

**KING COUNTY PERSONNEL BOARD
REMOTE HEARING PROTOCOLS AND GUIDELINES**

Conducting hearings remotely is necessitated by the circumstances of the public health crisis associated with the COVID-19 pandemic and may be a new experience for many participants. To protect the health and safety of hearing participants, the Board has determined that conducting the hearing via videoconference is a reasonable alternative to an in-person hearing in light of the continuing stay-at-home orders, travel limitations, and mandatory telecommuting restrictions associated with the ongoing pandemic. Videoconferencing technology will provide the parties a fair and reasonable opportunity to present their case and will allow the hearing to move forward on the dates previously scheduled instead of postponing the hearing to an uncertain future date. These protocols and guidelines are intended to provide basic guidance regarding the virtual hearing process to help ensure an orderly and efficient virtual hearing and are subject to modifications based on experience gained and lessons learned during remote hearings.

1. ZOOM VIDEOCONFERENCING PLATFORM: Technical Aspects

- a. Invitations to Access the Virtual Hearing. The Board Administrator will act as host and invite attendees via email to join the virtual hearing which will be conducted on the Zoom videoconferencing platform. In order to facilitate email invitations for the hearing, prior to the hearing the parties will be responsible for providing the Board Administrator with a list of each attendee's name and email address. At the scheduled hearing time, all participants will need to join the hearing by clicking on the link provided by the Board Administrator in the Zoom Invite.
- b. Break Out Rooms. Break out rooms will be available as necessary. If an attorney needs to speak privately with a client, inform the Board Chair and the Board Administrator will create and/or open a breakout room to allow private communications. Note that the timing of when a breakout room can be used, and for how long, is at the discretion of the Board Chair.

Participants in a breakout room will be able to see and hear one another, but not be seen or heard by participants who are not in the breakout room. The Board Administrator will have the ability to enter a breakout room, but if such entry becomes necessary will first announce that she is doing so in order to provide participants time to wrap up any privileged and/or confidential conversations.

Zoom breakout rooms will be used for all periodic breaks in the hearing proceedings (i.e., rest and meal breaks). Break times will be determined at the discretion of the Board Chair. If a break is taken in the middle of a witness's testimony, that witness will be sent to their own breakout room and are not to communicate with anyone or consult anything during the break.

The Zoom platform's chat function has been made available on the hearing invites that were issued to participants. However, use of the chat function to communicate during the remote hearing may be disabled by the Board Administrator during the remote hearing proceedings.

c. Videoconferencing Etiquette for all Participants.

- Participants should check to ensure that their internet connection is stable before the hearing begins.
- Participants should either use an appropriate virtual background or be situated in a location with an appropriate background. Please avoid backgrounds/virtual backgrounds that are distracting. Also, avoid backlighting, such as being in front of a window.
- If at home, please try to be in a place that is quiet and without distractions.
- Please dress and act in a way that is appropriate for a quasi-judicial proceeding. To the extent possible, please refrain from activities which may be distracting such as eating or conducting side conversations. All participants will be expected to conduct themselves in a courteous and respectful manner.
- Please speak clearly, and, if appropriate, at a slightly slower pace than you would normally speak. Consider the use of a headset or earbuds if noise or hearing is a concern.
- If more than one device (computer, phone or tablet) is used in the same room, feedback can be a problem. Frequently this can be fixed by having the microphone and speaker of only one device active at a time. Headsets/earbuds can also solve this problem.
- Please identify yourself in Zoom with your actual name and position, rather than a "virtual" name.
- Attorneys, parties and witnesses with video capability should have the video on during the hearing. To ensure good quality audio recording, all microphones should be muted except when the attorney or witness is speaking.

2. EXHIBITS

- a. Compliance with Prehearing Scheduling Order and Any Additional Instructions. The parties are expected to abide by the Board's prehearing scheduling order with respect to the exchange of exhibits. For purposes of the virtual hearing, exhibits will also be

provided to the Board Administrator electronically in order to be available for use via screen share presentation during the hearing. Additional instructions and/or directions pertaining to the exchange and submission of exhibits may be issued prior to the virtual hearing (e.g., at or subsequent to a prehearing conference).

- b. Presentation of Exhibits During the Virtual Hearing. During the hearing, all exhibits will be shared via screen share during the examination of a witness so that the witness and all participants can see them. Unless otherwise authorized by the Board Chair, witnesses should be shown any document about which they are being questioned.
- c. Presentation of Exhibits not Previously Identified. Most exhibits to be introduced at hearing will have been previously identified and disclosed. However, there may be occasion, particularly with regard to documents used for cross-examination or rebuttal purposes, that a document will be introduced that was not previously disclosed. Should such circumstances arise with regard to exhibits to be used on cross-examination or in rebuttal, the following protocols will apply:
 - Examining counsel or the Board Administrator will screen share the proposed exhibit, making it visible to all participants, including the witness.
 - Upon introduction of an exhibit not identified in advance, counsel must email the exhibit to the Board Administrator and opposing counsel. Parties will have the option to request a break after direct exam and email the cross-exam exhibits prior to beginning cross-examination or rebuttal.

3. WITNESSES

- a. Witness Sequestration. Whether or not to sequester witnesses is at the discretion of the Board Chair. If a witness sequestration request is granted, the sequestered witness may not view the live hearing feed until after that person has completed their testimony and been dismissed by the Board Chair. Attorneys and/or party representatives are expected to instruct their witnesses about this prohibition. Sequestered witnesses will be asked to leave the hearing and rejoin the hearing at the time of their testimony. Sequestered witnesses who have completed their testimony and been dismissed by the Board Chair may remain in attendance at the virtual hearing if they choose to do so. No party or witness may communicate with another witness about any previous testimony in the case until after the sequestered witness has completed his or her testimony and been dismissed.
- b. Witnesses Should be Prepared and Ready to Proceed. Attorneys and/or parties appearing pro se are encouraged to make certain their witnesses are prepared and ready to proceed at the scheduled hearing time.

- c. Videoconferencing Protocols for Witnesses. Just as in a face-to-face hearing, all witnesses will be sworn in prior to giving testimony in the remote hearing. The Board Chair will administer the oath. As is also the case with in-person hearings, witnesses are subject to both direct and cross-examination. In addition, members of the Board may ask questions of witnesses.

Witnesses are directed to refrain from discussing their testimony or consulting with others during their testimony. Witnesses are also directed not to consult documents or electronic devices during their testimony unless requested to do so by examining counsel or the Board.

To the extent possible, witnesses should follow the following protocols during their testimony:

- Witnesses should speak directly to the camera while testifying.
- The witness's face should be clearly visible in the video.
- If possible, the webcam should be positioned at face level, relatively close to the witness (e.g., by positioning a laptop on a stack of books).
- Witnesses are discouraged from using a virtual background since such backgrounds can be distracting. Instead, the remote venue from which a witness is testifying should be visible.

4. HEARING RECORD AND RECORDING

- a. Hearing Record. Only the audio portion of the hearing will be recorded. No video recording of any kind will be made of the virtual hearing. Just as with in-person hearings, the audio recording, together with any exhibits admitted during the proceedings, will be the official record of the hearing. The audio recording will be made available to the parties upon request following the conclusion of the hearing.
- b. Audio and Video Recording Strictly Prohibited. The parties and counsel are strictly prohibited from independently making a recording of the hearing or any part of it, via audio, video or screenshot, or permitting any other person to record, via audio, video or screenshot, the hearing or any part of it. The parties and/or their counsel are to instruct all witnesses and other attendees for which that party is responsible of this prohibition.

- c. On Record/Off Record Determinations. Just as with in-person hearings, the Board Chair will determine when the hearing is on and off the record (e.g., during periodic rest and meal breaks). Any requests to go off the record should be directed to the Board Chair.