



# Civil Service Rules

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## **RULE I - QUALIFICATIONS**

**Section 1. Fire Service Qualifications.** All persons seeking appointment to the fire service shall meet the minimum qualifications, which include:

- A. Fire Fighter EMT-Basic. Applicants for entry level fire fighter EMT-Basic 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. Emergency Medical Certification: Possession of a current certification as a current Oregon Emergency Medical Technician-Basic (EMT-B) certification or higher; or National Registry certification as a EMT-Basic or higher and the ability to qualify for State of Oregon reciprocity; or possession of EMT-B or higher from another state and be able to qualify for State of Oregon reciprocity; or possess the ability and qualifications to obtain an Oregon EMT-B within six (6) months after the date of hire.
  4. Military Service: Honorable discharge from military service, if applicable.
  5. Background and Medical Examination: Successful completion of City background and medical evaluations. Background checks will include, but are not limited to driving record evaluation, criminal records check, and reference check.
- B. 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. 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 six (6) months after the date of hire.
  4. Military Service: Honorable discharge from military service, if applicable.

5. Background and Medical Examination: Successful completion of City background and medical evaluations. Background checks will include, but are not limited to driving record evaluation, criminal records check, and reference check.

C. Deputy Fire Marshal. Applicants for entry level Deputy Fire Marshal 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. Military Service: Honorable discharge from military service, if applicable.
4. Background and Medical Examination: Successful completion of City background and medical evaluations. Background checks will include, but are not limited to driving record evaluation, criminal records check, and reference check.
5. 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 of 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.
6. 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 twenty-four (24) months of appointment as a condition of employment.

**Section 2. Fire Service Promotional Qualifications.** 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.

Candidates for promotion shall meet the minimum qualifications for the position as established by these rules prior to the actual date of the examination unless otherwise indicated.

A. Fire Apparatus Operator/Engineer. Candidates for promotional consideration to the rank of Fire Apparatus Operator/Engineer shall possess the following minimum qualifications:

1. Possession of the qualifications of fire fighter EMT-basic (as outlined in Rule I, Section 1.A., 1 through 5) or fire fighter paramedic (as outlined in Rule I, Section 1.B., 1 through 5).

2. Two (2) years of current fire service with the Salem Fire Department.
  3. Successful completion of Department of Public Safety Standards and Training (D.P.S.S.T.) for Fire Fighter 1 and 2, and NFPA Apparatus Equipped with Fire Pump (Pumper).
  4. Completion of the Salem Fire Department Career Development program for Fire Apparatus Operator/Engineer.
- B. Fire Captain. Candidates for promotional consideration to rank of Fire Captain shall possess the following minimum qualifications:
1. Applicants shall meet those qualifications set forth in Rule I, Section 1.A., 1 through 5.
  2. Five (5) years of service with the Salem Fire Department.
  3. Completion of the Salem Fire Department Career Development program for Fire Captain.
- C. Fire Battalion Chief. Candidates for promotional consideration to rank of Fire Battalion Chief shall possess the following minimum qualifications:
1. Completion of three (3) years in the classification of Fire Captain, or higher rank, with the City of Salem.
  2. An Associate Degree, or equivalent, from an accredited college or university.
  3. Possession of current Oregon Emergency Medical Technician-Basic (EMT-B) certification or higher.

## **RULE II – EXAMINATIONS**

**Section 1. 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, history, and other qualifications to determine the relative fitness of the candidate.

**Section 2. Examination Announcements.** Announcements for promotional examinations shall be posted in each fire station, and at least one other public place, no fewer than thirty (30) days prior to the date of examination. 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 closing date for filing applications, and any other information the Chief Examiner may consider pertinent.

**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:

- A. If the applicant lacks the qualifications prescribed for admission to the examination as contained in these rules, or as announced in the public notice.
- B. If the applicant took the examination for the position within the preceding six (6) months.
- C. If the applicant is late or fails to complete any portion of the examination process.
- D. If the applicant fails to submit a complete application as indicated in the examination announcement.

**Section 4. Scoring of Examinations.**

- A. Scoring of examinations shall be based on point scales. The Chief Examiner shall establish minimum scores required to be placed on an eligibility list.
- B. Applicants may be required to obtain minimum scores for separate components of the examination in order to receive passing grades, or to be eligible to be scored on the remaining components of the examination.
- C. The final earned score of each applicant shall be determined by adding the earned score on each component of the examination in accordance with weights established by the Chief Examiner.

**Section 5. Veteran Preference.** Veteran preference points shall be added to passing scores in accordance with Oregon Law (ref. ORS 408.230).

**Section 6. Promotional Examination Boards.** All promotional examinations shall be conducted through the use of examination boards. Members of the examination board shall rate each person taking the examination according to scoring standards established by the Chief Examiner.

Members of the examination board shall designate in ink the final earned score of each candidate taking the examination.

- A. Apparatus Operator/Engineer. Promotional examination boards for the position of Apparatus Operator/Engineer shall consist of a minimum of three (3) evaluators who are Apparatus Operators/Engineers or supervise Apparatus Operators/Engineers.
- B. Captain. Promotional examination boards for the position of Captain shall consist of a minimum of three (3) evaluators who are Captains or supervise Captains. At least one-half (1/2) of the evaluators shall be external to the Salem Fire Department.



- C. Battalion Chief. Promotional examination boards for the position of Battalion Chief shall consist of a minimum of three (3) evaluators who are Battalion Chiefs or supervise Battalion Chiefs, at least one of which shall be external to the Salem Fire Department.

**Section 7. Tie Scores.**

- A. Entrance Examinations. If two or more applicants receive the same final score, placement on entrance eligibility lists will be determined by the date and time the Human Resources Department received the application.
- B. Promotional Examinations. If two or more candidates receive the same final score on a promotional examination, placement on the promotional list will be determined by the date and time the promotional application was received by Human Resources.

**Section 8. Notification of Examination Results.**

- A. Notifications of Scores. Each candidate taking the examination shall be given written notice of the candidate's final score and whether the candidate will be placed on an eligibility list.
- B. Notification of Right to Appeal. Each notification of examination results shall specify the deadline for filing an appeal. The appeal period for all candidates begins on the date the official examination results are provided. Candidates for promotion may appeal their examination results in accordance with the procedures outlined in Rule X.

**Section 9. 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 (2) weeks prior to the effective date.

**Section 10. Promotional Examinations.**

- A. Promotional examinations shall be scheduled when vacancies are expected to occur within the next 24 months.
- B. Where Career Development program completion is required for promotional examination eligibility; changes to the Career Development program will not be made within six (6) months of the date of the promotional examination.

**RULE III – ELIGIBILITY LISTS AND CERTIFICATION**

**Section 1. Eligibility Lists.** The Chief Examiner shall maintain and keep current all eligibility lists.

**Section 2. Entrance Eligibility List.** The entrance eligibility list shall consist of all persons whose score on the examination is greater than the minimum required for a passing score. Persons on the entrance eligibility list shall be placed on the list according to their final scores on the examinations. The entrance eligibility list shall be effective for twelve (12) months and may be extended for an additional six (6) months at a time for a maximum of twenty-four (24) months.

**Section 3. Promotional Eligibility List.** The Promotional Eligibility List shall consist of all persons seeking advancement and whose score on the examination is greater than the minimum required for a passing score. Persons on the Promotional Eligibility List shall be placed on the list according to their final scores on the examinations. Promotional eligibility lists shall be effective for twenty-four (24) months unless exhausted or depleted. Promotional Eligibility Lists shall not be augmented.

**Section 4. Layoff Eligibility List.** Shall be maintained as directed by the collective bargaining contract and Civil Service Rules Rule VI Section 2.

**Section 5. Re-Employment Eligibility List.** The City shall maintain a Re-Employment Eligibility List for employees who resigned from the fire service in good standing.

A. Request for Placement. To be placed on a Re-Employment Eligibility List, the former employee must:

1. Make a written request to the Fire Chief for re-employment within one year of the date of the employee's resignation;
2. Meet the minimum requirements for the position, including appropriate certifications;
3. Prior to the employee's resignation, have completed probation to the position the employee seeks reinstatement; and
4. Receive a written authorization from the Fire Chief approving placement on the Re-Employment Eligibility List.

B. Order of Re-Employment. In the event more than one name appears on the Re-Employment Eligibility List, the individual who requested re-employment earliest shall be first. The Fire Chief shall submit approved names to the Chief Examiner to be placed on the list.

C. Removal from Re-Employment Eligibility List. The names placed on the Re-Employment Eligibility List shall be removed at the end of twenty-four (24) months, unless an extension is approved for an additional six (6) months by the Fire Chief, for a maximum of thirty (30) months.

**Section 6. Certification of Eligibility Lists.** No fewer than ten (10) days after the publication of examination scores by the Chief Examiner, an eligibility list shall be compiled for certification.

- A. Entrance Eligibility List. Entrance Eligibility Lists shall become effective following the publication of the examination scores. Entrance Eligibility Lists shall be kept in effect for an initial period of twelve (12) months. With the approval of the Fire Chief and Chief Examiner, the Entrance Eligibility List may be extended two additional periods of six (6) months each, but in no event shall the entrance eligibility list be effective for more than twenty-four (24) months.
- B. Promotional Eligibility List. Promotional Eligibility Lists shall become effective following the publication of the examination scores, and shall be kept in effect for twenty-four (24) months, unless exhausted or depleted from the effective date thereof. However, if a promotional examination appeal has been filed within the appropriate time period, the Chief Examiner shall not certify the Promotional 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 Fire Chief 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.

**Section 7. Rejection of Names From an Eligibility List.** The Chief Examiner shall reject the names of individuals certified from an eligibility list if the individual fails to meet selection criteria.

**Section 8. Removal of Names From an Eligibility List.**

- A. Removal by Chief Examiner. The Chief Examiner may remove a person from an eligibility list for any one of the following reasons:
  - 1. Certification and appointment of the person.
  - 2. Failure to respond within ten (10) days to a written inquiry relative to the person's availability for appointment.
  - 3. Failure to report for duty within the time specified by the Fire Chief, provided the person has been given sufficient time to give due notice to their present employer.
  - 4. Refusal of an offer of 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 person for consideration of employment or promotion.
9. Rejection by the Fire Chief based on failure to meet selection criteria.

B. Written Notification of Removal. Any person whose name is removed from a list shall be promptly notified in writing by the Chief Examiner of the reason for such removal.

**Section 9. Restoration of Names to Eligibility List.** The names of those persons certified for entry positions to the Fire Chief, but not appointed, shall be restored to the eligibility list in rank order, unless removed from the list in accordance with these rules.

**Section 10. Filling Vacancies.**

- A. Entrance Positions. Whenever a vacancy occurs in an entrance position, the Fire Chief shall notify the Chief Examiner of the vacancy. The Chief Examiner shall provide the current eligibility list following Sections 37 and 38 of the City Charter. The Fire Chief may use a rule of five in appointing certified candidates to the vacant entrance level positions.
- B. Promotional Positions. Whenever a vacancy occurs in a promotional position, the Fire Chief shall notify the Chief Examiner of the vacancy. The Chief Examiner shall provide the current eligibility list following Sections 37 and 38 of the City Charter. If a vacancy occurs, and there is no eligibility list in effect, the Fire Chief may make provisional appointments, which shall only be valid until a new promotional eligibility list is available.

**Section 11. Waiver of Appointment.**

- A. Waiver or Temporary Withdrawal. 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.
- B. Restoration to Eligibility List. 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. A candidate may appeal the Chief Examiner's decision as provided in Rule XI (Appeals, Investigations, and Hearings Concerning All Other Matters).

## **RULE IV – PROBATIONARY PERIOD**

**Section 1. Entry Positions.** The probationary period for entry position employees shall be twelve (12) months.

**Section 2. Re-Employment Eligibility List or Promotional List Positions.** The probationary period for persons appointed from a promotional or re-employment list shall be six (6) months. The promotional probationary period may be extended by the Fire Chief an additional period of time not to exceed three (3) months.

**Section 3. Layoff Eligibility List.** Persons appointed from a layoff list shall serve any remaining portion, if any, of the required probationary period not completed prior to layoff.

### **Section 4. Provisional Appointments.**

- A. Persons appointed from a promotional eligibility list, while serving a provisional appointment, shall have all time served during the provisional appointment credited toward completion of the probationary period.
- B. Persons serving probation in a lower classification and appointed by provisional appointment to service in a higher classification, shall have all time served during the provisional appointment credited toward completion of probation in the lower classification.

## **RULE V – PHYSICAL EXAMINATIONS**

**Section 1. Physical Examinations.** Civil Service employees shall be required to take a physical examination when required by the City.

## **RULE VI – LAYOFF**

**Section 1. Reason for Layoff.** The Fire Chief may lay off an employee because of abolition of position, shortage of funds, or lack of work.

**Section 2. Order of Layoff.** Layoff procedures are subject to the provisions of the appropriate labor contract.

- A. Reduction in Force. 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 (2) 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. Bumping. 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. Reinstatement to Former Position. 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. Seniority. 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.

## **RULE VII – LEAVE OF ABSENCE**

**Section 1. Leave of Absence.** Employees seeking a leave of absence must submit a written request to the Fire Chief. All approvals by the Fire Chief must be in writing.

## **RULE VIII – DISCIPLINARY ACTION**

**Section 1. Types of Disciplinary Action for Unrepresented Civil Service Employees.**

- 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.
- F. Written Reprimand. A written document warning an employee that the employee's actions or inactions did not comport to expectations.
- G. Oral Reprimand. A verbal warning to an employee that the employee's actions or inactions did not comport to expectations.

**Section 2. Notice of Disciplinary Action.** Prior to taking disciplinary action against a career status employee that may result in dismissal, demotion, suspension without pay, or depriving an employee of special privileges, the employee shall be served with a written statement which shall detail the charges, facts, situations, or specific acts or inactions which led to the consideration of disciplinary action.

## **RULE IX – APPEALS, INVESTIGATIONS, AND HEARINGS OF DISCIPLINARY MATTERS FOR UNREPRESENTED CIVIL SERVICE EMPLOYEES**

**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 in writing of the date, time, and place of the hearing, which notice shall occur at least ten (10) days prior to the date of the hearing. The hearing shall be held as expeditiously as possible.

- B. 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.
- C. 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 date, time and place of the hearing.

**Section 3. Subpoenas.**

- A. Issuance of 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. 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.
- B. Service of Subpoenas. Each party is responsible for the service of their requested subpoena(s), including any cost of such service. 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 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) as determined by the Commission. 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 the Oregon Evidence Code during the hearings. However, hearsay evidence, as defined in Oregon Revised Statutes 40.450, should be avoided and may not be admitted by the presiding Commissioner.
3. The City and the employee appealing the discipline shall provide a list of all witnesses to the Commission and the other party by no fewer than 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, or their representative, 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 or their representative 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 Commission may continue the hearing for the purpose of receiving additional evidence, if necessary.

**Section 5. Commission's Decision and Remedial Action.**

- A. Written Decision. After receiving evidence presented during a hearing, the Commission may discuss the evidence and reach a decision. Upon reaching a decision, the Commission may announce their decision orally. Within fifteen (15) calendar days after the close of the hearing, the Commission shall transmit its decision in writing 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.

- B. Remedial 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 Fire Chief.
  2. Other Disciplinary Actions: If the Commission modifies the action taken by the Fire Chief, 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 by the Fire Chief.
  3. Certification of Remedial Action Taken: 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 remedial action ordered by the Commission has been implemented.

## **RULE X – APPEALS, INVESTIGATIONS, AND HEARINGS CONCERNING EXAMINATIONS**

### **Section 1. Petition for Appeal of Examination Results.**

- A. Entry Level Examinations. Entry level candidates may not appeal examinations to the Commission.
- B. Promotional Examinations. Candidates for promotional examinations may appeal their scores by filing a written petition of appeal with the Chief Examiner within ten (10) calendar days after the mailing of the official notification of their score(s).
- C. Petition Requirements. Every petition appealing an examination shall be signed by the petitioner and contain the following:
1. A statement of the specific Civil Service Rule(s) or City Charter section(s) allegedly violated.
  2. A copy of, or reference to, the specific portion(s) of the examination in which the alleged violations occurred.

3. Specific factual allegations detailing how the portions of the examination violated the Civil Service Rules or City Charter.
4. A detailed description of the alleged harm suffered by the petitioner as a result of the alleged violations.
5. The corrective action requested.

**Section 2. Delay of Certification.** Upon the Chief Examiner's receipt of a properly filed appeal, as set forth in Rule X, Section 1, the Chief Examiner shall delay certification of the eligibility list for that examination.

**Section 3. Hearing Before Chief Examiner.**

- A. Investigation and Hearing. 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 multiple appeals filed, the Chief Examiner may consolidate similar appeals and within thirty (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:
- B. Hearing Procedure. The Chief Examiner shall conduct a hearing using the following procedures:
  1. The hearing of an appeal of an examination score shall be informal and open to the public. Notice of the hearing will be posted at all fire stations.
  2. The petitioner will be responsible to provide witnesses or other evidence to prove the alleged violations on which the petition for appeal is based.
  3. Within twenty (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.

**Section 4. Chief Examiner's Findings and Conclusions Final If No Appeal.** Where no appeal of the Chief Examiner's Findings and Conclusions are submitted within the timeframe provided in Rule X, Section 5, the Commission, at its next scheduled meeting, shall consider the appeal closed and shall adopt the Findings and Conclusions of the Chief Examiner as final and binding on the petitioner.

**Section 5. Appeal of Chief Examiner's Findings and Conclusions.** 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 Commission. Other candidates may appeal score miscalculations to the Chief Examiner.

- A. Civil Service Appeal Requirements. To file a Civil Service appeal, the petitioner or other candidate must file a written notice of appeal within ten (10) calendar days after receipt of the Chief Examiner's Findings and Conclusions.
- B. Appeal Requirements. The appeal of the Chief Examiner's Findings and Conclusions shall include the following information:
  - 1. An explanation of why the Findings and Conclusions of the Chief Examiner are incorrect or do not comply with the provisions of the Civil Service Rules or City Charter.
  - 2. Identification of documentary evidence or testimony submitted to, but not considered by, the Chief Examiner, and why such evidence or testimony is relevant and necessary to the Commission, or their designee.
  - 3. Identification of any new documentary evidence not presented to the Chief Examiner during the hearing record. Such new documentary evidence shall only be allowed if the evidence was not available to the petitioner and the cause of the unavailability was not the petitioner.

**Section 6. Review by Civil Service Commission.** At the next scheduled meeting, the Commission shall review the Chief Examiner's Findings and Conclusions and the petitioner's filings. No argument or testimony shall be presented at this time.

- A. Commission to Determine Appeal or Grant Hearing. After concluding its review of the Chief Examiner's Findings and Conclusions and the petitioner's filings, the Commission shall either:
  - 1. Determine the appeal based upon the Chief Examiner's record and the appellant's filings; or,
  - 2. Grant a hearing on the matter.
- B. When Commission Does Not Grant Hearing. If the Commission does not grant a hearing, it shall complete its investigation of the appeal and issue a written decision within fifteen (15) calendar days of its meeting. The Chairperson or Commissioner presiding at the hearing shall sign the Commission's Findings. The Commission shall transmit its decision in writing to both the City and petitioner.
- C. When Commission Grants Hearing. If the Commission grants a hearing, it shall determine the issue(s) to be considered at the hearing and set a hearing date. The hearing date shall

be scheduled within thirty (30) days of its meeting, or as soon as possible after the thirty (30) days. The Commission shall also direct the Chief Examiner to notify the petitioner of the issues to be considered and the date, time, and place of the hearing. The Chief Examiner shall notify the petitioner at least ten (10) days prior to the date hearing.

**Section 7. Hearing Before Civil Service Commission.** The appeal hearing shall be based on the Chief Examiner's Findings and Conclusions and any other issues determined to be under consideration by the Commission, as set forth in the hearing notice.

- A. New Factual Information. No new factual evidence shall be brought for consideration before the Commission, unless the Commission finds that such new factual evidence was not available to the petitioner and the cause of the unavailability was not the petitioner's fault, and that the new evidence is relevant and necessary to make a final ruling on the appeal. If the Commission accepts the new factual evidence, the Commission may refer the new evidence to the Chief Examiner for further investigation, or it may receive and hear such evidence directly.
- B. Written Decision by Civil Service Commission. Following the hearing, the Commission shall issue a written decision within fifteen (15) calendar days of its meeting in accordance with Rule IX, Section 5. The Chairperson or Commissioner presiding at the hearing shall sign the Commission's Findings ten (10) days after the close of the hearing, and the Commission shall transmit its decision in writing to both the City and employee.
- C. When Decision Changes Results of Examination. If the decision of the Commission results in a change in the examination score(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.

## **RULE XI – APPEALS, INVESTIGATIONS, AND HEARINGS CONCERNING ALL OTHER MATTERS**

### **Section 1. Filing an Appeal.**

- A. Petition for Appeal. Any citizen of the City, or any person subject to Civil Service, may petition the 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.

- B. Petition Requirements. The petition shall state the specific section(s) of the City Charter or Civil Service Rules alleged to have 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 person filing the appeal shall be notified in writing of the date, time, and place of the hearing at least ten (10) days prior to the date of the hearing. The hearing shall be held as expeditiously as possible.
- B. The investigation and/or hearing shall be confined to the determination of whether a violation of Sections 28-47 of the City Charter or these Civil Service Rules has occurred.
- C. 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. If adopted, the Hearings Procedure shall be delivered to the petitioner along with the written notice of the date, time, and place of the hearing.

**Section 3. Subpoenas.**

- A. Issuance of 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. 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.
- B. Service of Subpoenas. Each party is responsible for the service of their requested subpoena(s), including any cost of such service. 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. At any time prior to the conclusion of the hearing before the Commission, the petitioner may request that the Commission dismiss the petition. Upon such request, the Commission shall dismiss the petition with prejudice as to the requesting petitioner. If another petitioner has filed a petition on the same or similar issue, the Commission will determine the claims or interests of any remaining petitioners.
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 the Oregon Evidence Code during the hearings. However, hearsay evidence, as defined in Oregon Revised Statutes 40.450, 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, or petitioner's representative, 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 Commission may continue the hearing for the purpose of receiving additional evidence, if necessary.

**Section 5. Commission Decision.**

- A. Written Decision. After receiving evidence presented during a hearing, the Commission may discuss the evidence and reach a decision. All deliberations shall be in open session. Upon reaching a decision, the Commission may announce their decision orally. Within fifteen (15) calendar days after the close of the hearing, the Commission shall transmit its decision in writing to both the City and the petitioner.
- B. Remedial Action. The Commission's written decision shall address whether the provisions of Sections 28-47 of the City Charter or these Civil Service Rules were violated and, where violations exist; the Commission shall take action as necessary to enforce compliance.