

**STANDARDS AND RULES GOVERNING HEARINGS BEFORE  
THE KERN COUNTY CIVIL SERVICE COMMISSION**

Welcome to the Kern County Civil Service Commission. Please familiarize yourselves with the following standards and rules that will govern your hearing before the Commission.

1. By ordinance and rule, hearings are to commence within 20 calendar days from the filing of the appeal. If the Commission is unable to accommodate the hearing in that time frame, hearing dates outside that time frame will be set. The Appellant may personally appear at the hearing, produce evidence and be represented by counsel or a representative of appellant's choosing. If Appellant requests a delay over objection of the Department once hearing dates are set and Appellant's request is granted by the Commission, the Appellant shall not be entitled to an award of back pay and other benefits for the period of time between the date on which the delay request is granted and the date on which the hearing is actually held. Should the parties agree to a postponement of the hearing and the postponement is granted by the Commission, eligibility for back pay and other benefits during the period of the delay shall be as agreed upon by the parties. (Ordinance Code 3.04.080 C; Rules 1735.10; 1735.13; 1735.30)
2. The Appellant may elect to have Appellant's hearing be open and public or closed. Members of the public may not attend a closed hearing. Witnesses shall also be excluded from a closed hearing except when testifying. (Rule 1735.15)
3. All pre-hearing motions are to be in writing and must be filed with the Commission Secretary and served on the opposing party's legal counsel or representative no less than ten full business days prior to the first day of the hearing. Any response to the motion must be filed with the Commission Secretary and served on the opposing party's legal counsel or representative no less than 2 full business days prior to the first day of the hearing. If a party is not represented, then service shall be on the party. The motions shall contain citations to or photocopies of the statutes, rules or cases supporting the party's position in the motion. (Rule 1735.19.10)
4. Any motions during the course of the hearing may be oral but must be accompanied by written citations or photocopies of the legal authorities upon which the motion is based. Written citations or photocopies of legal authorities are not required to support an evidentiary objection, a motion to close or continue the hearing or to exclude witnesses. (Rule 1735.19.20)

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CivilServiceComm@KernCounty.com

5. The hearing will be conducted informally in accordance with Government Code §11513. However, any motions shall be made in compliance with Rule 1735.19. (Rule 1735.20) Adherence to Government Code § 11513 means the following:
- Oral evidence shall be taken only by oath or affirmation. On a showing of good cause, the Commission may allow testimony by telephone for witnesses who are located outside the Kern County area. The Commission provides a telephone for such testimony.
  - Each party may introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct or re-direct examination, impeach any witness regardless of which party called that witness, and rebut evidence against him or her.
  - The hearing will not be conducted according to technical rules relating to witnesses and evidence. Any party or witness may be examined at any time pursuant to California Evidence Code section 776. Parties are expected to have their witnesses present and ready to testify so that the Commission's time is not wasted. In the event a party does not have its next witness present and ready to testify, the Commission reserves the right to order that witnesses be taken out of order to testify or to have the other party call one or more of its witnesses to testify.
  - Any relevant evidence will be admitted during the hearing 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 the evidence over objection in civil actions. However, the rules of privilege shall apply to the hearing. (e.g., attorney-client privilege, physician-patient privilege, spousal privilege, etc.)
  - Hearsay evidence is evidence of a statement made - other than by the witness while testifying at the hearing - that is offered to prove the truth of the matter stated. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding if it is objected to prior to submission of the case or on reconsideration. However, evidence subject to a hearsay exception (e.g., party admissions, declaration against interest, inconsistent statements, dying declarations, official record, etc.) is sufficient in itself to support a finding.
  - The presiding officer has the discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will

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necessitate undue consumption of time. The parties should not seek to introduce evidence that is cumulative or otherwise proves a point already established. Furthermore, the parties should not engage in tactics or attempt to introduce evidence designed to prolong the proceedings, waste time, confuse the issues or mislead the Commission.

6. The following procedures shall apply:

- Each party will be allowed to give an opening statement (the Department will go first) and to engage in direct and cross examination of witnesses. Re-direct and re-cross examination of witnesses is allowed when necessary. Following examination of a witness by the parties, if the Commission questions the witness, either party may ask a single series of follow-up questions of the witness within the scope of the areas covered by the Commission's questions. Further follow-up questions will not be allowed except on a showing of good cause. At the conclusion of the evidence, each party will be allowed to give a closing argument. Department will be allowed a brief rebuttal argument. (Rule 17.35.21)
- All Appellant exhibits should be marked in sequential numerical order beginning with the letter A (e.g., A-1, A-2, etc.). All department exhibits should be marked in sequential order beginning with the letter C. The department's exhibits not already included within the Bill of Particulars should be identified beginning with the number next in order after the exhibits listed in the Bill of Particulars (i.e., if the Bill of Particulars has 10 exhibits attached, the first exhibit outside the Bill of Particulars introduced by the Department at the hearing should be marked C-11). (Rule 17.35.22)
- Parties are to meet and confer prior to the hearing to pre-mark exhibits and reach agreement as to which exhibits will be admitted without objection and to identify those exhibits as to which objections to admissibility remain. At the outset of the hearing, the parties must be prepared to inform the Commission which exhibits are to be admitted without objection and they will be admitted at that time. Any exhibit not included within the Bill of Particulars and submitted at the hearing must be pre-marked. Six three-hole-punched copies of such exhibits must be submitted to the Secretary at the time the exhibit is introduced. No additional copies of demonstrative evidence, video evidence or over-sized exhibits need be provided. The parties shall also meet and confer about any facts as to which they are willing to stipulate may be deemed proved without the introduction or admission of evidence. (Rule 17.35.23)

7. The Appellant or Department may be represented by a person of their choosing who has attained the age of at least 18 years and is reputed to be of good moral character. The latter criterion is presumed by the Commission unless successfully challenged by either party. (Rule 1735.30)
8. It is the duty of all persons involved in the hearing to:
  - Maintain the respect due the Civil Service Commission and its officers;
  - To advocate only legal and just positions regarding disciplinary actions;
  - To be truthful and never seek to mislead the Commission by deceit or false statement of fact or law;
  - To abstain from all offensive personal remarks and to refrain from advancing any fact prejudicial to the honor or reputation of a party or witness unless required by the demands of justice;
  - Not advocate or encourage the commencement or continuance of an action or proceeding from any corrupt motive or interest.
  - Comply with the Commission hearing rules. (Rule 1735.30.10)
9. The Commission may censure or take other appropriate action, including exclusion from a hearing, against anyone who fails to maintain the standards articulated in Rule 1735.30.10. Such an action will be supported by written findings of fact, decision and order. (Rule 1735.40)
10. The Civil Service Commission proceedings are tape-recorded. If either party desires a different means of recording the proceedings, such as a court reporter, it may do so at the party's own expense. Any party intending to employ an alternative means of recording the proceedings shall notify the Commission Secretary and the opposing party's representative no later than 5 business days prior to the commencement of the hearing. The tape recording will remain the Commission's official record of the proceedings unless the parties stipulate otherwise. If either party desires to have a transcript prepared of the Commission's tape-recorded proceedings, it shall do so at its own expense. The Commission Secretary will obtain an estimate of the cost of preparing a transcript and the party requesting the transcript shall deposit that amount with the Secretary prior to the tape(s) being transcribed. Any over- payment shall be reimbursed to the party by the Secretary. In the event of an underpayment, the balance due shall be paid by the party to the Secretary prior to release of the transcript.

11. The Commission does not provide equipment such as projectors, laptops, televisions or an audio system for use by the parties. If a party desires to utilize equipment of that nature as part of its case presentation, it must make arrangements for such.
12. No less than five calendar days prior to the first date scheduled for the hearing, the parties shall each submit to the Commission Secretary the following:
  - a) Witness list
  - b) Joint exhibit list identifying each exhibit by number. This list is of exhibits as to the admissibility of which the parties agree.
  - c) Party exhibit list identifying each exhibit by number. This list is of exhibits a party intends to introduce but as to which the other party has objection.
  - d) A realistic time estimate for the full length of the hearing.
  - e) A one-page summary of the case setting forth the charge(s), the proposed discipline and any defenses to be raised by the Appellant.
  - f) A list of facts as to which the parties stipulate may be deemed proved without the introduction or admission of evidence. (Rule 17.35.24)
13. The parties are expected to be present and ready to proceed on the dates set for the hearing. Prior to opening statements or the taking of evidence on the first day of the hearing, the parties must be prepared to address the following matters with the Commission:
  - a) Which exhibits are to be admitted without objection. Such exhibits will be admitted at that time.
  - b) Any stipulated facts. Stipulated facts will be deemed proved for all purposes without the need for evidence.
  - c) Any pre-hearing motions that have not yet been resolved.
  - d) Any witness or scheduling problems known to the parties. (Rule 17.35.25)