CSC RESOLUTION NO. 89-004

RELATIVE TO MOTION PROCEDURES FOR ADVERSE ACTION APPEALS AND DISCRIMINATION COMPLAINTS.

BE IT RESOLVED BY THE CIVIL SERVICE COMMISSION:

WHEREAS, 4 CCA Section 4402 vests the Civil Service Commission with authority to adopt rules to govern its procedures; and

WHEREAS, the Civil Service Commission has adopted motion procedures for adverse action appeals pursuant to CSC Resolution No. 87-004; and

WHEREAS, there is a need to establish motion procedures for discrimination complaint proceedings before the Civil Service Commission; now, therefore, be it

RESOLVED, CSC Resolution No. 87-004 is hereby repealed and a new CSC Resolution 89-004 is hereby enacted to implement motion procedures for adverse action appeals and discrimination complaints; and be it further

RESOLVED, all time frames applicable to pending motions filed pursuant to CSC Resolution 87-004 shall carry-over to the corresponding provisions of CSC Resolution 89-004 without change; be it further

RESOLVED, CSC Resolution No. 89-004 be effective on the date of signing.


MARIA S. CONNELLEY, Chairperson
WILLIS S. CANNON, Vice-Chairperson

EDWARD P. MENDIOLA, Commissioner
JOHN D. ISHMAEL, Commissioner

VICENTE P. PEREZ, Commissioner
DEBRA R. CRUZ, Commissioner
CSC No. 89-260

MEMORANDUM

TO: All Department and Agency Heads

FROM: Executive Director
Civil Service Commission

SUBJECT: Motion Procedures for Adverse Action Appeals and Discrimination Complaints

The Civil Service Commission Board, at its meeting on January 26, 1989, has duly adopted the attached rules and procedures governing motions relative to proceedings for Adverse Action Appeals and Discrimination Complaints (CSC Resolution No. 89-004).

These rules are now in effect. All time frames applicable to pending motions filed pursuant to CSC Resolution 87-004 shall carry-over to the corresponding provisions of CSC Resolution 89-004 without change.

Please be guided accordingly.

NORMA J. AFLAGUE

Attachment (CSC Resolution 89-004)
MOTION PROCEDURES:
ADVERSE ACTION APPEALS
and
DISCRIMINATION COMPLAINTS

DEFINITIONS

1. "Moving Party": refers to the party or parties filing a motion, including the attorneys or representatives of the party or parties.

2. "File": refers to the filing of a motion and or required documents with the Civil Service Commission during office hours.

3. "Days": as used in these procedures, refers to calendar days, unless otherwise specified.

4. "Opposing Party": refers to the party or parties opposing the motion, including the attorneys or representatives of the party or parties.

5. "Dismissal With Prejudice": involves a final decision of the Civil Service Commission dismissing an adverse action appeal or discrimination complaint, and barring a re-adjudication of the appeal or complaint.

RULE I: MOTION CALENDAR

1. The Civil Service Commission (Commission) shall maintain a motion calendar for adverse action appeals and discrimination complaints for the purpose of dealing with preliminary procedural issues or questions of law raised by a party which
must be decided or addressed prior to hearing the merits of an appeal.

2. Oral arguments in support of a motion, if required to be heard, shall be heard separately and prior to hearing the merits of an appeal or complaint. Either the parties or their attorneys or representatives may present oral arguments. The Commission may, at its discretion, rule on a motion without argument.

3. The Commission may at any time raise issues not raised by motion which in its judgment must be decided or addressed prior to hearing the merits of an appeal. In this event, the matter shall be heard separately from the merits of the appeal or complaint. Parties shall be afforded ten (10) days to submit a written response before the matter is set for hearing.

RULE II: FILING OF MOTIONS

1. A moving party shall file a motion anytime after an appeal or complaint has been filed but not later than thirty (30) days before the original date set for hearing the merits of the appeal or complaint.

2. A motion shall be supported, where appropriate, or when required by the Commission, by affidavit, memorandum of authority, or stipulation of the parties, or other supporting
documents. The motion shall include a request for, or waiver of, oral argument.

RULE III: NOTIFICATION OF THE PARTIES

1. A party filing a motion with the Commission shall provide the opposing party with a copy of the motion and accompanying documents no later than the next working day after the motion has been filed.

2. An opposing party shall be allowed ten (10) days from the date of receipt of the motion to file with the Commission an opposition to the motion. The opposing party shall provide a copy of the opposition to the moving party no later than the next working day after the opposition has been filed. The moving party shall have three (3) working days to file a reply with the Commission.

3. If the Commission desires to hear oral argument on any motion, it shall set the matter for hearing upon ten (10) days notice of the parties.

RULE IV: MOTION

The Commission will entertain the following Motions:

1. Motion to Postpone Hearing. The motion shall set forth the factual basis for the motion and may be accompanied by signed stipulation of the parties. Postponements based on illnesses, emergencies, or stipulations may be granted without
hearing by the Chairperson or the Executive Director.

2. Motion to Dismiss Adverse Action Appeal or Discrimination Complaint. Motion to Void Adverse Action. The grounds for the motion may be in regard to jurisdiction, untimely filing of the appeal, the statute of limitation, or procedural defects. The legal and factual basis supporting the motion must be sufficiently set forth in the motion. A motion to dismiss may also be made upon stipulation of the parties. The signed stipulation of the parties shall be attached with the motion.

3. Motion to Allow Hearing in the Absence of Appellant. The motion shall set forth the factual basis for the motion and may be accompanied by signed stipulation of the parties. In its discretion, the Commission may require affidavits in support of the motion.

4. Other Motions. The Commission may entertain other motions which it believes must be decided or addressed prior to hearing the merits of an appeal.

RULE V: TIMELY FILING

1. Unless good cause is shown, documents which are not filed on time shall be disregarded by the Commission.
RULE VI: COPING

1. Parties shall submit to the Commission ten (10) copies of all documents filed.

RULE VII: PARTIES NOT REPRESENTED BY ATTORNEYS

1. The Commission reserves the power to limit or adjust the application of these rules at anytime to a party not represented by attorneys whenever it is clear to the Commission that there is a genuine misunderstanding of a rule or rules which would operate unfairly to the party if strictly applied.