

Civil Service Rules

CITY OF ABERDEEN

CIVIL SERVICE RULES

Rule 1 – Rules Adopted

- 1.01 In accordance with the provisions of Chapter 2.48.410 of the City Code, the Civil Service Commission hereby adopts the following rules and regulations.
- 1.02 Members of the Commission shall serve without pay but will be reimbursed for necessary expenses incurred while engaged in the performance of their duties like any other City official as provided by law. Roberts Rules of Order shall serve as a guide and 3 members will constitute a quorum to conduct all official business.
- 1.03 A copy of these rules shall be maintained for public inspection at the City Hall. Additional copies shall be sent to the Commission members, Human Resources Department, City Attorney, Fire Chief, Police Chief, Firefighters Union, the Police Administrators Union the Police Officers' Guild and the American Federation of State, County, and Municipal Employees.

Rule 2 – Administration

- 2.01 The ordinances defining the powers and duties of the Commission are found in Chapter 2.48 of the City Code. The Commission administers the selection process for police and fire positions in the classified Civil Service (except for the position of Chief), certifies eligibility lists for hiring and promotions, and protects classified employees from arbitrary or excessive disciplinary action by serving as an appeal or review board.
- 2.02 At the first regular meeting in each year the Commission shall elect one of the members as Chairman to serve for a period of one year. The Chairman shall preside at all Commission's meetings and serve as spokesperson for the Commission.
- 2.03 Chief Examiner. After selecting a Chairman, the Commission shall select a Chief Examiner who shall serve at the pleasure of the Commission, and who shall have the following duties:
- (1) Either plan and prepare or obtain from an outside source questions to be used in written examinations;
 - (2) Make arrangements for and conduct all written examinations, remaining in the presence of examinees during the exam. If Chief Examiner can't be present, someone from the Commission shall be present;
 - (3) Grade written examinations when applicable. When grading is done by an outside source the results shall be returned to the Chief Examiner.
 - (4) Prepare a report of results of written examinations for the Commission;
 - (5) Prepare a report of the total results of all examinations for the Commission.
- 2.04 Secretary. That the Secretary to the Commission shall be appointed by the Mayor with the consent of the Commission. The Secretary shall have the following duties.
- (1) Keep the minutes and other records of the Commission, and certify the same when necessary;
 - (2) Report to the Commission when directed concerning the details of his/her work;
 - (3) Prepare and post bulletins announcing examinations;
 - (4) Prepare an agenda for each meeting and deliver to Commission members and Fire and Police Chiefs;
 - (5) Serve as or assist the Chief Examiner as requested.

Rule 3 – Meetings

- 3.01 Regular Meetings. Regular meetings shall be held the third Monday of each month at 4:30 p.m. or at such other day or time as the Commission, at a prior regular meeting, may designate. In the event that the third Monday of the month is a holiday for City employees, the meeting shall be held on the fourth Monday of that month.
- 3.02 Special Meetings. A special meeting may be ordered at any time by the Chairman or by any two Commissioners.
- 3.03 Minutes. The Secretary shall record in the minutes the time and place of each meeting, the names of the Commission present, all official acts of the Commission, and the votes of the Commissioners except when the action is unanimous. When requested by applicant, Commissioners' dissent or approval with reasons shall be recorded. The minutes shall be written and presented for correction and approval at the next meeting, regular or special. The minutes or a true copy thereof, certified by the Chairman and by the Secretary shall be open to the public inspection.

Rule 4 – Hearings

- 4.01 Right to a Hearing. Any person entitled to a hearing before the Commission under chapter 2.48, may petition for a hearing before the Commission. See Rule 14.
- 4.02 Petition for Hearing. Such a petition shall be in writing, signed by the petitioner, giving his/her mailing address, the ruling from which he/she appeals, and in plain language and in detail the facts and the reasons upon which his/her case is based.
- 4.03 Time Within Which Petition Must Be Filed. Unless otherwise provided in these Rules, a petition for hearing before the Commission must be filed within the following time limits:
- (1) In a disciplinary matter involving discharge, demotion, suspension without pay or loss of vacation, 10 calendar days after service of the notice of discipline;
 - (2) In all other matters, no later than 10 calendar days after notification of the Commission by the Department or his agent of the ruling or order complained of.
- 4.04 Commission or Officer. On receiving a petition, which complies with the foregoing rule, the Commission shall determine whether the matter will be heard before the entire Commission or one or more named members of the Commission (a Hearing Board). The Commission has the option of retaining legal counsel to advise the Commission and to preside over the hearing.
- 4.05 Notice. The Commission or the Hearing Board shall set the matter for hearing and shall give petitioner at least 5 calendar days' notice in writing of the date and place of such hearing. In discharge or reduction hearings, similar notice shall be given to the appointing authority and department head.
- 4.06 Rights of Petitioner When a hearing is granted, the petitioner shall attend, unless excused by the Commission, and shall be entitled to:
- (1) Be represented by counsel at such hearings;
 - (2) Testify under oath;
 - (3) Have the Commission subpoena witnesses to testify on his or her behalf;
 - (4) Cross examine all witnesses appearing against petitioner and all employees of the Commission whose actions are in question or who have investigated any of the matters involved in the case and whose reports are offered in evidence before the Commission or Hearing Board;
 - (5) Present such affidavits, exhibits, and other evidence, as the Commission or Hearing Board deems pertinent to the inquiry.

The department head, whom the Commission or Hearing Board finds to be interested in the matter, shall be entitled to the same privileges.

- 4.07 Failure of Petitioner to Appear. In the case of hearings on the discharge or reduction of an employee, the failure of the petitioner employee to appear in person or by counsel at the time and place set for the hearing without good cause being given to the Commission or to the Hearing Board in advance shall be deemed a withdrawal of this petition and consent to the action or ruling from which the appeal was taken.

In hearings other than on discharge or reduction, appearance of the petitioner may be excused by the Commission.

- 4.08 Evidence. Hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and repetitious evidence shall be excluded. Oral evidence shall be taken only under oath of affirmation.

- 4.09 Exclusion of Witnesses. The Commission may at its discretion exclude witnesses not under examination, except the Secretary and Chief Examiner, the petitioner or person to be discharged or reduced, the department head, and counsel. When hearing testimony of scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded notwithstanding Rule 14.11 relating to public hearings.

- 4.10 Testimony of Petitioner. In discharge or reduction hearings, the petitioning employee may be required to testify and may be cross-examined as to any matter relevant to the hearing. In any other type of hearing, the petitioner, if he/she is not required to testify, may be called and examined as if under cross-examination.

- 4.11 Burden of Proof. In discharge or reduction hearings, the burden of proof shall be on the Commission or department head. In all other types of hearing the burden of proof shall be on the petitioner.

- 4.12 Findings and Decision. Formal findings of fact are required. If such hearing is not before the full Commission, written findings shall be submitted to the Commission for its approval by the Hearing Board. The Commission may adopt the findings or make its own findings based on the record with or without further hearing.

The Commission shall announce its decision as soon as possible after the hearing, but no later than 30 calendar days, and enter the same in its minutes.

Unless the decision provides otherwise, it shall be effective immediately. Notice of the decision shall be mailed promptly to the petitioner and to any interested party. Except for the correction of clerical error, such decision shall be final and conclusive.

- 4.13 Reports of Hearings. Hearings shall be recorded by electronic or other means provided by the City. Upon request, a transcript of the hearing will be furnished to the petitioner or the appointing authority/Chief, at the requesting party's expense. In the case of an appeal to superior court the costs for preparing the record shall be borne by the non-prevailing party.

Rule 5 – Classification

5.01 Classification Plan. Recommendations for new class specifications can be set forth by the Civil Service Commission. If the Civil Service Commission wishes to make recommendations they should be prepared and maintained by the Secretary of the Civil Service Commission. Class specifications should be given to the Civil Service Commission by the City Council. Such specifications or true copies thereof shall be open to the public inspection. Each such specification shall describe the class generally, distinguish it from other classes, and give examples of typical duties assigned to positions in the class. It shall also contain a statement of those desirable qualifications not otherwise provided for in these Rules, for applicants for positions in the class.

5.02 Classification of Positions. Each position in the classified service shall be classified by the City Council of the City of Aberdeen. The City Council will allocate to the appropriate class in accordance with the character, difficulty, and responsibility of its assigned duties. Positions shall be allocated to the same class when their duties are sufficiently similar that:

- (1) The same description title may be used to designate each position in the class;
- (2) The same level of education, experience, knowledge, ability, and other qualifications may be required of incumbents;
- (3) Similar tests of fitness may be used to select incumbents;
- (4) The same schedule of compensation will apply with equity under substantially the same employment conditions.

The determination of the proper class allocation of a position shall be based on consideration of the character of work represented by the entire specification of such class, instead of on separate parts of single provision of the specification.

5.03 Administration of Position Classification. The City's Human Resources Director shall make position classification studies of individual positions or groups of positions whenever the City Council or the Commission deems it necessary, whenever the duties or responsibilities of existing positions have undergone significant changes, or whenever the Commission is notified that new positions are to be created.

Rule 6 – Applications and Applicants

6.01 Definition of Applicant. Men and women have equal opportunity to apply for positions in the Police and Fire departments. Consequently, the terms applicant and employee as used in these rules refer to either sex.

6.02 Qualifications of Applicants. In order to apply for examination, at the time of filing application:

- (1) An applicant must be able to read and write the English language and must be a citizen of the United States at the time of appointment.
- (2) Applicants for entrance-level police officer examinations shall be at least 20 years of age at time of advertising examination for the class. Applicants for entrance level firefighter examinations shall be at least 18 years of age at time of advertising examination for the class.
- (3) An applicant must meet all job-related requirements relevant to fitness for the position, physical condition and proportions, health, personality and character, and any other requirements specified in the official bulletin announcing the examination as set forth in this and other applicable rules, including those containing class specifications.
- (4) An applicant must file a completed application form prescribed by the Commission, giving fully, truthfully and accurately all information required. A certification as to the truth and completeness of the information contained in the application and the applicant's signature shall be required on each application.
- (5) Pay application fee as specified in official bulletin announcing the examination.

6.03 Filing Time for Applications.

- (1) No application will be accepted until an examination for the class has been announced.
- (2) The time for filing applications may be extended or reopened by the Chief Examiner, as the needs of the service require, provided notice is immediately posted on the official bulletin board.

6.04 Non-Acceptance of Applicant. The Commission may refuse to accept an application or to examine an applicant, or may withhold the name of a person from the eligible list or an applicant from certification, or the Commission, after notice, may remove the name of an applicant from the eligible list who:

- (1) Does not meet requirements set forth in these Rules or in the bulletin announcing the examination;
- (2) With or without accommodation cannot participate in the examination process without posing a safety and health threat to the applicant or to others or who requires an accommodation that creates an undue hardship in administering the examination;

- (3) Is physically or mentally unfit to perform the duties of the position, or with or without accommodation cannot perform the work without posing a safety and health threat to the applicant or to others or who requires an accommodation that creates undue hardship for the appointing authority;
- (4) Is, at the time of application, an unlawful user of drugs, or addicted to the use of intoxicating liquors or narcotics or habit-forming drugs;
- (5) Use of narcotics or drugs not prescribed by a licensed medical practitioner, or drunkenness;
- (6) Is a habitual gambler;
- (7) Has been convicted of a felony or a crime involving moral turpitude or violence;
- (8) Is guilty of conduct not compatible with City employment, whether or not it amounts to a crime;
- (9) Has made any material false statement or who has attempted any deception or fraud in connection with this or any other Civil Service examination;
- (10) Refuses to accept appointment or execute any oath or affirmation as prescribed by law;
- (11) Fails to appear for fingerprinting, a Chief's interview or any other investigation as required by the Commission;
- (12) Has assisted in preparing, conducting, or scoring the examination for which applicant applies or who has in any other manner secured confidential information concerning such examination which might give applicant an unfair advantage over other applicants in the examination;
- (13) Declines for a second time an invite to participate in an examination, or fails to appear for or fails to pass any of the required examinations prescribed by the Commission;
- (14) Fails to appear for or fails to pass the medical examination, including psychological exams, prescribed by the Commission;
- (15) Refuses to furnish all information required to complete the application or does not submit the application package by the established deadline;
- (16) Who has been discharged from the armed forces under conditions other than honorable;
- (17) Who knowingly advocates the overthrow of the government of the United States by force or violence or other unlawful means;
- (18) Has been dismissed or has resigned in lieu of discharge from any position, public or private, for any cause which would be a cause for dismissal from City service

or has an unsatisfactory record of employment in the City service or with any other employer or organization;

- (19) Non-selection after having been certified three (3) times for appointment in the same job class and department if removal is requested by the appointing authority;
- (20) For other material reasons, or lack of fitness for City employment, as determined by the Commission; or
- (21) Remove applicant from promotional list, who has separated from service.

6.05 Notice of Non-Acceptance. The person against whom action is taken under Rule 6.04 shall be notified promptly of the reasons therefor. Oral notice at time of filing the application shall be sufficient, except where written notice is requested.

Written notice mailed, postage prepaid, to the address shown on the application shall be effective on mailing.

6.06 Applications Not Returned. All applications when completed and filed become the property of the Commission and thereafter may not be returned to the applicant.

Rule 7 – Competitive and Promotional Examinations.

- 7.01 Ordering Examinations. The Commission shall order an examination whenever necessary. Such order shall specify the class for which the examination is ordered.
- 7.02 Notice of Examination. A written notice of each entry level examination shall be published in the official publication as designated by the City of Aberdeen and posted on the official bulletin board at least two weeks prior to the date of the examination. Additional notice, such as paid advertising or publicity, shall be given when the Commission deems it necessary in order to have a sufficient number of qualified applicants. The notice shall specify the methods of testing to be utilized. Notice of promotional examinations shall be posted on the respective departments' bulletin board at least two weeks prior to the date of the examination.
- 7.03 Competitive Examinations. All examinations shall be competitive. An examination shall be deemed to be competitive when applicants are tested as to their relative qualifications and abilities or when applicants are scored against a fixed standard.
- 7.04 Character of Examinations. All examinations shall consist of one or more parts carrying a specific numerical or percentage weight, as stated in the official announcement of the examination or as announced at the time of the examination. All examinations shall be practical, fair, and job related, designed to qualify and rank applicants in terms of their relative fitness to perform the duties of the class for which the examination was ordered. All examinations shall meet the approval of the Commission.
- 7.05 Scoring Credits Allowed.
- (1) Veterans. Veterans who have passed an examination may receive credit in accordance with the provisions of RCW 41.04. It is the applicant's responsibility to submit appropriate documentation of veteran status to receive veteran's points.
 - (2) Fire Department Seniority Credit. Fire department employees who have passed a promotional examination will have the total numerical score of the exam converted to a percentage and one percentage point for each year of continuous service will be added to the total percentage score in accordance with the provisions of Aberdeen Municipal Code 2.48.300.
- 7.06 Method of Testing. The qualification and fitness of applicants shall be determined either individually or in a group or groups by one or more of the following methods:
- (1) Written tests
 - (2) Oral tests of knowledge or ability
 - (3) Interviews covering general qualifications, education, training and/or experience
 - (4) Physical tests of strength, stamina, agility, or dexterity
 - (5) Evaluation of education, training, experience, or qualification as shown by the application, or by other information submitted, or by the record.

- 7.07 Time and Place of Examination. Whenever applicants are required to appear for an examination, the time and place shall be designated in the official bulletin or the applicants shall be notified in person, by mail, email or telephone.
- 7.08 Late Applicants. Whenever applicants are required to assemble for a test, no applicant will be admitted after the designated time except at the discretion of the Chief Examiner.
- 7.09 Promulgation and Notification of Test Results. After all the parts of an examination have been completed and scored, the Commission shall promulgate an eligible list, and an applicant shall be notified.
- 7.10 Record of Oral Examination. The Secretary or Chief Examiner shall make and preserve a record of oral tests of interviews used in exams. Such records shall show the rating standards used and the formula or method used for translating ratings into a numerical score. Individual test records of applicants shall be retained in accordance with the Washington State records retention schedule for local governments.
- 7.11 Other Records of Examination. Applications for examination shall be retained in accordance with the Washington State records retention schedule for local governments.
- 7.12 Examination to be Impartial. All examination shall be fair and impartial. So far as practical, written examinations shall be so conducted that the identity of applicants will not be known to the examiners or other persons scoring the answers. So far as is practical, different parts of an examination shall be scored separately without the examiners or other persons scoring a part of the examination knowing the applicants' scores in the other parts of the exam. No person shall reveal before the completion of an exam any information about such examination except in the official bulletin or by announcement to all applicants equally.
- 7.13 Repeated Application. An applicant for a continuous recruitment may make up to two applications during a six month period. Candidates who chose to apply and repeat an examination given as part of the continuous recruitment process will be subject to their more recent score.

Rule 8 – Medical Standards for Employment

- 8.01 Criteria for Medical Standards. The appointing authority shall establish minimum medical standards which must be met.
- 8.02 Failure to Meet Medical Standards. Applicants who fail to meet the applicable medical standards of the City shall not be employed.

Rule 9 – Eligible Lists

- 9.01 Eligible Lists Created. The Commission shall promulgate eligible lists resulting from examinations as provided for in Rule 7.
- 9.02 Order of Names on Eligible Lists. The names of applicants who pass an examination shall be entered upon the eligible list for the class in order of standing in a competitive examination, including veterans' scoring criteria or other applicable points.
- 9.03 Tie Scores.
- (1) Whenever two or more applicants in a competitive examination have the same final grade, priority shall be determined by highest grade on most heavily weighted part of the examination.
 - (2) Where there is only one portion of an examination or all portions have equal weight, and two or more applicants have the same final grade, applicants will be listed on the eligibility list within numerical rank, and noted as "a", "b", "c", etc. All names with the same numerical ranking shall be considered equal and eligible for consideration for hire if the numerical ranking makes them eligible.
 - (3) ***For Fire Department Promotional Exams only:*** Whenever two or more applicants in a promotional examination within the Fire Department have a tie score after application of the fire department seniority credit, the tie will be broken based on their date of hire with the City of Aberdeen Fire Department.
- 9.04 Disclosure of Names of Eligible Applicants. The eligible list, including the names and final scores of all those who passed the examination shall be open to public inspection.
- 9.05 Duration of Eligible Lists. An eligible list shall be in effect for one year from the date of promulgation, however the Commission, in its discretion, may shorten or extend the duration of any eligible list.
- 9.06 Rejection of Eligible Applicant – Dropped from List. The name of any person may be withheld from certification or removed from the eligible list for any of the reasons in Rule 6.04 or 2.48.240 of the City Code.

Rule 10 – Certification and Appointment

- 10.01 Certification from Eligible List. Upon request for certification of names to fill an entry level vacancy, the Commission shall certify to the Department Head the names of the five persons standing highest on the appropriate eligible list, or the top 25% whichever is greater. Upon requests for certification of names to fill a vacancy in any rank above the entry level, the Commission shall certify to the Department Head the names of the three persons standing highest on the appropriate eligible list. Only the names of those persons willing to accept the position in which a vacancy exists will be certified.
- 10.02 Withholding Names from Certification or Removing Names from Eligible Lists. The name of an applicant may be withheld from certification or removed from an eligible list when:
- (1) Applicant expresses unwillingness or inability to accept appointment, or refuses offer of an appointment without adequate explanation as determined by the Chief;
 - (2) Applicant fails to present himself/herself for duty at the time agreed upon after having accepted an appointment;
 - (3) Upon a finding by the Commission that the eligible applicant is not qualified to perform the duties of the class.
- 10.03 No person is eligible for appointment as a police officer until the applicant is at least 21 years of age.

Rule 11 – Probation

- 11.01 Completion of Probationary Period. All appointees shall complete one full year of regular service (the probationary period) before the appointment becomes permanent.
- 11.02 Regular Service Defined. One full year of regular service consists of 12 consecutive calendar months performing the actual duties of the position in the class of appointment. Regular service does not include absences from duty for approved leaves or for attendance at academic courses or other mandatory pre-certification training. If the appointing authority does not have a reasonable opportunity to evaluate the performance of the probationer, the appointing authority may, with the approval of the Commission, extend the completion date of the probationary period by the number of calendar days the probationer was absent from regular service.
- 11.03 Interruption of Probationary Period. Whenever a probationary period following initial appointment is interrupted due a probationary appointment to a different position and the probationer subsequently returns to the original position during the second probationary period, the probationary period for the first appointment shall resume from the point of interruption and continue until one full year of regular service for the initial appointment has been completed.

Rule 12 – Assignments

- 12.01 Assignments. The assignment of an employee to a position, or of an employee from one position to another position, within the class and department for which he/she has been certified by the Commission pursuant to these Rules, is a matter of departmental administration, except as provided in Rule 15.

Rule 13 – Leaves of Absence

- 13.01 Leaves of Absence without Pay. Department Heads shall grant civil service employees in their departments leaves of absence without pay as required under mandatory provisions of state and federal law or collective bargaining agreements. Department Heads also have the discretion to grant up to fifteen calendar days of unpaid leave to civil service employees in their departments for situations not covered by the mandatory leave provisions of state and federal law or collective bargaining agreements. Department Heads may grant additional discretionary unpaid leave not to exceed a total of three months if approved by the Mayor. The Civil Service Commission may grant unpaid leaves of absence in excess of three months. Civil service employees granted an unpaid leave of absence in excess of three months shall be placed on the preferred eligibility list for the position but shall not be entitled to resume their former positions upon the expiration of the leave of absence unless the Commission otherwise provides where the absence is granted as: [1] a reasonable accommodation of a disability or illness; or [2] during the leave of absence the employee performed temporary service in a different position in the same department or any other city department.
- 13.02 Military Leave of Absence. Military leave of absence shall be granted in accordance with the provision of the applicable sections of the State law and in accordance with -the City Personnel Policy.
- 13.03 Expiration or Termination of Leaves of Absence. Unless precluded by state or federal law, the Commission may terminate any leave of absence by written notice to the employee concerned and the employee shall return to duty forthwith. The employee shall be returned to the same class of position as he/she occupied when leave of absence was granted or he/she may be returned to such other position as may be authorized by these rules. An employee who fails to return to duty upon termination or expiration of leave shall be considered as absent without leave and subject to disciplinary action.
- 13.04 Reports of Leaves of Absence. All unpaid leaves of absence, exceeding 60 calendar days, shall be reported to the Commission promptly and in writing.

Rule 14 – Discharge, Demotion, Suspension, Other
Disciplinary Actions, and Resignation

- 14.01 Conditions of Discharge, Demotion, Suspension, and Other Disciplinary Actions. A permanent employee may be discharged from the City service, or demoted, or suspended without pay or deprived of vacation, only after the employee has been given the opportunity for a pre-disciplinary hearing. As outlined in Rule 4, a pre-disciplinary hearing may be informal, subject to the following requirements:
- (1) The employee shall be provided a written notice of the charge;
 - (2) The employee shall be given an explanation of the evidence relating to the charge;
 - (3) The employee shall be given an opportunity to respond to the charge and to the appropriateness of any disciplinary measures;
 - (4) The Commission shall not consider, in a hearing on a petition granted under Rule 4, any grounds for disciplinary action not previously presented to the employee. This rule, however, shall not be construed to limit the employer at a subsequent hearing from presenting a more detailed and complete case, including presentation of witnesses and documents not available or not presented at the pre-disciplinary hearing.
- If the appointing authority decides to impose discipline following the pre-disciplinary hearing, the employee shall be given a written notice of discipline. Such notice shall include a statement of the reasons for the action taken and shall state that the employee has the right to file a written reply and to request the Commission to review the disciplinary action if the request is filed with the Commission within 10 calendar days of service of the notice of discipline. A copy of such notice and a copy of the reply, if any, shall be filed in duplicate with the Commission. The appointing authority shall submit to the Commission evidence showing that the employee has been served with the notice of discipline, wither personally or by certified or registered mail addressed to the employee's last known address, and the date of such service.
- 14.02 Hearing on Reasons for Disciplinary Action. If the permanent employee to be discharged, demoted, suspended, or otherwise disciplined pursuant to Rule 14.01 so requests, the Commission shall proceed in accordance with Rule 4.
- 14.03 Criminal Acts. Where the facts alleged in the notice of disciplinary action constitute a crime, and the employee has requested a hearing under Rule 14.02 within the time allowed in Rule 4, the employee may, at any time, at least one day before the date of the hearing, request a continuance of his Civil Service hearing for a reasonable period to determine whether a criminal charge will be filed or until after termination of the criminal case.
- 14.04 Insufficient Facts. The Commission may find in an appropriate case, without a hearing, that the specific facts alleged in the notice of disciplinary action, if true, are not sufficient under all the circumstances to justify the action.

14.05 Decision. After receiving evidence presented in hearings on disciplinary actions:

- (1) The Commission may affirm the disciplinary action; or
- (2) If the Commission finds that the disciplinary action was made for political reasons, religious reasons or in regard to age, sex, marital status, race, creed, color, sexual orientation, disability, union activity, national origin, or other basis prohibited by state or federal law, or otherwise not sufficient to justify such action, the Commission shall order immediate reinstatement of the employee without any loss of pay; or
- (3) The Commission, in lieu of affirming the disciplinary action, may modify the disciplinary action by directing a suspension without pay for a given period, and a subsequent restoration to duty, or a demotion in classification of pay or other administrative actions as deemed necessary.

The findings of the Commission shall be certified in writing to the department head, and the employee, and shall be forthwith enforced by such official.

14.06 Probationary Period Following Appointment. An employee who has not yet completed his first probationary period may be discharged or demoted by the appointing authority by written notice, served on the employee and a copy filed with the Commission without any right to a hearing.

14.07 Probationary Period Following Second Appointment. Nothing in Rule 14.06, or elsewhere in these Rules, shall be constructed to permit the discharge from City service without a hearing of an employee during his/her probationary period in a second appointment, where before such appointment he/she had completed his/her probationary period in another class. "Second" refers to any appointment of a permanent employee, which starts a new period of probation under Rule 11.

Such an employee shall be considered a permanent employee for such purposes and under such circumstances may be discharged from City service only pursuant to preceding applicable sections of this Rule, with the right to a hearing if requested.

During the probationary period in the second appointment, such an employee may be demoted, pursuant to Rule 14.06, without a hearing, to a position in the class in which the employee was last employed before such second appointment. In the event of such demotion and if no vacancy exists in the class and department in which he/she served the first appointment, a vacancy may be created by layoff or reduction in accordance with Rule 15.

14.08 Consent of Commission. In the case of a probationary employee, the consent of the Commission must be secured to a discharge or demotion under Rule 14.09. The Commission shall consent if it believes that the ground and facts alleged, if true, justify the discharge or demotion of a probationer and that no fraud or discrimination exists because of political or religious opinions, racial extraction, or union affiliation.

If the Commission has consented prior to the filing of an answer by the employee and such answer alleges fraud, or discrimination as above stated, and requests a hearing, the Commission shall immediately set aside its consent. The hearing shall be limited to the

question of fraud or discrimination. After such hearing the Commission may consent to the discharge or demotion or may order such employee reinstated, and unless such order otherwise provides, it shall be effective as of the date of the discharge or demotion.

No consent need be secured to the discharge or demotion of a temporary employee.

- 14.09 Time for Discharge of Probationer. To be effective, the written notice of discharge or demotion of a probationary employee must be served and become effective before midnight of the last day of his/her probationary period. The consent of the Commission must also be requested by the appointing authority or department head within such time, but the fact that the action of the Commission is delayed, by reason of a request for hearing or otherwise, until after the expiration of the probationary period shall not invalidate the discharge or demotion.
- 14.10 Resignations. Resignations shall be given in writing and shall be directed to the appointing authority or department head. A resignation shall be effective on the date designated therein, and if no date is designated it shall be effective immediately. A resignation, once it has become effective or has been accepted by the appointing authority or department head, may be withdrawn only with the consent of the department head or the Commission. A resignation claimed to have been obtained by duress or fraud may be treated by the Commission as a notice of discharge, provided the employee notifies the Commission that such resignation was not voluntary and demands a hearing within 10 calendar days after the filing with the Commission of a report showing such resignation.
- 14.11 Charges filed by Citizen. When written charges are filed by any citizen or taxpayer of the City against any person in the classified Civil Service, the Commission shall refer such charges to the department head for investigation and such action, as he/she deems necessary. The person against whom charges are filed may file an answer to such charges. No hearing on such charges shall be held unless the department head discharges or demotes such employee, for the reasons stated in the charges and the employee requests a hearing, in accordance with the Rules applicable thereto, or unless the Commission finds that the charges, if true, reflect on integrity of the Civil Service system, or show serious violations of the provisions of the law, or Rules and that a public hearing is desirable to restore confidence in the Civil Service system or to secure compliance with the Civil Service provisions.

Rule 15 – Layoffs and Re-Employment List

- 15.01 Layoffs. The department head may layoff or reduce an employee when necessary:
- (1) For reasons of economy or lack of work; or
 - (2) Where there are more employees than positions in any class within the department.
- 15.02 Employment Status and Order of Layoff. Layoffs and reductions shall be made by class of position and by department. In each class of position in which there is to be layoff or reduction, employees shall be laid off according to employment status in the following order: provisional, temporary, probationary and permanent.
- Provisional and temporary employees shall be laid off according to the needs of the service as determined by the department head.
- Probationary employees shall be laid off or reduced in inverse order of seniority in the class in the department.
- Permanent employees shall be laid off or reduced according to inverse order of seniority.
- 15.03 Ties in Performance Rating and Seniority. In case two or more persons have the same seniority for layoff in a class in a department and the persons were appointed from the same eligible list to the class from which the layoff is to be made, the person whose name was lower on said eligible list shall be laid off first. If the appointments were not from the same eligible list, then that person who was appointed from the later eligible list shall be laid off first.
- 15.04 Exception to Order of Layoffs. Where the department head deems it to be for the best interests of the City, he/she may retain an employee who has special qualifications despite the order of the layoff, if the Commission determines:
- (1) Such action is for the best interests of the City;
 - (2) The employee retained has such special qualifications;
 - (3) The employee laid off does not have such special qualifications, and
 - (4) Such special qualifications are important in the performances of the work of the department.
- 15.05 Reduction. The department head may, if he/she deems it for the best interest of the City, and, with the approval of the Commission, make reductions in lieu of layoffs in higher classes and thereby cause layoffs only in the lower classes. Such reductions shall be made in the same manner and subject to the same restrictions as provided for under Rules 15.02 and 15.04.

- 15.06 Voluntary Reduction in Lieu of Layoff. An employee who anticipates being laid off, or who is so laid off, may, not later than 10 calendar days after notice of such layoff, request a reduction to a lower class in lieu of layoff. On receiving notice that such a request has been approved by the Commission the department head must make such reduction, effective immediately thus causing layoff only in the lower class.
- 15.07 Re-employment List. The names of person laid off or reduced in accordance with these Rules shall be entered upon a re-employment list in inverse order of layoff. Such list shall be used by the department head when a vacancy arises in the same or lower class of position, before certification is made from an eligible list. When a vacancy occurs the department head shall appoint the person highest on the re-employment list who is available who was laid off from a position in that department, in which the appointment is to be made.
- 15.08 Name Dropped. Names of persons laid off or reduced in lieu of layoff shall be carried on a re-employment list for two years, except that the names of persons appointed to permanent positions of the same level as that from which laid off shall, upon such appointment, be dropped from the list. Persons reduced or re-employed in a lower class or re-employed on a temporary basis shall be continued on the list for the higher class for two years.
- 15.09 Restoration to Re-employment List. The name of any person who has been appointed to a permanent position from a re-employment list and subsequently is separated from the service without delinquency or fault on his/her part shall be restored to the re-employment list. This restoration shall have the effect of extending the time the employee's name is carried on the re-employment list for two years from date of latest separation.

Rule 16 – Annual Report

- 16.01 The Commission shall on or before the 1st day of December of each year make a report to the Mayor and City Council showing its own actions, the practical effects thereof, and any suggestion it may have for the benefit of the service.