

**RESOLUTION NO. 16R-2566**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA, ADOPTING THE REVISED HUMAN RELATIONS BOARD RULES OF PROCEDURE; AUTHORIZING THE BOARD TO HENCEFORTH ADOPT ITS OWN RULES OF PROCEDURE; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Sarasota Human Relations Board approved amendments to its Rules of Procedure on March 28, 2017; and

WHEREAS, these amended rules are consistent with proposed Ordinance No. 16-5178, which amends Chapter 18, "Human Relations," of the City of Sarasota Code; and

WHEREAS, Ordinance No. 16-5178 authorizes the Human Relations Board to adopt, promulgate, amend and rescind its rules of procedure for the operation of the board and to effectuate the policies of Chapter 18, without further approval from the Sarasota City Commission; and

WHEREAS, the City Commission approved Ordinance No. 16-5178 on first reading on May 1, 2017, and adopted the ordinance on second reading on May 15, 2017; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SARASOTA, FLORIDA:**

**Section 1.** The Sarasota City Commission hereby approves the revised Human Relations Board Rules of Procedure, attached hereto and incorporated herein. These amended rules are intended to supersede any previously adopted rules of the Human Relations Board.

**Section 2.** Following the adoption of this Resolution, the Human Relations Board is authorized to adopt, promulgate, amend and rescind its rules of procedure for the operation of the board and to effectuate the policies of Chapter 18; and

**Section 3.** This Resolution shall take effect immediately upon adoption and shall remain in effect until further action of the City Commission.

ADOPTED by the City Commission of the City of Sarasota, Florida, upon reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to adoption, as authorized by Article IV, Section 2 of the Charter of the City of Sarasota this 15th day of May, 2017.

CITY OF SARASOTA



Shelli Freeland Eddie, Mayor

Attest:

  
Pamela M. Nadalini, MBA, CMC  
City Auditor and Clerk

- Yes Mayor Shelli Freeland Eddie
- Yes Vice Mayor Liz Alpert
- Yes Commissioner Jen Ahearn-Koch
- Yes Commissioner Hagen Brody
- Yes Commissioner Willie Charles Shaw



## **HUMAN RELATIONS BOARD**

### **RULES OF PROCEDURE**

#### **I. PURPOSE**

It is the intent of these procedural rules to provide an equitable and efficient procedure for the consideration by the Human Relations Board of quasi-judicial matters and to provide due process to complainants and other parties seeking quasi-judicial determinations of the Human Relations Board.

#### **II. DEFINITIONS**

**Board:** means the Human Relations Board.

**Complainant:** is a person, corporation or other legal entity that files a complaint with the Human Relations Board.

**Department:** the Department of Human Resources of the City of Sarasota.

**Respondent:** is a person, corporation or other legal entity against whom a complaint of discrimination has been filed.

**Secretary:** means the Secretary for the Board appointed by the City Manager of the City of Sarasota, or his or her designated support person.

#### **III. RULES OF CONSTRUCTION**

- A. In the case of a conflict between any provision of the Sarasota City Code and these rules the Sarasota City Code will prevail.
- B. In computing any period of time prescribed or allowed by these rules or the City Code, the day of the act, event or default from which the designated time period begins to run will not be included. The last day of the period so computed will be included unless it is a Saturday, Sunday or legal holiday, then the subsequent workday would be used. When the period of time prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays and legal holidays will be excluded in the computation.

#### **IV. GENERAL BOARD RULES**

- A. The Board shall be governed by Chapter 2, Administration, Article V., Boards, Commissions and Boards, Sections 2-256 to 2-265, inclusive, of the Sarasota City Code.
- B. The Board shall have jurisdiction over those matters which are set forth in Chapter 18, Human Relations, of the Sarasota City Code.
- C. Three (3) members of the Board shall constitute a quorum.

#### **D. OFFICERS**

- 1. Officers shall be selected and shall serve one-year terms, as provided for in Section 2-263 of the Sarasota City Code.
- 2. A vacancy occurring in any office shall be filled by a majority vote of the remaining Board members, and such new officers shall hold their office for up to one year.
- 3. The employee of the City, appointed by the City Manager, shall be the permanent Secretary.
- 4. The chairperson, or in his or her absence, the vice-chairperson, shall preside at all meetings and hearings of the Board and decide all points of order and procedure. In the absence of the chairperson and vice-chairperson, a secretary pro tem shall be appointed by the Board to preside over the meeting.

#### **E. MEETINGS**

Board meetings will typically be scheduled every other month; however, the Secretary may cancel meetings if there is no business before the Board, and may schedule additional meetings when the Board has pressing business. Special meetings or workshops may be called by the chairperson or by a majority vote of the Board present at a meeting.

#### **F. ATTENDANCE**

- 1. Board members must attend all scheduled Board meetings as required by Section 2-264 of the Sarasota City Code.
- 2. The Secretary shall take attendance of Board members at all meetings and shall record the reason for the absence of any Board member. The Board may vote to excuse an absence when unusual circumstances exist, as set forth in Section 2-264 of the Sarasota City Code.

## G. MINUTES

1. The Secretary shall take the minutes of all meetings.
2. Minutes are intended to be a summary of matters presented to or discussed by the Board, and are not intended to be a transcript of the meeting or proceedings. To the extent practicable, minutes should reflect and identify important statements made by a Board member, Board counsel, the Secretary, a Complainant, and a Respondent (and their counsel) or a member of the general public. A statement made by a Board member immediately prior to or following a vote on a motion, which relates to the member's position on the matter voted upon, shall be considered an important statement. Whenever a Board member desires the minutes to report a verbatim statement attributable to the Board member, the Board member shall so indicate on the record and the statement shall be reported verbatim in the minutes.
3. Minutes shall include only specific matters and comments made during the meeting. Under no circumstances should additional information (even background information), not presented or discussed at the meeting, be added to the minutes after the meeting is adjourned.
4. Draft minutes, which have not been approved by the Board, may be presented to the City Commission during the report of the Board, but such minutes shall be prominently marked "DRAFT".

## H. CORRESPONDENCE

All correspondence received by any member of the Board that relates to the official business of the Board shall be forwarded, as soon as practicable, to the Secretary, who will disseminate the correspondence to the other Board members prior to, or at, the next scheduled meeting. To avoid any violations of the Florida Government in the Sunshine Law, Fla. Stat. Ch. 286, Board members should avoid responding to such correspondence until they are in a scheduled and noticed meeting of the Board.

## I. FORMS

The Secretary, subject to the Board's approval, shall prepare standardized forms as are necessary to provide for the uniform and orderly implementation of the requirements of Chapter 18 of the Sarasota City Code and these Rules of Procedure.

J. NOTICES AND ORDERS

1. The Board Secretary shall provide Board members with a general schedule of Board meetings at the beginning of each calendar year. If such meetings are canceled, or additional meetings are scheduled, the Secretary shall contact Board members by phone and/or email. Board members shall promptly respond to such calls and emails in order to facilitate the scheduling of meetings.
2. The Secretary, with the assistance of Board counsel, shall provide notice of hearings and copies of Board orders to Complainants and Respondents by First Class mail, as well as by email.

K. BOARD AGENDA

1. The Secretary shall prepare the agenda for Board meetings. A Board member may add an item to the agenda during a meeting provided that 1) there is Board consensus; and 2) the additional item does not interfere with the commencement or completion of a scheduled hearing.
2. Copies of the Board agenda shall be available for public inspection at the time and place of the Board meeting.
3. Reasonable notices of all meetings of the Board will be given, as required by Section 286.011(1), Florida Statutes, and the notice of meeting and the agenda will be posted at City Hall in advance of the scheduled meeting.

**V. ORDER OF BUSINESS AT BOARD MEETINGS**

- A. Call to order and roll call.
- B. Changes to the Order of the Day.
- C. Approval of minutes.
- D. Open new or continued public hearing, if applicable.
  1. Disclose ex-parte communications or site visit relating to any quasi-judicial matter on the agenda (Resolution No. 96R-857).
  2. Swear-in all persons who plan to testify if evidentiary hearing and sequester witnesses if requested by one of the parties.
  3. Conduct public hearing pursuant to these Rules of Procedure.
- E. Unfinished Business.

- F. New Business.
- G. Comments from the general public (time limit 3 minutes).
- H. Workshop on topics requiring Board consideration, but not requiring public hearing.
- I. Presentation of topics by Board members.
- J. Presentation of topics by the City administration or legal counsel to the Board.
- K. Scheduling of special meetings.
- L. Adjournment.

**VI. PROCEDURAL RULES FOR COMPLAINTS, RESPONSES AND MOTIONS TO DISMISS**

**A. FORMAL COMPLAINT OF DISCRIMINATION**

1. The Complainant shall be required to file a written complaint with the Department of Human Resources.
2. The complaint shall include the following information:
  - a. name of the Complainant;
  - b. Complainant's mailing address (and email address if available);
  - c. Complainant's telephone number;
  - d. name of the Respondent(s);
  - e. Respondent's mailing address (and email address if available);
  - f. Respondent's telephone number;
  - g. address where the alleged incident(s) occurred;
  - h. date the alleged incident(s) occurred;
  - i. complete detailed description of how the violation occurred (who, what, where, when and how);
  - j. names, addresses and phone numbers of all witnesses;
  - k. notarized signature of Complainant.
3. The Secretary shall render whatever assistance may be necessary to the Complainant so that the complaint form can be properly completed.
4. The Secretary shall send a digital or hard copy of Chapter 18 of the Sarasota City Code and these Rules of Procedure to the Complainant, either at the time a complaint form is requested or immediately upon receipt of a completed complaint form.

B. SUFFICIENCY OF COMPLAINT AND DISMISSALS

1. The Secretary shall be responsible for receiving all complaints that are delivered to the Human Resources Department. All complaints shall be date stamped upon receipt by the Department and assigned a complaint number.
2. The Board shall consider only a fully completed complaint. The Secretary shall be responsible for conducting a preliminary review of the information contained in the complaint in order to determine if the complaint was filed timely and if it sets forth sufficient allegations to state a claim. The complaint shall be accepted if the Complainant alleges all of the following: 1) he or she was discriminated against because of belonging to one of the protected classes as provided for in Chapter 18 of the Sarasota City Code; 2) the alleged discrimination occurred within the city limits of Sarasota; 3) the alleged discrimination occurred within ninety (90) days of the date the complaint was filed with the Secretary; 4) the Complainant states that this is the first time he or she has filed a complaint for the alleged discriminatory act. The Statement of Facts must list the section or sections of Chapter 18 of the Sarasota City Code that is alleged to have been violated.
3. If the complaint has not been timely filed, fails to satisfy the requirements of Rule VI(B)(2) or if the complaint is incomplete, the Secretary shall advise the Complainant of the deficiencies and render whatever assistance that may be necessary to the Complainant so that a proper claim can be stated or the deficiencies cured.
4. If the deficiencies are not or cannot be cured, the Secretary shall administratively dismiss the complaint and make a report of such dismissal to the Board at its next regularly scheduled meeting. The Board may in its discretion, reinstate the complaint and cause notice to be served upon the Respondent, as set forth in Rule VI(B)(3).
5. If the complaint is administratively dismissed, the Secretary shall issue a notice to the Complainant reporting dismissal of the complaint.
6. If the Secretary cannot determine whether a complaint meets the requirements of Rule VI(B)(2), the chairperson shall review the complaint and make an administrative decision regarding the sufficiency of the complaint.
7. The Board may hear and rule on a motion to dismiss a complaint when such motion is brought before the Board by a Respondent or by the Board itself. The Board may dismiss a complaint upon a finding that: a) the Complainant has failed to allege facts upon which relief may be granted; b) that the Respondent is not governed by the Nondiscrimination Ordinance; or c) that

the Complainant has not met the threshold criteria set forth in Rule VI(B)(2).

8. The Board may hear and rule on a motion to consolidate two or more complaints when such motion is brought before the Board by a Respondent or upon motion of a Board member that is seconded and adopted by a Board majority. The Board may consolidate separate matters involving similar issues of law or fact, or identical Complainants or identical Respondents, if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.

C. ANSWER TO COMPLAINT OF DISCRIMINATION

1. Within ten (10) days after the filing of a complaint, or as soon as practicable thereafter, following a determination by the Board Secretary that a complaint is complete and sufficient pursuant to these rules, the Secretary shall issue and serve on Respondent a notice of filing of complaint. Such notice will contain a digital link or copy of the complete complaint, a copy of Chapter 18 of the Sarasota City Code, a copy of these Rules of Procedure, and a blank answer to complaint of discrimination form. The notice to the Respondent shall be hand delivered or sent certified mail, return receipt requested. The notice shall require the Respondent to answer the complaint no later than the tenth (10th) day of receipt of the notice.
2. The answer shall include the following information:
  - a. name of the Respondent;
  - b. Respondent's mailing address (and email address if available);
  - c. Respondent's telephone number;
  - d. Complainant's name;
  - e. assigned City case number;
  - f. response to each allegation of the complaint;
  - g. notarized signature of Respondent.
3.
  - a. The Respondent shall file his or her answer no later than ten (10) days after receipt of the notice. The Secretary may grant a short extension of time (up to five (5) additional days) to answer the complaint upon receipt of a Respondent's written request.
  - b. The chairperson is authorized to grant an additional reasonable extension of time for a Respondent to file an answer. The Respondent must submit a written request stating the circumstances surrounding the request for additional time and the amount of time being requested.

- c. If the Respondent has filed a motion to dismiss, the Secretary or chairperson may (on one occasion only) extend the time period for answering the complaint until after the motion has been heard and decided. If the motion to dismiss is denied, the Respondent shall file an answer to the complaint within ten (10) days of the denial.
4. If the Respondent fails to answer the complaint within the required time period, the Secretary shall issue a Notice of Preliminary Conference to the Respondent and the Complainant, setting forth the date, time and place of the preliminary conference.
5. After receiving and reviewing the answer to the complaint, the Secretary shall send a copy of the answer to the Complainant via email and U.S. Mail.

## **VII. CONCILIATION**

- A. Conciliation shall take place pursuant to Sec. 18-21 of the City Code. Within 30 days of receiving a complaint, or as soon as practicable thereafter, the Secretary shall issue an order to conciliate directing all parties to engage in a conciliation conference. The conciliation shall typically be scheduled after Respondent has answered the complaint; however, the parties may mutually agree to engage in conciliation prior to Respondent answering the complaint. Conciliation may also occur pursuant to VI(C)(4) herein. The Secretary shall attach a copy of the conciliation guidelines to the order to conciliate.
- B. Following the issuance of the order to conciliate, the Secretary shall secure a conciliator and contact the parties to schedule a mutually agreeable time for the conciliation conference. A notice shall then be sent to the parties setting forth the date, time and place of the conciliation.
- C. The parties may, upon mutual agreement, retain their own conciliator or mediator at the expense of one or both parties. If the City is unable to secure a volunteer conciliator, the Secretary may serve as conciliator.
- D. Conciliations shall be conducted in a confidential manner similar to court-ordered mediations. The conciliator shall serve as a neutral third party whose role is to direct the conciliation and assist the parties in coming to a mutually acceptable agreement that resolves the complaint and results in its voluntary dismissal.
- E. If the conciliation conference results in a settlement, a conciliation agreement may be prepared by the conciliator and, if it is acceptable to the parties, signed by the Complainant and the Respondent. Such agreement shall state the case number, the date of the conciliation conference and the terms of the settlement agreement. The conciliation agreement shall be submitted by the conciliator to the Secretary, along with a notice of voluntary dismissal signed by the Complainant.

- F. Notwithstanding the above, the Complainant and Respondent may wish to prepare and sign a confidential conciliation agreement without the direct assistance of the conciliator, in which case the conciliator shall have the Complainant sign a notice of voluntary dismissal that shall be submitted to the Secretary.
- G. If the parties to the conciliation do not settle the complaint, the conciliator, the Complainant and the Respondent shall complete, sign and file a Notice of Failure to Reach Agreement at Conciliation Conference. The Complainant may request a public hearing by submitting a written request to the Board Secretary. A failure to file a written request for public hearing within 60 days may result in an administrative dismissal of the complaint.
- H. Pursuant to Sec. 18-21 of the City Code, the parties may choose to submit the agreement to the board for approval as a final order.

### **VIII. HEARING PROCEDURES**

#### **A. NOTICES AND SUBPOENAS**

1. If conciliation is unsuccessful and the Complainant has submitted a written request for public hearing, the Secretary shall consult with the parties and Board members as to their availability and issue a notice of final public hearing, setting forth the date, time and place of the public hearing to be conducted by the Board. Such hearing shall be scheduled as soon as is practicable.
2. The notice of final public hearing shall advise the Complainant and the Respondent that they, or their respective counsel, may file such statements with the Board prior to the hearing as they deem necessary in support of their case, that parties may appear with or without counsel, and that a request for subpoenas to be served upon witnesses may be made to the chairperson.
3. The chairperson shall request the City Auditor and Clerk to issue such subpoenas for witnesses, as the chair deems necessary, in his or her discretion, for the final public hearing. The chairperson may request that the City Auditor and Clerk secure the process server and the City pay the costs of that service, but only when a party formally requests assistance with service of subpoenas, based on economic hardship, and only when said witnesses are deemed by the chairperson to be material to the proceedings.

B. PRELIMINARY CONFERENCE; SUBMISSION OF WITNESS LISTS AND EXHIBITS; REQUEST FOR INTERPRETER

1. The Secretary, upon consultation with the chairperson, may schedule and notice the Complainant and Respondent of a preliminary conference with the board. The notice will set forth the date, time and place of the preliminary conference.
2. The purpose of a preliminary conference will be to provide the Board an opportunity to inquire into the status of any complaint so as to ensure the orderly and efficient consideration of the complaint. The Board shall issue such orders as the Board determines is necessary for the proper consideration of the matter.
3. At the preliminary conference, or by a date established by the Secretary, the Complainant and Respondent each must provide a list of witnesses they intend to call at the public hearing, along with ten (10) copies of each document or other exhibit they wish to introduce as evidence. The witness list shall include the name and address of each witness and a brief statement explaining why that person is being called to testify. Once submitted, witness lists and documentary evidence are subject to public disclosure under Florida public records laws. As such, the Complainant and Respondent shall consider whether it is necessary to redact from these documents, prior to submittal, any irrelevant information that is sensitive or confidential.
4. At the preliminary conference, or by a date established by the Secretary, the Complainant and Respondent shall inform the Board if any of its witnesses require an interpreter in order to effectively testify before the Board. Upon the request of a party, the Secretary may arrange for, and pay for, the services of an interpreter.

C. FAILURE TO APPEAR

1. If, at the time of the preliminary conference or the public hearing, the Complainant fails to appear, the complaint will be dismissed with prejudice.
2. If, at the time of the preliminary conference, the Respondent fails to appear, the Board shall proceed to set the matter for a public hearing for which Notice will be sent, as provided for in Subparagraph VI(E)(1), above.
3. If, at the time of the final public hearing, the Respondent fails to appear, the Board shall proceed to hear the evidence in the absence of the Respondent and thereafter shall proceed to make a final determination regarding whether or not there is reasonable cause that a violation of Chapter 18 of the Sarasota City Code occurred.

D. PUBLIC HEARING

1. Counsel for the Board shall be responsible for the orderly receipt of evidence and testimony.
2. Prior to the commencement of the public hearing, Board counsel shall ensure that all exhibits are properly numbered or lettered.
3. Although the proceedings will be recorded, the parties shall be responsible for ensuring that an adequate record is made of the proceedings for appellate purposes and they shall be permitted the use of a court reporter, at their own expense, for this purpose.
4. The proceedings will not be held in accordance with a strict application of the Florida Rules of Evidence. However, the Board's final determination will not be substantially based upon hearsay evidence.
5. During the public hearing, the party who called the witness shall conduct the initial questioning of that witness, to be followed by a cross examination of that witness by the opposing party. Each such witness shall thereafter be subject to questions in the following order:
  - a. Chairperson and Members of the Board
  - b. Counsel to the Board
  - c. Secretary to the Board
6. The chairperson is authorized to conduct the initial questioning of the Complainant and Respondent if either party wishes to testify and he or she is not represented by counsel. Thereafter, the party who conducted the initial examination of the witness shall be allowed to conduct a "redirect" examination, but questions shall be limited to those matters raised by other questioners that require further elaboration or rebuttal by the witness. The chairperson also shall have discretion to allow redirect questions by members of the Board.
7. The order of witnesses shall be as follows:
  - a. Complainant
  - b. Complainant's witnesses
  - c. Respondent
  - d. Respondent's witnesses
  - e. Witnesses called by Board
  - f. Complainant's rebuttal witnesses
  - g. Respondent's rebuttal witnesses

8. Prior to the conclusion of the public hearing, in its sole discretion, the Board may for any reason whatsoever, continue the matter to another meeting of the Board. Should the Board determine that additional testimony or evidence is required, the Board may request the City Auditor and Clerk to issue such subpoenas for witnesses, as the Board deems necessary.
9. After the public hearing has been closed, the Board shall deliberate and make a determination as to whether or not the evidence and testimony has established that there is “reasonable cause” that a violation of Chapter 18 of the Sarasota City Code occurred. “Reasonable cause,” as used in these Rules of Procedure, means a suspicion founded upon circumstances sufficiently strong to warrant a reasonable person to believe that the charge is true. The Board shall make such determination separately for each alleged violation, by roll call vote.
10. Following the public hearing, the Board shall issue a final order that includes written findings of fact and conclusions of law, which shall be signed by the chairperson and submitted to the City Auditor and Clerk for inclusion in the City’s public records. The date stamped as “received” by the Office of the City Auditor and Clerk shall be the date the order was “rendered” for purposes of an appeal.
11. In the event that the Board determines that there is reasonable cause that any violation of Chapter 18 of the Sarasota City Code has occurred, the Board shall issue a Notice of Right to Sue. Such notice will be prepared by Board counsel and signed by the Chairperson.
12. In the event the Board determines that there is no reasonable cause that any violation of Chapter 18 of the Sarasota City Code has occurred, the Board shall issue a final order dismissing the complaint with prejudice.

Approved by the Sarasota City Commission this 15<sup>th</sup> day of May, 2017 by Resolution No. 16R-2655.



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Shelli Freeland Eddie, Mayor

ATTEST:



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Pamela M. Nadalini, MBA, CMC  
City Auditor and Clerk