

D. LUBEY PROCEDURES

These procedures are for a pre-removal proceeding concerning the discharge of a probationary Civil Service employee, a part-time employee, a temporary employee, or a full-time non-Civil Service employee where it would affect an employee's "liberty interest" in a so-called "name-clearing hearing". "Lubey" procedures are not the same as Skelly procedures. The employee is only entitled to an opportunity to clear his or her name.

1. APPLICATION OF THE PROCEDURE:

A "Liberty Interest" is affected by a discharge which would foreclose future employment because the discharge stems from charges of dishonesty, immorality, corruption, excessive force, sexual misconduct, theft, disloyalty to the government, association with subversive organizations, chronic alcoholism, racism, or lack of intellectual ability. Discharge of an employee for mere incompetence or inadequate job performance is not enough to affect an employee's liberty interest.

2. NOTICE:

The employee must be given a notice in writing which sets forth the allegations and/or reasons for the proposed discharge and that the employee may respond verbally or in writing to the allegations. The notice shall identify the person, date and location to whom he/she may submit a written response, and the date, time and location where the employee will be able to submit his/her verbal response to said allegations.

3. RESPONSE:

The employee has the option of responding in person, submitting a written response, both, or neither. The employee is entitled to have a representative of his or her choice present at the hearing.

4. EFFECT OF RESPONSE:

The employee's opportunity to respond verbally and/or in writing is only an opportunity to clear his or her name of the allegations. The employee's opportunity to respond may clear his/her name, but he/she is not entitled to reinstatement or back pay. The City Administrator or his/her designee retains discretion to decide what action to take, if any, after the employee has had an opportunity to respond.