

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-305
SENATE BILL 429

AN ACT CLARIFYING LANGUAGE CONCERNING ATTENDANCE AND PARTICIPATION OF ALTERNATES ON THE CHARLOTTE CIVIL SERVICE BOARD AND ALLOWING THE CITY OF CHARLOTTE TO DISCLOSE LIMITED PERSONNEL INFORMATION CONCERNING THE DISPOSITION OF DISCIPLINARY CHARGES AGAINST POLICE OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. The first six sentences of Section 4.61 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, as rewritten by Chapter 623 of the 1995 Session Laws, reads as rewritten:

"Sec. 4.61. There is hereby continued a Civil Service Board for the City of Charlotte, to consist of five ~~members, members and two alternates;~~ three members and one alternate to be appointed by the City Council and two members and one alternate to be appointed by the Mayor. Each member shall serve for a term of three (3) years. In case of a vacancy on the Board, the City Council or the Mayor, as the case may be, shall fill such vacancy for the unexpired term of said member. For the purposes of establishing a quorum of the Board, any combination of Board members and alternates totaling three shall constitute a quorum. All board members and alternates shall attend regular meetings for the purposes of meeting attendance policy and familiarity with Board business and procedures. Alternates shall attend hearings when needed due to scheduling conflicts of regular Board members and shall vote only when serving in the absence of a regular Board member. Attendance at meetings and continued service on the Board shall be governed by the attendance policies established by the City Council. Vacancies resulting from a member's failure to attend the required number of meetings or hearings shall be filled as provided herein."

Section 2. Section 4.61(7)c. of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, as enacted by Chapter 449 of the 1979 Session Laws, reads as rewritten:

"c. Appeal hearings. Upon receipt of a citation for termination from either Chief or upon receipt of notice of appeal for a suspension from any Civil Service covered police officer or employee of the Fire or Police Department, or firefighter, the Board shall hold a hearing not less than 15 days nor more than 30 days from the date the notice of appeal, or the citation, is received by the Board, and shall promptly notify the officer of the hearing date. Termination hearings shall be held with a panel of five made up of any combination of available members or alternates, and suspension hearings shall be

held with a panel of three made up of any combination of available members or alternates. In the event an officer desires a hearing at a date other than that set by the Board within the period set forth above, such officer may file a written request for a change of hearing date setting forth the reasons for such request, and the Chairman of the Board is empowered to approve or disapprove such request; provided, that such request must be received by the Board at least seven days prior to the date set for the hearing. For good cause, the Chairman of the Board may set a hearing date other than within the period set forth above, or may continue the hearing from time to time."

Section 3. G.S. 160A-168(c) reads as rewritten:

"(c) All information contained in a city employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

- (1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- (2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (3) A city employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- (5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (7) The city manager, with concurrence of the council, or, in cities not having a manager, the council may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a

city employee and the reasons for that personnel action. Before releasing the information, the manager or council shall determine in writing that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written determination shall be retained in the office of the manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file.

- (8) In order to facilitate citizen review of the police disciplinary process, the city manager or the chief of police, or their designees, may release the disposition of disciplinary charges against a police officer and the facts relied upon in determining the disposition to the person alleged to have been aggrieved by the officer's actions or to that person's survivor and to members of the citizens' review board. Board members shall maintain as confidential all personnel information to which they gain access as a member of the Board. Each member of the Board shall execute and adhere to a Confidentiality Agreement that is satisfactory to the City. For purposes of this subdivision, the 'disposition of disciplinary charges' includes determinations that the charges are sustained, not sustained, unfounded, exonerated, classified as an information file, or classified as any other disciplinary disposition category subsequently adopted by the Charlotte-Mecklenburg Police Department. In the event that the citizens' review board hears an appeal of a police disciplinary case, the disposition of the case, as defined in this subdivision, as well as the facts and circumstances of the case, may be released by the city manager or the chief of police, or their designees, to any person whose presence is necessary to the appeals hearing as determined by the chief of police or his designee.
- (9) That portion of a video or audio tape produced by a mobile video recorder (MVR) in a police department vehicle which recorded an event resulting in a citizen complaint against a police officer may be reviewed by the person alleged to have been aggrieved by the officer's actions."

Section 4. This act applies only to the City of Charlotte.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives