

Civil Service Rules

CITY OF SALEM

October 2005
Updated 8-08

TABLE OF CONTENTS

	Page
RULE I - <u>EXAMINATIONS</u>	
Section 1 - Content of Announcements.....	1
Section 2 - Fire Service Qualifications.....	1
Section 3 - Disqualification of Applicants.....	3
Section 4 - Nature of Examinations	3
Section 5 - Rating of Examinations	3
Section 6 - Veterans' Preference.....	4
Section 7 - Notification of Examination Results.....	4
Section 8 - Open Continuous Examinations.....	4
Section 9 - Promotional Examination Procedures	4
RULE II - <u>ELIGIBILITY LISTS AND CERTIFICATION</u>	
Section 1 - Order of Names on A Re-Employment Eligibility List	6
Section 2 - Rejection of Names from an Eligibility List	6
Section 3 - Removal of Names from an Eligibility List	8
Section 4 - Filling Vacancies	8
Section 5 - Restoration of Names to Eligibility List	8
Section 6 - Waiver of Appointment.....	9
Section 7 - Certification of Eligibility Lists	9
RULE III - <u>PROBATIONARY PERIOD</u>	
Section 1 - Entry Positions	10
Section 2 - Re-Employment or Promotion	10
Section 3 - Re-Employment from Layoff.....	10
Section 4 - Provisional Appointments.....	10
RULE IV - <u>PHYSICAL EXAMINATIONS</u>	11
Section 1 - Physical Examinations	11
RULE V - <u>REDUCTION IN FORCE</u>	
Section 1 - Reason for Reduction in Force.....	12
Section 2 - Order of Reduction in Force	12
Section 3 - Probationary Employees	12
RULE VI - <u>LEAVE OF ABSENCE</u>	13
Section 1 - Leave of Absence	13
RULE VII - <u>DISCIPLINARY ACTION</u>	
Section 1 - Definitions of Types of Disciplinary Action	14
Section 2 - Notice of Disciplinary Action	14

RULE VIII - APPEALS, INVESTIGATIONS, AND HEARINGS OF DISCIPLINARY ACTION

Section 1 - Filing an Appeal..... 15
Section 2 - Investigation and Hearing..... 15
Section 3 - Subpoenas 15
Section 4 - Hearing Procedure 15
Section 5 - Commission Findings and Notification of Decision..... 17

RULE IX - APPEALS, INVESTIGATIONS, AND HEARINGS CONCERNING NON-DISCIPLINARY MATTERS

Section 1 - Filing an Appeal..... 18
Section 2 - Investigation and Hearing..... 18
Section 3 - Subpoenas 18
Section 4 - Hearing Procedure 19
Section 5 - Commission Findings and Notification of Decision..... 20
Section 6 - Examination Investigations..... 20

RULE I - EXAMINATIONS

Section 1. Content of Announcements

Examination announcements shall state the duties and pay of the classification for which the examinations are to be held, the minimum qualifications required, the manner of making application for admission to the examination, the relative weights to be given to different parts of the examination, the closing date for filing applications, and any other information the Chief Examiner may consider pertinent. Announcements shall be posted in all fire stations and in at least one other public place. (City Charter Section 35)

Section 2. Fire Service Qualifications

A. Fire Fighter Paramedic

Applicants for entry level fire fighter paramedic shall possess the following minimum qualifications:

1. Age:

A minimum age of 18 years.

2. Education:

Graduation from an accredited high school or successful completion of a General Education Development Test (GED).

3. Health:

Good physical health and shall be required to perform the essential functions of the position.

4. Emergency Medical Certification:

Possession of a current certification as an Oregon Paramedic or, National Registry certification as a Paramedic and the ability to qualify for State of Oregon reciprocity, or possession of EMT-P from another state and be able to qualify for State of Oregon reciprocity; or possess the ability and qualifications to obtain an Oregon EMT-P within 6 months after date of hire.

B. Fire Apparatus Operator/Engineer

1. Possession of the qualifications of fire fighter paramedic as outlined in Subsection A 1 through 3 of this Rule. Two years of current fire service with the Salem Fire Department.

2. Successful completion of Department of Public Safety Standards and Training (D.P.S.S.T.) for Fire Fighter 1 and 2, and Pumper Operator.

3. Completion of the Salem Fire Department Career Development for Apparatus Operator/Engineer program. This requirement will take effect January 01, 2003.
4. Possession of a current Oregon Emergency Medical Technician certification in accordance with the current labor contract.

C. Deputy Fire Marshal

1. Applicants shall meet those qualifications set forth in Subsection A 1 through 3 of this Rule.
2. An Associate Degree (or equivalent) from a state or federally accredited college or university in Code Inspection, Fire Prevention, Insurance Risk, Public Administration, or possess Department on Public Safety Standards and Training (D.P.S.S.T.) Fire Inspector I accreditation. Must possess certification from the International Code Council (ICC) as Fire Code Inspector I.
3. Shall obtain accreditation from D.P.S.S.T. as a Fire Inspector I and II, and National Fire Protection Association (NFPA) Fire Investigator, certification from the ICC as a Fire Plans Examiner, and Oregon Inspector Certification within 24 months of appointment as a condition of employment.

D. Fire Training Officer

1. Applicants shall meet those qualifications set forth in Subsection A 1 through 3 of this Rule, and possess not less than two years of fire suppression and/or instruction experience.
2. EMS Trainer shall also possess a current Oregon Emergency Medical Technician Paramedic (EMT-P) certification.

E. Fire Captain

1. Applicants shall meet those qualifications set forth in Subsection A 1 through 3 of this rule.
2. Five years of service with the Salem Fire Department.
3. Completion of the Salem Fire Department Career Development program for Captain.
4. Possession of current Oregon Emergency medical Technician-Basic (EMT-B) certification or higher.

F. Fire Battalion Chief

1. Completion of one year in the classification of Fire Captain.
2. Completion of all training requirements for D.P.S.S.T. Fire Officer I.
3. Applicants will possess an Associate Degree in Fire Science, or Bachelor's Degree in Fire Management, Fire Administration, Public Administration, or an

acceptable equivalent Bachelor's Degree supplemented by successful completion of all Basic fire Institutes.

4. Possession of current Oregon Emergency Medical Technician-Basic (EMT-B) certification or higher.

G. Qualifications for Promotion

1. If there are no qualified career employees applying for a promotional examination, the Chief Examiner may conduct open competitive recruitment and examinations in which the general public may apply.
2. Applicants for promotion shall meet the minimum qualifications for the position as established by these Rules. Applicants shall meet the minimum qualifications prior to the actual date of the examination.

Section 3. Disqualification of Applicants

The Chief Examiner may reject the application of any person for admission to an examination, or decline to examine or certify for employment, any applicant who is found to lack the qualifications prescribed for admission to the examination as contained in these Rules, or as announced in the public notice, or anyone who has taken the same examination within the preceding six months. (City Charter Section 35)

Section 4. Nature of Examinations

Examinations may be written, oral and physical in the form of a demonstration of skill, an evaluation of training and experience, or any combination of such types. Examinations may take into consideration education, experience, aptitude, capacity, knowledge, physical fitness, employment length and history, and other qualifications to determine the relative fitness of the candidate.

Section 5. Rating of Examinations

Ratings of examinations used to develop an eligibility list shall be based on similar point scales. The final earned rating of each competitor shall be determined by adding the earned rating on each part of the test in accordance with weights established by the Chief Examiner. Candidates may be required to obtain minimum ratings on separate parts of the examination in order to receive passing grades, or to be rated on the remaining parts of the test. The Chief Examiner shall establish minimum ratings required to achieve eligibility in all tests or parts of tests.

Tie scores on final combined scores for placement on entrance eligibility lists will be determined by date stamp of the day the Personnel Department received the application. Where two applications have the same date, the rank order will be determined by the signature date on the application. If a tie still remains, the rank will be determined by lot.

Tie scores on promotional examinations will be resolved by the order in which candidates signed up for the examination.

Section 6. Veterans' Preference

Veterans' preference credit points shall be added to passing scores in accordance with Oregon Law (ref. ORS 408.230).

Section 7. Notification of Examination Results

Each person competing in an examination shall be given written notice of final rating or of failure to attain placement on an eligibility list. The period during which the candidate may file an appeal concerning the examination shall begin on the date the official examination results are mailed. The official examination notification to each candidate shall specify the beginning and ending dates of the examination appeal period.

Section 8. Open Continuous Examinations

When necessary to meet continuing requirements for filling positions, the Commission may authorize open continuous examinations with an indefinite closing date. A closing date may be set by giving notice at least two weeks prior to the effective date.

Section 9. Promotional Examination Procedures

- A. Promotional examinations for each Civil Service classification shall be scheduled when vacancies are expected to occur within the next 24 months.
- B. If an unplanned vacancy occurs for which there is no eligibility list, provisional appointments may be made but shall only be valid until there are available candidates on an appropriate eligibility list.
- C. Announcements for promotional examinations shall be posted in each fire station, at least thirty (30) days prior to the date of examination. Announcements shall include the tentative date the examination is to be held. The announcement shall also describe the type of examination to be given and the weights assigned to each exam segment.
- D. Examinations may be written, oral and physical in the form of a demonstration of a skill, an evaluation of training, experience, or any combination of such types. Examinations may take into consideration the education, experience, aptitude, knowledge, physical fitness, employment length and history, or other qualifications to determine the relative fitness of each candidate. Examinations shall be designed to predict each candidate's performance in the classification for which the test is established.
- E.
 - 1. Promotional evaluation boards for the position of Battalion Chief shall consist of three evaluators who supervise or work in equivalent or higher positions, at least one of which shall be external to the Salem Fire Department.
 - 2. Promotional evaluation boards for the position of Captain shall consist of a minimum of three evaluators who supervise or work in equivalent positions, at least two of which shall be external to the Salem Fire Department.

3. Promotional evaluation boards for the position of Apparatus Operator/Engineer shall consist of a minimum of three evaluators who supervise or work in equivalent positions.
-
- F. The final earned rating of each candidate shall be determined by adding the earned ratings on each part of the examination according to weights established by the Chief Examiner.
 - G. Each section or part of a promotional exam shall be scored separately. Scores shall be held confidential until the examination is completed.
 - H. Each candidate shall be notified in writing of their final examination score. Notice of examination results will comply with Rule I, Section 6.
 - I. Candidates for promotion may appeal their examination grades in accordance with the procedures outlined in Rule IX, Section 6.
 - J. Where Career Development program completion is required for promotional exam eligibility, no changes will be made to Career Development program requirements six months prior to the date of the examination.

RULE II - ELIGIBILITY LISTS AND CERTIFICATION

Section 1. Order of Names on a Re-Employment Eligibility List

A. Reduction in Force

The names of employees who are terminated from employment due to a reduction in force will automatically be placed on the re-employment eligibility list and shall precede those employees who have voluntarily resigned. (Refer to Civil Service Rule V)

B. Voluntary Resignations

Re-employment eligible lists shall contain the names of employees who have resigned from the Fire Service in good standing provided they have requested re-employment within one year after the effective date of their resignation and provided the Appointing Authority (Fire Chief) approves the request. In the event more than one name appears on the re-employment eligibility list, the individual who requested re-employment earliest shall be first. Request for placement on the re-employment eligibility list may be initiated through a written request submitted to the Appointing Authority. The Appointing Authority shall submit approved names to the Chief Examiner to be placed on the list.

C. Removal

The names placed on the re-employment eligibility list shall be removed at the end of twenty-four months unless an extension is approved for an additional six months by the Appointing Authority, for a maximum of 30 months.

Section 2. Rejection of Names from an Eligibility List

The Chief Examiner shall reject the names of individuals certified from eligibility lists (including entrance re-employment and layoff lists for entrance level positions) if the individual fails to meet selection criteria. The selection criteria shall include, but not be limited to, the following:

A. Physical and Fitness Criterion

1. Height and Weight:

Weight shall be commensurate with height as determined by the City physician during the physical examination.

2. Vision:

Shall meet N.F.P.A. standards. Far visual acuity shall be at least 20/30 binocular corrected with contact lenses or glasses. Far visual acuity uncorrected shall be at least 20/100 binocular. Peripheral vision without correction shall be 140 degrees in the horizontal meridian in each eye. Successful long-term soft contact lens wearers (i.e., six months without a problem) are not subject to the uncorrected standard. Color vision shall be adequate to identify red, green, and yellow colors.

The following medical conditions would be reviewed on a case-by-case basis:

- a. Color vision inadequate to identify red, green, and yellow colors.
- b. Diseases of the eye such as retinal detachment, progressive retinopathy, or optic neuritis.
- c. Ophthalmological procedures such as radial keratotomy or repair of retinal detachment.
- d. Any other eye condition that may result in a person not being able to perform as a fire fighter.

B. Other Fitness Criteria:

1. Normal physical condition as determined by the examining physician so as to perform the work of a fire fighter.
2. Civil Service employees appointed after March 9, 1983, shall agree not to smoke tobacco on duty during their term of employment.
3. Employees shall be able to perform the essential functions for the classification.

C. Driving Record:

Good driving record, as determined by the Appointing Authority after a review of complete driving record history.

D. Employment References:

Good references from previous employers as verified by the City.

E. Criminal Record:

Verifiable criminal record, free of any felony or class A misdemeanor convictions.

F. Military Service:

Honorable discharge from military service, if applicable.

G. Other:

Other job related selection criteria appropriate for fire service work.

Section 3. Removal of Names From an Eligibility List

- A. The Chief Examiner may remove names from an eligibility list for the following reasons:
1. Certification and appointment of an applicant.
 2. Failure to respond within ten days to a written inquiry relative to availability for appointment.
 3. Failure to report for duty within the time specified by the Appointing Authority, provided the applicant has been given sufficient time to give due notice to their present employer.
 4. Refusal of an offer of an appointment.
 5. Expiration of the term of eligibility on a list.
 6. In case of promotion lists, separation from the fire service.
 7. At the request of the individual.
 8. Falsification or purposeful omission of requested information provided by the candidate for consideration of employment.
 9. Rejection by the Appointing Authority based on failure to meet selection criteria.
- B. The Commission may remove names from an entrance eligibility list upon a verified finding by the Appointing Authority or a finding by the Chief Examiner or Commission that the person is not qualified to perform the duties of the class. (City Charter Section 35)
- C. Any person whose name is removed from a list shall be promptly notified by the Chief Examiner of the reason for such removal. (City Charter Section 36)

Section 4. Filling Vacancies

Whenever a vacancy occurs the appointing authority shall notify the Chief Examiner. The Chief Examiner shall provide the current eligibility list following Sections 37 and 38 of the City Charter. If the vacancy is in an entrance position, the Appointing Authority may use a rule of five in appointing certified candidates to the vacant position. (City Charter Section 37)

Section 5. Restoration of Names to Eligibility List

The names of those persons certified for entry positions to the Appointing Authority but not appointed shall be restored to the eligibility list in rank order, unless removed from the list in accordance with these rules. (City Charter Section 36)

Section 6. Waiver of Appointment

A candidate who desires to waive appointment or temporarily withdraw from the eligibility list shall submit a written request to the Chief Examiner who shall approve or deny the request. A candidate who has been allowed to temporarily withdraw or waive appointment and who desires to be restored to the eligibility list shall submit such written request to the Chief Examiner. The Chief Examiner may restore the name to the eligibility list in rank order, provided the duration of the candidate's eligibility has not expired. In the event the Chief Examiner does not grant the request of a candidate, the Chief Examiner shall state the reasons for the denial in writing to the candidate. If a candidate, who is on a promotional eligibility list, wishes to appeal the Chief Examiner's decision, the candidate shall submit a written request for a review by the Commission at its next meeting. It is the responsibility of the candidate to establish before the Commission that the decision of the Chief Examiner is inappropriate. Candidates for entry level positions do not have the right of appeal through the Civil Service Commission.

Section 7. Certification of Eligibility Lists

- A. Not less than ten days after the publication of examination scores by the Chief Examiner, an eligibility list shall be compiled for certification. Entrance examinations may not be appealed (see Rule IX, Section 6). If a promotional examination appeal has been filed within the appropriate period, the Chief Examiner shall not certify the eligibility list, but shall continue to appoint from the existing list until the appeal is finally decided, or the list expires by the passing of time, whichever occurs first. If the existing list expires before the appeal is finally decided the appointing authority may fill a position by a provisional appointment pursuant to Section 38 (7) of the City Charter. Following the conclusion of the examination appeal(s) the Chief Examiner shall recompile the eligibility list (if appropriate), inclusive of appeal(s) results.
- B.
 - 1. Promotion eligibility lists shall become effective following the publication of the examination scores, and shall be kept in effect for 24 months, unless exhausted or depleted from the effective date thereof.
 - 2. Entrance eligibility list shall become effective following the publication of the examination scores, and shall be kept in effect for six months at a time, to a maximum of 24 months, with the approval of the Appointing Authority and Chief Examiner, from the effective date thereof.

RULE III - PROBATIONARY PERIOD

Section 1. Entry Positions

The probationary period for candidates appointed to entry positions shall be twelve (12) months.

Section 2. Re-Employment or Promotion

The probationary period for persons promoted or re-employed from other than a layoff eligibility list shall be six (6) months. The promotional probationary period, other than those employees rehired from the layoff eligible list, may be extended an additional period of time not to exceed three (3) months by the Appointing Authority.

Section 3. Re-Employment from Layoff

- A. Career employees re-employed from a layoff list shall not serve an additional probationary period if one has already been completed for the classification to which they are re-employed.
- B. Career employees re-employed from a layoff list shall serve any remaining portion of a promotional probationary period not completed prior to layoff, prior to achieving permanent appointment in the promotional classification.

Section 4. Provisional Appointments

- A. Provisional service will be credited toward completion of the probationary period when the permanent appointment is received while serving a provisional appointment. Employees serving in provisional appointments at the time of the enactment of this Rule shall receive such credit from the date of their provisional appointment.
- B. An employee who, while serving probation in a lower classification, is appointed to provisional service in a higher classification shall have the provisional service credited toward completion of probation in the lower classification.

RULE IV - PHYSICAL EXAMINATIONS

Section 1. Physical Examinations

Civil Service employees shall be required to take a physical examination when offered by the City, under the provisions of the Employee Physical Examination Program.

RULE V - REDUCTION IN FORCE

Section 1. Reason for Reduction in Force

An appointing authority may lay off an employee because of abolition of position, shortage of funds, or lack of work.

Section 2. Order of Reduction in Force

Layoff procedures are subject to the provisions of the appropriate labor contract.

- A. If there is a reduction in work force, layoffs within each affected classification shall be made in inverse order of continuous service in the affected classification within the department where the reduction is occurring. Seniority shall be determined by date of appointment to the affected classification. Where two or more employees in a classification have the same appointment date, the employee who received the higher overall score on the Civil Service examination for that classification shall be deemed the senior employee. Where the examination scores are the same, seniority shall be determined by lot before the Chief Examiner.
- B. An employee who is laid off, and who has advanced to the present classification from a lower Civil Service classification in which they have achieved career status, shall be given a position in such lower classification if one is authorized and funded in the respective department budget. If such reduction is to an unrepresented classification, the employee shall be deemed senior to all other employees in the lower classification for purposes of determining seniority for subsequent reduction in force. If such reduction is to a represented classification, the employee shall be accorded the rights of represented employees in any future reduction in force, as provided in the appropriate labor contract.
- C. An employee who, in the course of a layoff, is reduced to a classification previously held shall return to a position in the classification affected by the layoff before any other individual is hired into that classification; the employee shall not be required to take promotional examinations to return to the higher classification.
- D. An employee who has attained career status within a higher classification voluntarily demotes to a lower classification shall receive credit toward seniority. Seniority for an employee who voluntarily demotes shall be credited for all time served, both in the lower classification prior to promotion and all time served in the higher classification from which the employee demotes, provided that all service was continuous.

Section 3. Probationary Employees

The names of probationary employees who are terminated from employment due to a reduction in force will automatically be placed on the re-employment eligibility list based on the order of reduction outlined in Section 2, and shall precede those employees who have voluntarily resigned. An employee, in the course of a layoff, whose name is placed on the re-employment eligibility list shall return to a position in the classification affected by layoff before any other individual who voluntarily left the service is re-employed. Probationary employees who do not wish to have their names placed on the re-employment list may submit a written request to the Chief Examiner.

RULE VI - LEAVE OF ABSENCE

Section 1. Leave of Absence

Leave of absence shall be approved by the Appointing Authority. (City Charter Section 39).

RULE VII - DISCIPLINARY ACTION

Section 1. Definitions of Types of Disciplinary Action (City Charter Section 40)

A. Dismissal

The termination of an individual's employment from the fire service for cause and would not include resignations, retirement, or layoff.

B. Demotion

The downward movement of an employee who has attained career status from a position obtained as a result of a Civil Service examination to a lower rank or position, which is filled by Civil Service examination.

C. Suspension Without Pay

The temporary removal of an employee from duty without compensation for a stated period of time.

D. Reduction in Pay

The reduction to a lower rate-of-pay step for the same position during a stated period of time.

E. Withdrawal of Special Privileges

The temporary removal of some privilege which has been previously granted, which applies to a position or rank, and which is withdrawn for cause as a disciplinary action. This does not include withdrawal of privileges for reasons not related to discipline.

Section 2. Notice of Disciplinary Action (City Charter Section 40)

When taking disciplinary action requiring dismissal, demotion, suspension without pay or depriving an employee of special privileges, the employee shall be served with a written statement of the accusation which shall detail the cause for disciplinary action, pursuant to Section 40 of the City Charter. The written statement shall also include specific information concerning the charges, facts, situations, or specific acts or inactions which led to the disciplinary action.

RULE VIII - APPEALS, INVESTIGATIONS, AND HEARINGS OF DISCIPLINARY ACTION

The following procedures and requirements for Appeals, Investigations, and Hearings concerning disciplinary matters are established in accordance with Section 41 of the City Charter and shall be followed in all proceedings pursuant to Rule VIII.

Section 1. Filing an Appeal

Any employee who has attained career status and who has been dismissed, demoted, suspended without pay or deprived of special privileges may, within ten (10) calendar days of receiving written notice of the disciplinary action, file with the Chief Examiner a signed, written appeal for a hearing before the Commission.

Section 2. Investigation and Hearing

- A. The employee shall be notified within 30 days as to the date and time of hearing. The hearing shall be held as expeditiously as possible.
- B. Written notice of the time and place of the hearing shall be sent to the employee and to the appointing authority at least 10 days prior to the hearing.
- C. The investigation and/or hearing shall be confined to the determination of the question of whether the disciplinary action was made in good faith for cause.
- D. The Commission may adopt a Hearings Procedure which shall be consistent with the City Charter, and shall be used to guide the actual conduct of the hearing. The Hearings Procedure shall be delivered to the employee, along with the written notice of the time and place of the hearing.

Section 3. Subpoenas

If either the City or employee desires to have the Commission issue subpoenas, such requests shall be submitted to the Chief Examiner at least ten (10) days prior to the date set for the hearing or investigation. Each party is responsible for the service of their requested subpoena(s), including any cost of such service. The Chief Examiner is permitted to issue five (5) subpoenas for each party. Requests for additional subpoenas shall be submitted to the Commission in writing, stating the reasons for the additional subpoenas, and only the Commission may authorize the issuance of additional subpoenas.

The party on whose behalf the witness is subpoenaed shall tender a witness fee as provided by State law to the subpoenaed witness at the time of service.

Section 4. Hearing Procedure

- A. General Information:
 - 1. All hearings are open to the public. All testimony shall be taken under oath.
 - 2. The Commission shall cause a tape recording to be made of the proceedings and shall retain all documents and evidentiary materials which shall constitute the official record of the hearing. Any party may, at its expense,

cause other records of the proceedings to be made with the permission of the Commission.

The official record of the hearing shall be available for public inspection following the issuance of the written decision of the Commission.

3. The employee may be self-represented or be represented by counsel or some other person of the employee's choosing.
4. The employee will be responsible to provide witnesses or other evidence to refute the alleged violations on which the disciplinary action is based.
5. The employee may request a withdrawal of the appeal at any time. If the hearing is in progress at the time of the request, the Commission may grant the request, or may deliver an opinion based on evidence on the record.
6. If one of the parties to the hearing fails to appear, the Commission may render a decision based on the evidence before it, or continue the hearing.

B. Conduct of Hearing

1. The presiding Commissioner shall announce the purpose of the meeting and summarize the basic issue(s) before the Commission. All testimony and evidence submitted shall be restricted to the issue(s) before the Commission at the meeting.

The presiding Commissioner may set reasonable time limits for oral presentations and may exclude or limit cumulative, repetitious, or immaterial testimony and evidence.

2. Hearings are informal, and the Commission is not bound by technical rules of evidence. Normally, hearsay evidence should be avoided and may not be admitted by the presiding Commissioner.
3. A list of all witnesses shall be provided to the Commission and the opposing party by the employee and the City three (3) calendar days before the hearing. The employee and the City shall provide a minimum of four (4) copies of all documentary evidence at the hearing.
4. Both the employee and the City may make an opening statement. If opening statements are made, the City shall present its opening statement first, followed by the employee.
5. The City shall then present its case to demonstrate cause for the disciplinary action. The employee may cross-examine witnesses. The employee shall present their case to refute the alleged violations on which the disciplinary action is based. The City may cross-examine witnesses. Commissioners may examine witnesses.
6. The Civil Service Commission may continue the hearing for the purpose of receiving additional evidence, if necessary.

Section 5. Commission Findings and Notification of Decision

After receiving evidence presented during a hearing, the Commission may adjourn to discuss the evidence and reach a decision. Upon reaching a decision, the Commission may reconvene the hearing and announce their decision orally. The Commission shall transmit their decision in writing within 15 calendar days after the hearing to both the City and employee.

The Commission's written decision shall address whether the disciplinary action was made in good faith for cause. The Commission's decision may affirm, disaffirm, or modify the disciplinary action.

If the Commission finds disciplinary action was not made in good faith for cause, then the Commission shall also order the following actions based on the type of disciplinary action imposed:

1. Dismissal or Suspension:

Reinstatement shall be retroactive and entitle the employee to pay or compensation and special privileges from the time of the action of the Appointing Authority.

2. Other Disciplinary Actions:

If the Commission modifies the action taken by the Appointing Authority, the Commission shall specify what modifications are to be made. Any reinstatement of privileges may be retroactive and may entitle the employee to pay or compensation, or special privileges from the time of action of the appointing authority.

Following the issuance of a Commission decision which modifies or disaffirms a disciplinary action, the Chief Examiner shall certify to the Commission at its next regular meeting that the findings of the Commission concerning a disciplinary action have been implemented.

RULE IX - APPEALS, INVESTIGATIONS, AND HEARINGS **CONCERNING NON-DISCIPLINARY MATTERS**

The following procedures and requirements for Appeals, Investigations, and Hearings concerning non-disciplinary matters are established in accordance with Section 41 of the City Charter, and shall be followed in all proceedings pursuant to Rule IX.

Section 1. Filing an Appeal

Except as provided in the following Section 6 pertaining to examination appeals, any citizen of the City, or any person subject to Civil Service, may petition the Civil Service Commission through the Chief Examiner alleging violation(s) of the provisions of the Civil Service Rules, or the City Charter, by submitting to the Chief Examiner a signed, written and notarized petition to the Commission within ten (10) calendar days from the petitioner's first knowledge of the alleged violation.

The petition shall include the specific Civil Service Rule or City Charter Section which has been violated; the nature of the alleged violation; when the violation occurred (if known); and the desired corrective action requested of the Commission.

Section 2. Investigation and Hearing

- A. The petitioner shall be notified within 30 days as to the date and time of hearing. The hearing shall be held as expeditiously as possible.
- B. Written notice of the time and place of the hearing shall be sent to the petitioner at least ten (10) days prior to the hearing.
- C. The investigation and/or hearing shall be confined to the determination of whether a violation of the Civil Service Rules or Sections 28-47 of the City Charter has occurred.
- D. The Commission may adopt a Hearings Procedure which shall have the same force and effect as the Civil Service Rules and which shall be used to guide the actual conduct of the hearing. The Hearings Procedure shall be delivered to the petitioner along with the written notice of the time and place of the hearing.

Section 3. Subpoenas

If either the City or petitioner desires to have the Commission issue subpoenas, such request shall be submitted to the Chief Examiner at least ten (10) days prior to the date set for the hearing or investigation. Each party is responsible for the service of the subpoenas which he or she has requested, including any cost of such service. The Chief Examiner is permitted to issue five (5) subpoenas for each party. Requests for additional subpoenas shall be submitted to the Commission in writing, stating the reasons for the additional subpoenas, and only the Commission may authorize the issuance of additional subpoenas. The party on whose behalf the witness is subpoenaed shall tender a witness fee as provided by State law to the subpoenaed witness at the time of service.

Section 4. Hearing Procedure

A. General Information

1. All hearings are open to the public. All testimony shall be taken under oath.
2. The Commission shall cause a tape recording to be made of the proceedings and shall retain all documents and evidentiary materials which shall constitute the official record of the hearing. Any party may, at their expense, cause other records of the proceedings with the permission of the Commission. The official record of the hearing shall be available for public inspection following the issuance of the written decision of the Commission.
3. The petitioner may be self-represented or be represented by counsel or some other person of their choosing.
4. The petitioner will be responsible to provide witnesses or other evidence to prove the alleged violations.
5. The petitioner may request a withdrawal of the allegations at any time. If the hearing is in progress at the time of a withdrawn request, the Commission may grant the request or may deliver an opinion based on evidence on the record.
6. If one of the parties to the hearing fails to appear, the Commission may render a decision based on the evidence before it or continue the hearing.

B. Conduct of Hearing

1. The presiding Commissioner will announce the purpose of the meeting and summarize the basic issue(s) before the Commission. All testimony and evidence submitted shall be restricted to the issue(s) before the Commission at the meeting.

The presiding Commissioner may set reasonable time limits for oral presentations and may exclude or limit cumulative, repetitious, or immaterial testimony and evidence.
2. Hearings are informal and the Commission is not bound by technical rules of evidence. Normally hearsay evidence should be avoided and may not be admitted by the presiding Commissioner.
3. A list of all witnesses will be provided to the Commission and the opposing party by the petitioner and the City three (3) calendar days before the hearing. The petitioner and the City shall provide a minimum of four (4) copies of all documentary evidence at the hearing.
4. Both the petitioner and the City may make an opening statement. If opening statements are made, the petitioner presents their statement first.
5. The petitioner shall present their case to prove the alleged violations. The City may cross-examine witnesses. The City shall present its case to refute

the alleged violations. The petitioner may cross-examine witnesses. Commissioners may examine witnesses.

6. The Civil Service Commission may continue the hearing for the purpose of receiving additional evidence, if necessary.

Section 5. Commission Findings and Notification of Decision

After receiving evidence presented during a hearing, the Commission may adjourn to discuss the evidence and reach a decision. Upon reaching a decision, the Commission may reconvene and announce its decision orally. The Commission shall transmit its decision in writing within twenty (20) calendar days after the hearing to both the City and petitioner.

The Commission's written decision shall address whether the provisions of the Civil Service Rules or Section 28-47 of the City Charter were violated and, where violations exist, the Commission shall take action as necessary to enforce compliance.

Section 6. Examination Investigations

This section governs all petitions alleging violations of Civil Service Rules or City Charter regulating examinations or investigations. Entry level candidates do not have standing to appeal examinations to the Civil Service Commission.

In the case of such appeals, the Chief Examiner shall delay certification of the eligibility list for that examination in accordance with Rule II, Section 7.

- A. Candidates for examinations may appeal their grades by filing a written petition of appeal with the Chief Examiner within fourteen (14) calendar days after the mailing of the official notification of their grade.

Every petition appealing an examination shall contain the following statements:

1. The specific Civil Service Rule(s) or City Charter section(s) which has been violated.
2. The portions of the examination in which the alleged violations occurred.
3. How the Civil Service Rules or City Charter were violated by the examination.
4. How the petitioners were specifically harmed as a result of the examination.
5. What corrective action is being requested.

The petition shall be signed by the petitioner before submission to the Chief Examiner.

- B. The Chief Examiner shall conduct an investigation and hold a hearing on an appeal of an examination within ten (10) calendar days after receiving the appeal notice unless a later date is selected by mutual agreement with the candidate. If there are multi-appeals filed, the Chief Examiner may consolidate similar appeals and within 30 days of the filing of the appeals conduct a hearing, unless a later date is

selected by mutual agreement with the parties. In addition to the requirements set forth in Section 4, the following procedures will be followed:

1. The hearing of an appeal of an examination grade shall be informal and open to the public. Notice of the hearing will be posted in the affected department.
2. Within 20 calendar days of the conclusion of the hearing, the Chief Examiner shall transmit in writing the Findings and Conclusions to the petitioner and the Commission.
3. Where no appeal of the Chief Examiner's Findings and Conclusions are submitted, the Commission shall consider the appeal closed and shall adopt the Findings and Conclusions of the Chief Examiner as final and binding on the petitioner at its next scheduled meeting.
4. If the petitioner or any other candidate does not agree with the Findings and Conclusions of the Chief Examiner, the petitioner may appeal to the Civil Service Commission. Other candidates may appeal score miscalculations to the Chief Examiner. The appeal shall be made by filing a written notice with the Chief Examiner within ten (10) calendar days after receipt of the Chief Examiner's findings.
5. The appeal of the Chief Examiner's Findings and Conclusions shall include the following information:
 - a. An explanation of why the Findings and Conclusions of the Chief Examiner do not uphold the provisions of the Civil Service Rules or City Charter alleged to have been violated.
 - b. Identification of new documentary evidence or testimony not included in the Chief Examiner's hearing record.
 - c. An explanation of why the new evidence or testimony is relevant and necessary to be included in the appeal record.
6. Appeals of the Findings and Conclusions of the Chief Examiner shall be heard upon the record created before the Chief Examiner. No new factual evidence shall be brought for consideration before the Commission, unless the Commission finds that such new factual evidence is relevant and necessary to make a final ruling on the appeal. In such event, the Commission may refer the new evidence to the Chief Examiner for further investigation, or it may receive and hear such evidence directly.
7. The Commission shall review the record created by the Chief Examiner at or before its next scheduled meeting. At that next scheduled meeting the Commission shall clarify the issue(s) for appeal and determine the admissibility of new evidence or testimony not presented at the Chief Examiner's investigative hearing.

The Commission shall determine whether a separate hearing on the appeal is required. If the Commission determines that a separate hearing is not

required, it shall complete its investigation of the appeal and issue a written decision within 15 calendar days of its meeting, in accordance with Section 5 of this Rule. The Chairperson or Commissioner presiding at the hearing shall sign the Commission's Findings.

If the Commission determines a separate hearing is required, it shall determine the issue(s) which may be heard at the hearing and shall set a hearing date within thirty (30) days of its meeting, or as soon as possible after the 30 days. The Commission shall further direct the Chief Examiner to notify the petitioner ten (10) days in advance of the hearing of the issues to be presented at the hearing, and the date and location of the hearing.

Following the hearing, the Commission shall issue a written decision within twenty (20) calendar days of its meeting in accordance with Section 5 of this Rule. The Chairperson or Commissioner presiding at the hearing shall sign the Commission's Findings.

8. If the decision of the Commission results in a change in the examination grade(s) of one or more candidates, the Chief Examiner shall immediately determine if such change affects the position of candidate(s) on an eligibility list and shall adjust the eligibility list accordingly.

G:\\CS Rules updated Oct.2005, 8-08.doc