Sec. 19-25. Employee Organization; unfair labor practice resolution procedures; City Council determination.

(a) Upon a claim of an Unfair Labor Practice by either the Employee Organization or the Public Employer, the parties shall informally meet and discuss over the Unfair Labor Practice. In the event that an agreement is not reached either the City or the Employee Organization may initiate a request to the other party in writing to commence the administrative process provided in this Section.

(b) An Employee Organization or the City may charge that the other or a person affiliated with the other has engaged in or is engaging in any Unfair Labor Practice by filing a complaint in writing with the City Clerk identifying the organizations and persons that are charged with engaging in the Unfair Labor Practice, the basis for the charge and the relief requested. Upon filing, the complaint shall be served upon the President of the Employee Organization, or in the case of the City upon the City Manager, in any manner calculated to give notice. The party named in the complaint shall have ten (10) working days to answer the charge in writing.

(1) Upon filing the complaint the City Clerk shall assign the case to one of the administrative hearing officers appointed by the City Council for personnel or labor relations matters.

(2) A party named in the complaint may request dismissal of the complaint on the basis that the charge, even if found to be true, would not constitute an Unfair Labor Practice under this Chapter because the matter in question is not within the scope of Section 19-19. If a party requests dismissal, the administrative hearing officer shall review the filings and issue a written ruling, determining either: (i) the complaint is dismissed because the matter is not within the scope of Section 19-19, or (ii) the matter is within the scope of Section 19-19 and the complaint should proceed to a hearing.

(3) Within five (5) working days of receipt of an answer or making a determination pursuant to Subsection (2) that the complaint should proceed to a hearing, the administrative hearing officer shall hold a pre-hearing conference to establish deadlines for exchanging information, the date for the hearing, processes and procedures for discovery of information from the opposing party, dates by which pre-hearing statements are due and any other actions necessary for the prompt adjudication of the matter.

(4) If injunctive relief has been requested as part of the filing of the charge, the administrative hearing officer may rule upon such request or may set the request for a hearing.

(5) Any request for change of hearing officer shall be filed prior to or at the initial pre-hearing conference, in which case the City Clerk shall reassign the matter to a new administrative hearing officer. A party may have only one (1) request for change of hearing officers.

(c) In any such proceeding, the rules of evidence prevailing in courts of law or equity shall be followed but shall not be controlling. The proceedings before the administrative hearing officer shall be conducted in a reasonably prompt manner. Continuances shall be granted only for good cause. The parties may be represented by counsel.

(d) Testimony shall be taken at the hearing. The administrative hearing officer may hear argument upon all the testimony taken.

(e) The administrative hearing officer shall determine if any person or organization named in the complaint has engaged in or is engaging in any Unfair Labor Practice. If such a determination is made, the administrative hearing officer shall state his or her findings of fact, and issue and cause to be served on such person an order requiring such person to cease and desist from such Unfair Labor Practice. Such order may further require such person to make reasonable reports, from time to time, showing the extent to which the order has been complied with. The administrative hearing officer retains jurisdiction to impose a civil penalty of not more than five hundred ($500) dollars for a continuing failure to comply with an order to cease and desist. The decision of the administrative hearing officer shall be final.

(f) If, upon all the testimony, the administrative hearing officer shall be of the opinion that the person or persons named in the complaint has not engaged in or is not engaging in any such Unfair Labor Practice, then the administrative hearing officer shall make his or her findings of fact and shall issue an order dismissing the complaint. A copy of such findings of fact, conclusions of law, and order shall be mailed to all parties to the proceedings. The decision of the administrative hearing officer shall be final.

(g) The administrative hearing officer assigned to hear the Unfair Labor Practice is empowered, as provided by this Section, to prevent any person from engaging in any unfair practice listed in this Chapter. This power shall be exclusive and shall not be affected by any other means of adjustment or prevention that have been or may be established by agreement, law, or otherwise.

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