City Manager's review, the Board may make specific findings of fact regarding the issues in question at the Hearing. If a majority of the Board finds that the City did not prove by a preponderance of the evidence that some type of discipline is warranted because the Appellant engaged in conduct or performance which constitutes grounds for disciplinary action under the City's Personnel Rules, the Board shall recommend that the disciplinary action taken against the Appellant be withdrawn.

10.3 *Advisory Opinion.* If the Board finds the City proved by a preponderance of the evidence that discipline is warranted because the Appellant engaged in conduct or performance that constitutes grounds for disciplinary action under the City's Personnel Rules, the Board's findings shall identify the specific provision(s) of Personnel Rule 5, Section 05 that apply. The Board's written recommendation to the City Manager shall include a recommendation that the disciplinary action imposed by the City Department be either upheld or modified. A recommendation by the Board to modify the Department's action must be based on a determination by a majority of the Board that, when viewed objectively, the disciplinary action was arbitrary or taken without reasonable cause. An action is arbitrary or taken without reasonable cause if the Department acted without adequate consideration and disregarded material facts and circumstances in imposing the particular discipline such that the penalty is disproportionate to the proven offense in light of mitigating circumstances. The Board shall give deference to the Department's choice of disciplinary action if the Department duly considered the material facts and the penalty imposed falls within the permissible range under City disciplinary policy and standards even if the Board would have weighed the facts differently and imposed a different disciplinary sanction.

10.4 *Appeals by Law Enforcement Officers.* In any appeal brought by a law enforcement officer, the Board shall address in its findings and Advisory Opinion whether there was "just cause", as defined in A.R.S. § 38-1104, for the challenged disciplinary action. For purposes of this requirement, the term "law enforcement officer" shall have the meaning set forth under A.R.S. § 38-1101. This requirement shall not apply to appeals of suspensions of eight (8) hours or less.

10.5 Findings and Recommendations of the Board shall be made in open session.

10.6. *Board Deliberation when Hearing Officer is Appointed.* In those matters where the Chairperson has appointed a Hearing Officer, the Hearing Officer shall issue a report of findings and a recommendation to the Board within five (5) days of the conclusion of the hearing. The Chairperson shall then set a Hearing for the Board to consider the findings of the Hearing Officer within ten (10) days of issuance of the Hearing Officer's Report. The Secretary shall deliver a copy of the Report and the record of the hearing before the Hearing Officer to each Board Member at least five (5) days prior to the Hearing. The Board shall consider the Hearing Officer's Report and accept the Hearing Officer's Findings of Fact unless the findings are clearly erroneous. The Board will then make its recommendation in accordance with Rule 10.3.

Rule 11 – Transmission of the Board's Findings and Recommendations. Within seven (7) days of the conclusion of the Hearing, the Secretary or Board Attorney to the Board shall prepare a written instrument transmitting the findings and recommendations, if any, to the City Manager. A copy shall be sent to the Appellant, the City's Attorney, and the Human Resources Director.

11.1 Objections to Findings and Recommendations. Within five (5) days of the transmission of Findings and Recommendations to the City Manager, either Party may file an objection with the City Manager if the Party believes that the Board's findings and recommendations are inconsistent with the requirements of City Rules or these procedures. If a Party files an objection with the City Manager, the opposing Party may file a response to the objection within five (5) days of receipt of the objection. The City Manager shall consider the objection and response in his review.

11.2 City Manager's Decision. The City Manager shall issue a written, dated decision to the Appellant, the City Attorney, and the Department Director. Copies of the decision shall be provided to the Appellant's representative, the Human Resources Director, and the Board Secretary for distribution to the Board. The City Manager shall issue his/her decision within 10 days after receipt of the Board's Findings and Advisory Opinion unless an objection is filed or circumstances preclude the City Manager from making a decision within that time frame.

Rule 12 – Communications with Board Members. While an appeal is pending before the Board, the Appellant, the City's department representative and/or their respective attorneys are not to communicate directly with any member of the Board. All communication with the Board must be submitted through the Secretary.

Rule 13 -- Chairperson as Presiding Officer. The Chairperson of the Board shall preside over all matters preliminary to the Hearing before the Board. The Chairperson may make any and all necessary orders or rulings to facilitate the efficient and timely resolution of the Appeal without necessity of convening the entire Board. The Chairperson shall not make any decision which effectively decides the merits of the appeal and precludes further consideration of the appeal by the Board.

Rule 14 – Attendance of Witnesses.

14.1 *Testimony of City Employees.* Any Party desiring the testimony of a current City employee may deliver to such employee a written request to appear which includes the date and location of the hearing and a brief statement of why the employee is requested to appear. The request shall be made as soon as practicable but in any event not later than ten (10) days prior to the scheduled hearing. The request to appear shall be a separate and distinct document from any list of witnesses and exhibits submitted by such Party. A copy of any request to appear shall be filed with the Secretary and also delivered to the Department Director of the employee requested to appear. A request to appear shall be substantially in the form set forth in Appendix 14.1.

14.2 *Testimony of Persons Who Are Not City Employees.* The Chairperson shall have the authority to issue subpoenas to non-City employees for either testimony or

documents. The Chairperson will only do so upon written request of the Appellant and/or the City. Such a request shall be directed to the Chairperson, through the Secretary, not later than fifteen (15) days prior to the scheduled Hearing. The Secretary, on behalf of the Chairperson, will prepare subpoenas, and the subpoenas will be returned to the party that named the individuals for service.

14.3 *Telephonic Appearance*. The Chairperson may order that any witness be allowed to appear telephonically upon a showing of good cause. Any party desiring to present telephonic testimony must submit a written request to the Chairperson at least five (5) days prior to the scheduled hearing.

Rule 15 – Filing & Service.

15.1 *Delivery of Notice to City Employees*. Any Request to Appear directed to a current City employee shall be effective if delivered in any of the following manners:

1) By e-mail to the City employee's designated City e-mail address with an additional copy to the Director of the City employee's department; or
2) By sending a copy through the City's inter-office mail system with an additional copy to the Director of the City employee's department; or
3) By delivering a copy to the employee personally by a person who is at least eighteen years of age and not a party or anticipated witness for the hearing.

15.2 *Service of Subpoena on Person who is not a Current City Employee*. Any subpoena directed to a person who is not a current employee of the City shall be made in accordance with Rule 45, Arizona Rules of Civil Procedure.

15.3 *Filing with the Board*. Any documents to be filed with the Board or the Chairperson shall be deemed complete by filing with the Secretary. Parties may not send documents or communications directly to Board Members.

15.4 *Copies of Documents; Service by Mail and Electronic Mail*. A copy of any document or notice filed with the Secretary shall also be served upon any other Party. Service may be completed by first class mail or hand-delivery. Any notice or document required to be sent to the Parties shall also be sent via electronic mail if an electronic mail address is provided to the Secretary by such Party. The Parties may enter into a mutual agreement that documents required to be served by first class mail or hand-delivery may be served by electronic mail in lieu thereof. Any such agreement shall be in writing and filed with the Secretary before it is effective.

15.5 *Requests to Appear*. Requests for City employees to appear as witnesses pursuant to Rule 14.1 may be served by hand-delivery or alternatively by transmitting a copy to the employee's City electronic e-mail address with a copy sent in the same fashion to the Department Director.

Rule 16 -- Representation by Counsel.

Any Party shall have the right to be represented by legal counsel during the hearing or any preliminary proceedings. If Appellant intends to be represented during the Hearing, Appellant shall provide written notice to the Human Resources Director as soon as possible after the appeal is filed.

Rule 17 -- Consolidation of Appeals

If the Chairperson determines that two or more personnel appeals arise out of substantially the same events or circumstances, the Chairperson may order that the appeals be consolidated to a single Board meeting. The Board shall make separate findings and recommendations to the City Manager for each Appellant.

Appendix 14.1 Request to Appear – Form.

Before the Chandler Merit Board

In the Matter of:

[Name of employee], Appellant

and

City of Chandler, Respondent

Request to Appear at Hearing

To: [Name of City employee Witness]

cc: [Name of Department Director]

Pursuant to Rule 14.1 of the Rules of Procedure for the Chandler Merit Board, you are requested to appear and give testimony as follows:

Date of Hearing:

Time of Appearance:

Location of Appearance:

Brief Statement of Why Appearance is Requested:

Your Duties in Responding to this Request

You must inform the party making this request as soon as possible if you are unable to appear as requested. If you have any questions or concerns about this request, you should discuss them with your supervisor, Department Director, or the Human Resources Director.

Name, Address & Phone Number of Party Making this Request: