

# Rules & Regulations of the Civil Service Board

Human Resources Department

~~July 1999~~ \_\_\_\_\_ 2015



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## ARTICLE I NOTIFICATION AND ADVERTISING OF POSITIONS, APPLICATIONS AND JOB QUALIFICATIONS

### SECTION 1. NOTIFICATION OF POSITION

The appointing authority who desires the City to hire an employee shall direct a request for filling any position to the office of the Director of Human Resources who shall certify ~~in writing~~ the title, class, duties and compensation for such position.

### SECTION 2. ADVERTISING OF POSITIONS

Advertising for applicants shall be conducted in conformance with the law and as directed by the City Manager.

### SECTION 3. PREFERENCES

- A. Among equally qualified applicants, preference shall be given to City employees utilizing the following order:
- a. City employees currently unemployed as a result of City ~~lay-off~~ reduction in force.
  - b. City employees with greater seniority, and ~~superior~~ satisfactory performance.
- B. Veterans of the armed forces of the United States as defined by law who present an honorable discharge shall be granted such preference as ~~is~~ required by law.

### SECTION 4. QUALIFICATIONS

- A. Generally, in order to be considered a qualified applicant, the individual must:
- a. timely file application;
  - b. meet the minimum qualifications as set forth in the job;
  - c. not be otherwise barred by the rules and regulations of this Board, as set forth herein.
- B. **RESIDENCE.** Any person applying for City employment or employed by the City shall meet all residency requirements established by Ordinance by the City

Council. ~~—~~ Exceptions to such requirements may be granted by the City Manager, as provided by Ordinance.

**C. PHYSICAL FITNESS OF APPLICANTS.** Upon a bona fide job offer, each applicant for a City position must be examined by a Physician designated by the City, and must be certified to be physically and mentally capable of safely and fully performing all of the essential functions of the job being offered; if the applicant is covered by the Americans ~~With~~with Disabilities Act, he/she must be physically and mentally capable of safely and fully performing the essential functions of the job offered with a reasonable accommodation if such ~~a~~ reasonable accommodation is required.

**D. DISQUALIFICATION.** An Applicant may be disqualified who:

(1) is found to lack any of the established requirements for the position for which he/she applies; (2) is determined by the physician designated by the City to be unable to safely and fully perform the essential functions of the position for which he/she applies, and if covered by the Americans ~~With~~with Disabilities Act, ~~it~~is determined to be unable to safely and fully perform the essential functions of the position with a reasonable accommodation and ~~without posing a direct threat to the health or safety of other individuals does not pose a direct threat of significant current risk of substantial harm to self or others~~; (3) is found to have been guilty of any crime reasonably likely to have an adverse job related impact; (4) has been dismissed from employment with the City for inefficiency, misconduct, or violation of the rules and regulations of ~~this Board or of~~ the Civil Service ~~Commission~~Board; (5) has made a false statement of any fact or has practiced or attempted to practice any deception or fraud in his/her application, examination, in establishing his/her eligibility for appointment, promotion or transfer, or inaccurately and incompletely provided responses to post-offer medical history information requests; (6) has documented past conduct which indicates an unreasonable risk that the applicant will be an unsatisfactory employee; or (7) any combination of the above.

Disqualifications shall be certified by the Director of Human Resources or the Director's designee.

Any of the foregoing disqualifications may be cause for striking the individual's name from an eligibility register and for voiding that person's appointment during or after the probationary period.

**E.** There shall be no right to a hearing on the qualification of an applicant.



## ARTICLE II EXAMINATION

### SECTION 1. EXAMINATION GENERALLY

Examinations shall be designed to fairly test the applicant's ability to safely and fully perform the essential functions of the position for which application has been made, or to perform them with reasonable accommodation if required by the Americans ~~With~~with Disabilities Act. Such examinations shall test both general knowledge and job knowledge and qualifications specific to the position for which application is made. Applicants requesting reasonable accommodation to take an examination shall receive such reasonable accommodation as the City is able to provide if it does not cause undue hardship as provided for in the Americans ~~With~~with Disabilities Act. No question on any exam shall relate to political or religious convictions or affiliations of the applicant, or to any other issue which could be the basis for unlawful discrimination.

### SECTION 2. CONTENT OF EXAMINATIONS

Examination for entrance into the service and promotion within the service shall consist of one or more of the following parts as considered appropriate for the various classifications of positions:

- A. **WRITTEN TEST.** This part, when required by a ~~e~~Department head ~~Director~~ and approved by the Director of Human Resources, shall be designed to show the familiarity of the applicants with the knowledge needed to perform the essential functions of the position to which they seek appointment.
- B. **ORAL INTERVIEW.** This part, when required by City ~~Policy Procedures~~ and approved by the Director of Human Resources, shall be to determine an applicant's ability to deal with others, meet the public, or personal qualifications required to perform the essential functions of the position for which he/she applied. An oral examination may also be used, either where a written test is unnecessary or impracticable, or as a reasonable accommodation.
- C. **PERFORMANCE TEST.** This part, when required by the ~~e~~Department head ~~Director~~ and approved by the Director of Human Resources, shall include such tests of performance as will determine the ability and skill of applicants to perform the essential functions involved in the position to which they seek employment.
- D. **PHYSICAL AND HEALTH TESTS.** After an offer of employment has been made, and as a condition of employment, each applicant shall be examined by physician(s) designated by the City to determine: (1) the applicant's ability to safely and fully perform the essential functions of the job for which he/she has

applied; or ~~(2) if covered by the Americans With Disabilities Act,~~ to perform ~~them the essential functions of the job~~ with reasonable accommodation ~~without posing a direct threat to the health and safety of other individuals. if required by the Americans With Disabilities Act, and to determine whether a direct threat of significant current risk of substantial harm to himself, herself or others exists without posing a direct threat to the health or safety of other individuals.~~ Results of such examination shall be reported to the Department of Human Resources on its approved form. As part of the medical examination, an applicant may be required ~~to see a specialist and participate in functional capacities tests as deemed necessary by the Director of Human Resources.~~ If the applicant is accepted for employment, related medical information shall be kept in a confidential file separate from the employee's employment record.

- E. ADAPTABILITY AND APTITUDE TESTS.** This part, when required, shall include tests to determine general adaptability or to ascertain special traits and aptitudes.
- F. TRAINING AND EXPERIENCE.** This part shall consist of questions on education and experience in the application form and of such supplementary data as may be needed for certification and proof of statements made in the application, or it may consist of questions on training and experience asked at the time the written tests are given.

### SECTION 3. DIRECTION OF EXAMINATIONS

Preparation, conduct and evaluation of all written examinations shall be under the general authority and direction of the Director of Human Resources ~~Department~~, or designee. Such preparations would include and allow for the purchasing of tests from a third party qualified to construct job knowledge or aptitude tests. Examinations shall be free from the presence, participation or influence of any person other than the authorized examiner or proctor.

### SECTION 4. SPECIFICATION OF JOB REQUIREMENTS

Department ~~Heads~~ Directors shall furnish a specific and comprehensive written job ~~analysis-description~~ questionnaire on the physical and mental requirements of each classified position in their department which identifies the essential functions of that specific position. It shall be the responsibility of the Human Resources Department to finalize and approve job descriptions for all Classified positions within the City from job ~~analysis-description~~ questionnaires prior to the position being advertised.

### SECTION 5. REVIEW

The Civil Service Board, or Civil Service Board designee, may hear and inquire into any

material violation of the provisions of this Article which is brought to its attention through the Director of Human Resources within 10 days of the examination. Where a violation is proven to the satisfaction of the Civil Service Board or Civil Service Board designee, the Civil Service Board or Civil Service Board designee may:

1. order a re-examination of applicants for any position; or,
2. correct, amend or revoke any schedule or register or other document relating to such examination.

Any such action and the reasons therefore shall be recorded in the minutes of the Board.



## ARTICLE III

### APPOINTMENTSELECTION

#### SECTION 1. REFERRAL OF QUALIFIED APPLICANTS

After proper evaluation and due consideration of other appropriate factors including, but not limited to, ~~affirmative action policies~~ equal employment opportunity policies and qualified personnel within the City, the Director of Human Resources, or designee, shall refer ~~a sufficient number of~~ qualified applicants for classified positions to the appointing hiring authority for consideration. ~~Appointment Selections and Hiring to positions~~ shall be made pursuant to standard instruction issued by the City Manager. The Director of Human Resources, or designee, shall determine that the appointing hiring authority has given due consideration to such factors as job related qualifications, employment history, applicable ~~affirmative action policies~~ equal employment opportunity policies, preferences, and reasonable ~~accommodations~~ accommodation. ~~—~~The Director of Human Resources, or designee, shall certify all appointments selections to the Director of Finance in order that the appointee selected applicant may be placed on the payroll.

#### SECTION 2. AUTOMATIC DECLINE OF APPOINTMENTSELECTION

When ~~an a selected~~ applicant ~~recommended for appointment~~ fails to notify the appointing hiring authority of acceptance of the appointment selection, whether by mail or otherwise, within four business days after the offer is made, they may be deemed to have declined the appointment offer, and their name may be stricken from the ranking of applicants.

#### SECTION 3. PROBATIONARY PERIOD

The probationary period applies to both newly hired and rehired employees. The probationary period shall be six calendar months of full-time service for full-time employees, except that full-time ~~Public Safety Dispatcher Trainee positions that require on-the-job training including but not limited to Crime Scene Investigator, Firearms Examiner, Latent Print Examiner, MetroCom Technician~~ 911 Dispatcher, MultiMedia Specialist and Aviation Public Safety Officer Trainee job classifications shall have a probationary period of 12 ~~calendar months~~ calendar months. ~~For purposes of this provision only any break in service, other than the use of accrued sick leave, shall not be included in calculating the probationary period. In the situation where the number of days of breaks in service exceeds 45 cumulative working days, calculation of the probationary period shall begin anew as of the first day of return to work after the 45th working day missed.~~ For the purposes of this provision only, absences charged against accrued sick leave will not extend the probationary period. All other absences will extend the probationary period by the period of time equivalent to the time taken.

In any instance where an employee's probationary period is unsatisfactory, the ~~d~~Department ~~head~~ Director and the employee may agree, prior to the expiration date of the probationary period, and with the written approval of the Director of Human Resources, to an extension for an additional period of up to six months. ~~E~~except that Public Safety Dispatcher Trainee, Crime Scene Investigator, Firearms Examiner, Latent Print Examiner, MetroCom Technician, 911 Dispatcher, MultiMedia Specialist and Aviation Public Safety Officer Trainee or any other positions classified as a 12 month probation may be ~~probationary employee~~ extended ~~sion\_s may be~~ up to 12 months to allow for completion of all training modules. ~~The probationary employee may be evaluated at any time during the extension.~~

#### **SECTION 4. CLASSIFIED EMPLOYEE**

The Classified Service includes all positions not exempted in this Subsection Section 39-304 of the City's Code of Ordinances. The following positions are exempt from the Classified Service and, therefore, are not covered by Rules and Regulations of the Civil Service Board:

- A. All positions within the following pay plans: Pay Plan 200 (Exempt), Pay Plan 300 (Executives).
- B. All positions in the Mayor's Office, City Secretary's Office, and City Auditor's Office.
- C. Any position that functions as the principal secretary or assistant to the City Manager, Deputy City Manager, Assistant City Manager, Executive Director, Municipal Court Judge, Department Director, Assistant Department Director, City Secretary, City Attorney, Assistant City Attorney.
- D. Temporary employees.
- E. All members of the Police and Fire Collective Bargaining Unit.

Any employee serving in a Classified Service position is covered by the Rules and Regulations of the Civil Service Board.

**ARTICLE IV**  
**DISCIPLINARY SUSPENSION, INVOLUNTARY DEMOTIONS,**  
**TERMINATIONS, INVOLUNTARY DEMOTIONS AND APPEALS**  
**THEREFROM**

**SECTION 1. GENERALLY**

~~Whenever~~ In matters involving a disciplinary suspension, involuntary demotion or termination against a classified employee, **who has completed the probationary period described above in Article III, Section 3. is completed**, the following steps shall be taken:

- I. The employee shall be informed in writing that the disciplinary suspension, involuntary demotion or termination is being contemplated, and the reasons therefore; and
- II. The employee shall be given an ~~effective~~ opportunity to respond to the charges set forth in Subsection I, of this section, to the disciplinary authority, at a rebuttal meeting or in writing; and
- III. Notice of suspension, involuntary demotion or termination shall be ~~personally~~ delivered to the employee or the employee's ~~designee~~ designated representative. If personal service delivery is unsuccessful, the notice of suspension, involuntary demotion or termination ~~or~~ shall be mailed by certified mail, return receipt requested, to the employee's last known address as noted in the employee's file in the Human Resources Department or if provided, to the employee's designated representative's address.

Any employee interviewed in reference to a City investigation shall answer all questions related to the matter under investigation completely and truthfully. Employees that are called by the City for an interview have the right to the presence of a union official, attorney, or representative of the employee's choosing at the employee's expense. The accused employee's representative may be present during the fact-finding meeting with the accused employee. The representative may be present during the entire fact-finding meeting as an observer only and will not be permitted to interrupt nor engage in disruptive behavior. A representative from the City Legal Department will also be allowed to be present during interviews of employees. No representative or employee may be present during fact-finding interviews with other employees, unless required by law.

The accused employee will be allowed one representative of his or her choosing during the rebuttal meeting or fact finding interview.

**SECTION 2. DISCIPLINARY SUSPENSIONS, AND INVOLUNTARY DEMOTIONS, AND TERMINATIONS**

~~Temporary disciplinary~~ Disciplinary suspensions without pay, involuntary demotions and termination and demotions may be imposed, for cause, by Department ~~Heads~~ Directors with the approval of the City Manager or ~~the Manager's designee, or by the City Manager's designee independently, upon subordinate classified employees.~~ Notice of such suspension, involuntary demotion or termination, or demotion, setting out the action taken, the effective date of such action, and the reason therefor, shall be promptly given in writing to the Board and to the employee. The employee may appeal such action as set out in Section 3, below.

### SECTION 3. APPEAL

**A. NOTICE Request for appeal.** ~~\_\_\_\_\_~~ \_\_\_\_\_—Appeal of disciplinary suspension, involuntary demotion or termination or demotion must be given in writing by the employee or the employee's ~~designee~~ designated representative to the Director of Human Resources within ten (10) calendar business days after such written notice of disciplinary suspension, involuntary demotion or termination or demotion is given to the employee. Failure to request in writing an appeal within ten (10) business days of receiving notice of disciplinary suspension, involuntary demotion or termination is a waiver of the appeal. Upon waiver of appeal, disciplinary suspension, involuntary demotion or termination is final without any further rights to appeal.  
~~—If the tenth (10<sup>th</sup>) calendar day falls on a Saturday, Sunday, or designated City holiday, the notice of appeal may be filed with the Director of Human Resources on the next day following the weekend or City designated holiday. Requests of the employee, or the employee's designee, to subpoena witnesses or documents for the hearing must be received with the appeal notice or be provided within 5 working days following the date of the notice. Failure to make such requests in a timely manner may result in witnesses or documents not being present at the hearing.~~

#### **B. Discovery**

- 1. Subpoena, discovery.** The Civil Service Board may issue Subpoena and order discovery in any investigation or hearing under these rules. The Civil Service Board makes a non-exclusive delegation of such authority to the Director of Human Resources to issue Subpoena on its behalf, subject to the terms and limitations of these Rules. Subpoena for the production of witnesses or documents at an Appeal hearing shall be issued on a form as specified by the Director of Human Resources. The Director of Human Resources shall retain a copy of each Subpoena issued and make such copy a part of the records of the Civil Service Board.
- 2. Requests for Subpoena or production of documents.** An Employee, Department Director or legal representative thereof may request Subpoena for appearance of witnesses and production of documents at an Appeal hearing. Subpoena may be requested with the appeal notice or

within 10 business days before the hearing date. A request for Subpoena or production of documents shall be made on a form as specified by the Director of Human Resources. The Director of Human Resources shall mark all such requests received to indicate the date the request was received, and shall make all such requests a part of the records of the Civil Service Board. Once Subpoena requests have been submitted to the Director of Human Resources, a party may pick up a copy of the other party's Subpoena list.

- 3. Texas Public Information Act.** The Texas Public Information Act (codified at Texas Gov't Code Chapter 552) requires a governmental entity to request an open letter ruling from the Texas Attorney General prior to withholding information that is excepted from required disclosure. The City, Department or designated representatives shall not release any information that is excepted from required disclosure under the Texas Public Information Act. The Civil Service Board may not order the release of any information that is excepted from required disclosure under the Texas Public Information Act.

### **C. SUBMISSION OF DOCKET CONTROL**

- 1. Employee's Submission.** The Employee's submission shall include information listing the reasons for Appeal, list of names of witnesses the Employee intends to call at the hearing, list of written statements the Employee intends to offer under these Rules, and any documents the Employee intends to provide as evidence at the hearing. The submission shall be made using a form as specified by the Director of Human Resources. The submission must be made within 5 business days of an appeal. Such submission may be amended at any time up to 10 business days prior to the appeal hearing.
- 2. Department's Submission.** —The Department's submission shall include information about the issues for Appeal, list of names of witnesses the Department intends to call at the hearing, list of written statements the Department intends to offer under these Rules, and any documents the Department intends to provide as evidence at the hearing. The submission shall be made using a form as specified by the Director of Human Resources. The submission must be made within 5 business days of employee's submission of docket control. Such submission may be amended at any time up to 10 business day prior to the appeal hearing.
- 3. Access to Hearing Information Submissions.** —Once hearing information has been submitted to the Director of Human Resources, the Director of Human Resources will notify the parties that the submissions are available to be picked up. At the hearing, the Director of Human

Resources shall provide the Civil Service Board with any Hearing Information submissions received from either party.

**4. Rebuttal Submissions.** A Rebuttal Submission may be submitted in writing to the Director of Human Resources no later than 5:00 p.m., five (5) Business Days prior to the hearing. A Rebuttal Submission shall be available to the other party as soon as it has been submitted. If either party does not provide an initial submission, that party is not permitted to submit a Rebuttal Submission unless that Submission is to provide documents received after the initial submission deadline.

**5. Objection to Witnesses and Documents.** A party may object at a hearing to the presentation of any witness or document by the other party that was not submitted to the Director of Human Resources in compliance with this Rule. Upon such objection, the Civil Service Board shall exclude any witness or document by the other party that was not submitted to the Director of Human Resources in compliance with this Rule.

**D. PREHEARING.** Either party may request a prehearing before the Civil Service Board to rule on the relevance and admissibility of evidence or testimony provided in the docket control. A prehearing shall precede and replace any scheduled hearing. The scheduled hearing on the merits will be rescheduled for a new hearing date no later than 30 days from the prehearing. Where no hearing date existed, a hearing date will be scheduled within 30 days of the prehearing.

**BE. HEARING.** If the Director of Human Resources determines ~~that~~ an appeal ~~notice~~ has been timely filed, the Director of Human Resources shall schedule a hearing within ~~20 working~~ thirty (30) calendar days thereafter. The disciplinary action will not be voided by a failure to commence the hearing by a particular date unless otherwise determined at the discretion of the Civil Service Board. Hearings shall require the presence of 3 Civil Service Board Members. Hearings may be recessed and continued from time to time.

**CF. NOTICE OF SETTING.** Notice of setting shall be posted publicly as required by state law and given to the employee or the employee's ~~designee~~ designated representative, the City Manager, the Board, and the appropriate disciplinary authority.

**DG. DECISION.** The Board's decision will determine the truth of each charge and the remedy decided upon. Decisions shall be based upon majority vote of the Board members present at the hearing. ~~After the hearing is concluded~~ Once the Board orders the hearing closed, the Board shall deliberate and subsequently announce a decision on the appeal. ~~Upon a tie vote, the appeal shall be considered~~

~~granted.~~

**EH.** **FINALITY.** In all appeals of disciplinary actions, the decision of the Board shall be final unless appealed to the City Council within thirty (30) calendar days from when the rendition of the Board's renders its decision, if expressly permitted by the City Charter or ordinance.

**FI.** **REINSTATEMENT.** In all decisions requiring reinstatement, the Board shall be authorized to determine the effective date for such reinstatement, and the amount of back pay, if any.

**GJ.** **MITIGATION.** It is the duty of the employee to mitigate damages, if any, and failure to do so will be considered in determining what back pay, if any, is due. In appeals, where a decision of reinstatement with back pay is made, evidence on the issue of mitigation shall be heard separately after the reinstatement decision.

**HK.** **REMEDIES.** The Board may uphold, modify or nullify the action imposed by the disciplinary authority. In decisions to modify the discipline imposed, the Board may elect to:

1. reduce a termination to a suspension, involuntary demotion or written reprimand.
2. reduce a suspension to a lesser suspension, a-involuntary demotion or a written reprimand.
3. reduce a-an involuntary demotion to a-temporary suspension or a-written reprimand.

**L.** **FAILURE TO APPEAR.** The failure of employee to appear for a scheduled hearing without providing notice to the Director of Human Resources is a waiver of the appeal. Upon waiver of appeal, disciplinary suspension, involuntary demotion or termination is final without any further rights to appeal.

#### **SECTION 4. CONDUCT OF HEARINGS**

**A.** **TIME OF HEARING.** Hearings may be recessed upon motion of a party or a member of the Board with the approval of the majority of the Board present. No hearing shall be conducted, in any part, between the hours of midnight and 8 a.m.

**B. BURDEN OF PROOF ~~AND ORDER OF APPEARANCE AND PRESENTATION.~~**

The City shall have the burden to prove the truth of the misconduct by preponderance of the evidence.

~~\_\_\_\_\_~~ The burden to prove collateral defenses, such as excessive discipline, discrimination or procedural error, shall be on the appellant. The standard of proof for collateral defense is preponderance of the evidence.

~~\_\_\_\_\_~~ The burden of proof is a preponderance of the evidence presented at the hearing. With the burden of proof goes the right to open and close arguments to the Board.

**C. ORDER OF CONDUCTING HEARINGS.** Proceedings in a hearing shall be conducted in the following order unless otherwise determined by the Board:

1. The hearing shall be called to order by the chair or presiding officer.

2. The Board may address any administrative issues it determines appropriate, such as clarification of issues, sequestering of witnesses, agreements between the parties, scheduling, or other matters.

3. The Board shall permit the parties to make an opening statement concerning the Appeal. The City shall go first, followed by employee or representative.

4. The City shall present its witnesses and other evidence first, and then the employee or representative shall present his/her witnesses and other evidence.

5. The parties may present any further rebuttal evidence permitted by the Civil Service Board.

6. The Board shall permit the parties to make a closing statement. The City shall go first, followed by employee.

7. The chair or presiding officer shall announce the close of the hearing, after which no further evidence or argument may be offered or considered.

8. The Board shall deliberate as a group as provided in these Rules, and consider and evaluate the testimony and other evidence offered by the parties.

9. The Board may adjourn its deliberations at any time as determined by a majority vote in open session of the Board to the following regular business day. If a meeting continued to the following regular business day is again continued to another day, the Board must give notice of the meeting's continuance to the other day.



10. The Board shall decide the issues in the Appeal in closed session and announce its decision in open session.

**CD. GENERAL PROCEDURE.**

1. **OATHS.** All testimony or statements of any type shall be presented under oath. The oath may be administered by the presiding officer, or any notary public.

~~In conformity with administrative law generally, it will be necessary for attorneys who wish to make statements testify to also take the oath.~~

2. **THE EXCLUSION OF WITNESSES.** ~~If requested, the procedure of "invoking the rule" is to be followed and w~~Witnesses will be excluded from the hearing proceedings, except while testifying, during testimony of other witnesses with instructions not to discuss the case except with attorneys for each side. Violation causes automatic exclusion of that witness. Exclusion of witness does not apply to the appealing employee or the designated City Department Representative.

3. **RULING.** The Board, if requested, shall deliberate in open meeting in accordance with the Texas Open Meetings Law Act and take action by motion and second as in other matters.

**DE. EVIDENCE OF PARTIES.**

1. **Admissibility.** Evidence will be admitted if it is of that quality which responsible-reasonable and prudent persons are accustomed to rely on ~~in the conduct of serious affairs when handling serious matters~~. It is intended that needful and proper evidence shall be produced conveniently, inexpensively and speedily, while preserving the substantial rights of the parties to the proceeding. Technical rules of legal and court procedure do not apply. The presiding officer rules on the admissibility of evidence. If any other member of the Board conducting the hearing so requests, the presiding officer shall consult with the other members on any ruling made or before making the ruling and a majority vote will resolve any disputed evidence.

2. **STIPULATION.** Evidence may be stipulated by Agreement of all parties in interest appearing at the hearing.

3. **TESTIMONY SHALL BE PERTINENT.** The testimony shall be confined to the subject matter contained in the disciplinary action that is being appealed; in the event that any party pursues a line of interrogation of a

witness that is ~~clearly~~ irrelevant, incompetent or immaterial, the presiding officer may terminate that line of interrogation. If any other member of the Board conducting the hearing so requests, the presiding officer shall consult with the other members on any ruling made or before making the ruling and a majority vote will resolve any disputed evidence.

4. **LIMITING NUMBER OF WITNESSES.** The presiding officer may limit the number of witnesses appearing at the hearing when the testimony will be merely ~~cumulative-repetitive~~.
5. **OBJECTIONS AND EXCEPTIONS.** ~~Formal exception~~ If a party objects to the ruling of the presiding officer ~~is not necessary. It, it~~ is sufficient if the party, at the time the ruling is provided made, or sought makes known to the presiding officer the actions desired.
6. **TIME CONSIDERATIONS FOR PRESENTING EVIDENCE.** Unless otherwise permitted by the Civil Service Board for good cause, each party shall have one hundred twenty (120) minutes to present that party's witnesses and evidence in a hearing, and to question the witnesses presented by the other party. This time period does not include any time permitted by the Board for opening or closing statements and does not include any time expended through questioning by the Board of either party's witnesses or additional direct or cross-examination of witnesses by the parties based on questioning by the Civil Service Board.

## **EF. REPORTING THE HEARING.**

1. **HEARING BEFORE THE BOARD.** The hearing shall be recorded by ~~tape~~ audiotape or a combination of audio and video, including a disc, tape, wire, film, electronic storage drive or other medium now existing or later developed, unless the Board determines in its discretion that recording of the hearing by a certified court reporter ~~and preparation arise~~ needed. In this event, the testimony shall be recorded by a certified court reporter.
2. **TRANSCRIPT.** If a hearing is recorded by a certified court reporter engaged in or appointed by the Board, and a copy of the transcript or testimony is ordered by the Board or a party, the testimony shall be transcribed and the original transcript filed with the papers in the proceeding. Copies of the transcript of testimony of any hearing thus reported may be purchased from the certified court reporter at the requesting party's own expense.
3. **AVAILABILITY OF ELECTRONIC RECORDING.** The Board does not prepare transcriptions for the public of hearings recorded electronically on Board equipment, but will arrange for a party in interest to have access to

the electronic recording.

4. **RECORDING BY A PARTY.** Subject to availability of space, any party in interest, at his/her own expense, may arrange for a certified court reporter to report the hearing from an electronic recording of the hearing.

## **FG. EXHIBIT**

1. **REQUIREMENT FOR EXHIBITS.** Exhibits of documentary character shall be of a size which does not unduly encumber the files and records of the ~~Commission or~~ Board. Except for maps and drawings, the sheets of each exhibit shall not be more than 8 1/2 inches by 14 inches and numbered. Exhibits shall be limited to facts which are relevant and material to the issue involved in the particular proceeding.
2. **INTRODUCTION OF EXHIBITS.** ~~The original exhibit or a certified copy of each exhibit offered shall be tendered to the presiding officer for marking. Exhibits (original or true and correct copy) shall be offered to the presiding officer for admittance in the record. One copy of the exhibit shall be furnished for use of the opposing counsel or parties. A copy of the exhibit shall be provided to each of the Board members, the Director of Human Resources or designee, and the opposing party/counsel.~~ If the exhibit is admitted into evidence, the original or certified copy shall be made a part of the record of the proceeding, but leave may be granted to withdraw and substitute a copy therefore.
3. **EXCLUDING EXHIBITS.** In the event an exhibit has been identified, objected to, and excluded, the presiding officer shall determine whether the party offering the exhibit desires to withdraw the offer, and if so, shall permit the return of the exhibit to him/her. If the excluded exhibit is not withdrawn, it shall be given an exhibit number of identification and be included in the record for the purposes only of preserving the exception, together with the ruling thereon.
4. **DOCUMENTS IN CITY FILES.** Any matter of official record in the City's files and records, if material and relevant, may be incorporated by reference by parties in interest, if the matter is specifically identified at the hearing so as to put all parties on notice and if no party in interest is deprived of the material right of cross-examination.
5. **ABSTRACTS OF DOCUMENTS.** When documents are numerous, the presiding officer may elect to receive in evidence only those which are typical and representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. However, before making this requirement, ~~this~~ the presiding

officer shall see that all parties in interest who have made an appearance are given the right, upon request, to examine the documents from which the abstracts were made.

- 6. EXHIBITS OFFERED AFTER HEARING CLOSED.** Unless authorized by the Board, a party may not file an exhibit as part of the proceeding after the hearing has been closed. The presiding officer shall provide the opportunity for interested parties to view any exhibit authorized to be filed by a party after the hearing has closed.

#### **GH. ARGUMENTS AND BRIEFS**

- 1. ORAL ARGUMENTS.** Oral arguments may be allowed by the Board upon request by a party, but a reasonable time limit shall be fixed by the Board, with equal time given to each side.
- 2. BRIEFS.** Prior to the closing of the hearing and upon request of the parties in interest, the Board may authorize the presentation-submission of briefs.

#### **HI. ACTION AFTER HEARING ~~CONCLUDED~~ CLOSED**

1. At the conclusion of testimony and other oral arguments~~s~~ offered at a hearing before the Board, a hearing is ordered closed. The Board may then close the record or keep it open for the submission of briefs and exhibits.
2. In conformity with the Texas Open Meetings ~~Law~~ Act, the Board and members thereof, in the event a decision is postponed for the submission of briefs, or otherwise, will only discuss and consider this matter in open meeting after posting notice in conformity with State Law.
3. **DECISION.** The decision of the Board will be based ~~on findings~~ on the evidence presented.

### **SECTION 5. CAUSES FOR DISCIPLINE**

The following shall be cause for disciplinary suspension, involuntary demotion or ~~discharge-termination~~ against a classified employee, if, in the opinion of the disciplinary authority, the employee:

1. has been convicted of a felony or misdemeanor involving moral turpitude;
2. has committed a felony or a misdemeanor involving moral turpitude whether the employee has been indicted or found guilty in a criminal proceeding or not;

3. has willfully, wantonly, or through culpable negligence, been guilty of brutality or cruelty to an inmate or prisoner of a City institution or to a person in custody;
4. has violated any of the provisions of the City's ~~code of ethics~~ **Code of Ethics** or these **Rules and Regulations**;
5. has been guilty of ~~public~~ conduct that is prejudicial to the good order and effectiveness of the department, or the City or that ~~such as to~~ brings discredit on the public service;
6. has violated any **City Policy**, City Ordinance, departmental rule or regulation, or been insubordinate or failed to obey any lawful order or direction made or given by an ~~officer~~ employee superior to or in a supervisory capacity over the employee;
- ~~7. has been insubordinate;~~
- ~~7.8. Consumes alcohol, an illegal drug, or a legal drug being used improperly or~~ has been under the influence of alcohol, drugs or other intoxicating substance while on duty; in a City facility; on City property; while performing City business; in or while operating a City vehicles or equipment.;
- ~~8. Sells, purchases, transfers, or possesses an illegal drug or a legal drug improperly; while on City property; while in a City facility, while in or operating a City vehicle or equipment or while on duty~~
9. is offensive in conduct or language toward the public or City officials, officers, or employees, which interferes with or might reasonably be expected to interfere with the proper and orderly conduct of the City's business or brings or might ~~reasonable~~ reasonably be expected to bring discredit on the public service;
10. has committed any acts of dishonesty, which may include but is not limited to altering or falsifying official records or examinations; accepting, soliciting or making a bribe; lying to superiors or falsifying records with respect to official duties, including work duties, disciplinary actions, or ~~has made a false statement or report-ing of work hours-order to obtain leave;~~
11. is incompetent, ~~or~~ inefficient, negligent or careless in the performance of the duties of his/her position, or fails to meet established standards of performance either qualitative or quantitative standards;
12. has excessive tardiness or excessive unexcused absences;
- ~~13. is so inefficient in the performance of the duties of his/her position that his/her~~

~~performance rating, kept in accordance with the rules of the Board, is unsatisfactory;~~

134. steals, or is careless or negligent with, property of the City;

~~15. bribes, or attempts to bribe, any officer or employee of the City;~~

146. threatens, harasses, assaults or batters any officer or employee of the City or any other member of the public

~~15. Fails to maintain satisfactory working relationships with co-workers, other City employees or the public;~~

167. takes any fee, gift or other thing of value in the course or in connection with his/her work for his/her personal use from any citizens;

178. has been induced, has induced, or has attempted to induce an officer or employee of the City to commit an unlawful act, or to violate any departmental or Board rule or regulation, or to disobey or fail to obey an order of direction by a superior officer;

189. has been absent from duty without leave, or has failed to call or notify his/her supervisor when unable to report for duty unless such failure to call or report is due to no fault of the employee, or has failed to report upon expiration or revocation of leave or when reason for leave has ended;

~~19. Engages in a strike, sabotage or work slowdown;~~

20. has been involved in any political activity prohibited by City Charter, Ordinance or published personnel policy;

21. has knowingly, singularly or in cooperation with others, wrongfully instructed another in respect to that person's right of examination;

22. has knowingly furnished any person being examined any special or secret information for the purpose of improving or injuring that person's performance on the examination;

~~23. has divulged confidential or otherwise confidential information to unauthorized individuals;~~

243. has made any false report, oral or written, with respect to his/her employment, or has knowingly falsified any government record or aided another in doing so;

254. has falsely maligned any other employee of the City, provided that this clause does not apply where the employee, in good faith, prefers charges against

another employee with the view of having the other employee brought up for the hearing before the proper tribunal of the City;

~~2526.~~ has threatened to suspend, discharge, or demote, or adversely affect another employee for having filed a grievance, complaint or suggestion, or for having failed to take part in a voluntary program or benefit;

~~2627.~~ ~~has—discriminates or harasses,~~ ~~used~~ racially discriminatory or offensive language ~~while on duty;~~ toward an officer or employee or member of the public  
~~27.—has been guilty of neglect of duty;~~

~~278.~~ Fails to maintain licenses and certifications required by the position or fails to meet eligibility standards in order to perform the essential functions of the position;

~~2829.~~ has misrepresented his/her physical condition, or work capacity, ~~or disability;~~

~~2930.~~ has a permanent injury, illness or disability such that they are no longer able to performance the essential functions of their position with a reasonable accommodation.

~~30129.~~ has acquired an interest in any contract with the City;

~~3120.~~ has been discovered to have been disqualified at the time of appointmentsselection;

~~3234.~~ has engaged in any activity or refrained from any action so as to bring discredit upon the City or the public service;

~~3342.~~ fails to report to the City's designated Physician or other medical practitioner required by written instruction from a Department Head-Director, or designee or as directed in writing by the City's designated Physician;

~~3453.~~ violatesion—of any published safety rule promulgated or approved by the ~~Department of~~Risk Management Division;-

~~36.~~ any other just cause including the good of the service.

## ARTICLE V TEMPORARY AND PART-TIME EMPLOYEES

### SECTION 1. TEMPORARY EMPLOYEES **GENERALLY**

An employee hired for a fixed term, or to perform a specific task, has no Civil Service status under the Civil Service Board Rules and Regulations and may be terminated at will at any time during the temporary period of employment.

### SECTION 2. PART-TIME EMPLOYEES

Part-time employees shall be treated in the same manner as regular employees for purposes of these ~~rules and regulations~~ Rules and Regulations except that in calculating the probationary period actual hours of work equal to the hours required of full-time employees to fulfill the -probationary period, as provided for in Article III, Section 3, must be accumulated by the part-time employee. For the purposes of this Section, ~~177.33~~ 173.33 hours are equal to one month of work.



## ARTICLE VI PROMOTIONS, VOLUNTARY REASSIGNMENTS, LEAVES OF ABSENCE, RESIGNATIONS AND GRIEVANCES

### SECTION 1. PROMOTION

Promotions within the City shall be based on ~~efficiency~~, job-related knowledge and experience, job performance, ~~character~~, conduct and seniority. Vacancies not filled by reasonable accommodation, alternate assignment, transfer, reinstatement or reduction in force shall be filled on the basis of merit and other appropriate factors. No promotion from one position to a higher one or to a position paying a higher salary shall become final until the ~~person~~ employee promoted has ~~demonstrated fitness by satisfactorily completing satisfactorily completed the a six (6) month~~ probationary period in the new position. ~~as set out in Article III, Section 3. If the employee promoted does not satisfactorily complete the probationary period, he/she will be placed back in his/her former position if it is still available or placed in another position that is comparable in status and pay to his/her former position. If the disciplinary authority decides to terminate or suspend the employee promoted, then the due process steps set out in Article IV must be followed.~~

### SECTION 2. VOLUNTARY REASSIGNMENT

The voluntary reassignment of an employee to a lower graded position with or without a corresponding reduction in pay as a reasonable accommodation under the Americans ~~With~~ with Disabilities Act is not a demotion and is not appealable to the Civil Service Board.

### SECTION 3. TRANSFERS

Transfers may be made as follows:

- A. from one position to a similar position of the same class classification ~~and~~, grade ~~and character of work~~ within a Department;
- B. from a position in one Department ~~or Division~~ to a similar position of the same class classification or grade ~~or lower~~, in another Department ~~or Division~~, providing the Heads Directors of the two Departments ~~or Divisions~~ and the employees shall concur, or, in case of conflict, by decision of the City Manager or designee;
- C. transfers shall not be allowed where the employee does not meet the minimum job qualifications for the position to which transfer is being

considered and cannot safely and fully perform the essential functions of the position, even with reasonable accommodation if required by the Americans ~~With~~with Disabilities Act.

#### **SECTION 4. LEAVES OF ABSENCE**

The Department ~~Head~~Director shall immediately file notice with ~~the Director~~the Director of Human Resources of any authorized leave of absence granted and shall again give notice upon termination of leave and the employee's return or failure to return.

#### **~~SECTION 5. REINSTATEMENT AFTER LEAVE~~**

~~An employee who returns to duty from an authorized leave shall be returned to City employment pursuant to City Policy.~~

#### **SECTION ~~6~~5. REDUCTION IN FORCE**

~~Whenever the budget adopted by the City Council makes it necessary to reduce the workforce, such reductions will be based on operational impact pursuant to City Policy. The City Manager with the advice of the Director of Human Resources may develop categories of positions within which the reductions in force will be applied on a citywide basis. In selecting positions to be eliminated, emphasis shall be placed upon departmental needs in carrying out assigned public service duties that will result in a minimum impact on service delivery. Employees who are holding positions targeted for reduction in force will be given preference in filling vacancies, which result in being laterally transferred or in a voluntary demotion. To be considered, individuals must meet the minimum qualification of the applicable position. The selection of incumbents in those identified position titles will be based on seniority and on performance evaluations if generally available in all City departments. To determine who gets the placement opportunity, seniority and performance ratings will be used, if such evaluations are generally available city wide and exist for applicable employees. For the purpose of this Rule the Reduction in Force policy, seniority is defined as continuous uninterrupted service in a full-time status with the City back to the most recent hire date. Preferential consideration shall be given to employees affected by layoffs in the filling of vacancies within twelve (12) months following the date of the reduction in force~~  
~~e.~~

#### **SECTION ~~7~~6. RESIGNATION**

**A. VOLUNTARY.** Notice of voluntary resignation of a classified employee shall be filed with the Director of Human Resources, with a copy of the resignation, if in writing, signed

by the employee and ~~approved~~ accepted by the Department ~~Head Director, or designee~~ and ~~when appropriate, by the~~ City Manager, or ~~designee~~ the City Manager's designee.

**B. AUTOMATIC.** Employees who are absent for three (3) consecutive working days without prior approval to take leave, or when leave has been denied, or without contacting their supervisor regarding that absence, will be considered by the City and the Board to have resigned. ~~The employee shall be given written notice of such~~ Written notice of such shall be mailed by regular U.S. mail and certified mail, return receipt requested to ~~his/her~~ the employee's last known address as ~~shown~~ noted in the employee's file in ~~Human Resources' records~~ the Human Resources Department.

## **SECTION ~~8-7~~. GRIEVANCES**

~~An internal grievance procedure for issues concerning wages, hours of employment, or conditions of work shall conform to the procedure established by the City Manager. The City Manager shall establish an in-house internal grievance process procedure for issues concerning wages, hours of employment, or conditions of work, which includes, but is not limited to, Matters that are not grievable include, but are not limited to, appointment and promotion, transfer, voluntary demotion, leave of absence, reinstatement after leave, reduction in force, voluntary and automatic resignations, performance ratings appraisals, reasonable accommodations made pursuant to the Americans With Disabilities Act, and classification and compensation. Such grievances Grievances are not subject to appeal and review of by the Civil Service Board.~~

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**ARTICLE VII**  
**PERFORMANCE ~~EVALUATION-APPRAISAL~~**

**SECTION 1. Performance ~~Evaluation-Appraisal~~ Policy**

Performance ~~evaluation-appraisals~~ shall be required and conducted in conformance with ~~a~~ City Policy as directed by the City Manager.

~~The Performance Evaluation Report shall be filled out in its entirety before being signed by the rated employee. Performance appraisals, as with letters of counseling or reprimand that are part of a progressive disciplinary process, are not grievable under the City's in-house grievance process, except that an employee has the right to submit a written rebuttal on his/her Performance Evaluation Report to the Director of Human Resources for placement with the completed Performance Evaluation Report in his/her official personnel file maintained in the Human Resources Department. A copy of the completed Performance Evaluation Report shall be provided to each employee for his/her personal records.~~

## ~~SECTION 2. Minimum Performance Evaluation Appraisal Rating Requirements~~

- ~~A. Probationary employees will be required to be initially evaluated at 3 months and again before the end of 6 months from date of hire for designated six-month probationary periods, and quarterly for positions with designated 12-month probationary periods. Extension of a probationary period, as provided in Article III, Section 3, Probationary Period, will require follow-up evaluations appraisals each month of the extended period. More frequent evaluations appraisals, as determined by the department head Department Head, may be conducted whenever justified by performance shortcomings deficiencies.~~
- ~~B. Employees who have successfully completed their designated probationary period will be required to have a minimum of one performance evaluation appraisal each fiscal year. The anniversary date for non-probationary employees will be as defined in the City Manager's Performance Evaluation Policy. More frequent evaluations appraisals, as determined by the department head Department Head, may be conducted whenever justified by performance shortcomings deficiencies.~~

## ~~Section III. Inspection of Performance Evaluation Records~~

~~Performance ratings shall be subject to inspection only by the Board, City Manager, or the City Manager's Designee, Legal Department, Department Head and/or Assistant Department Head concerned, immediate supervisor, and the employee or the employee's designee.~~

## **ARTICLE VIII**

### **DUTIES OF ~~THE HUMAN RESOURCES DIRECTOR~~ THE DIRECTOR OF**

## HUMAN RESOURCES

### SECTION 1. DUTIES

It shall be the duty of the Director of Human Resources, who is secretary of the Civil Service Board, to keep the minutes of all proceedings of the Civil Service Board and have charge of and be responsible for the safe keeping of the books, records, and papers in its office, . It shall also be the duty of the Director of Human Resources to making-make such certification for those eligible for appointment or employment as the Civil Service Board may direct, maintain efficient records, prepare or supervise the preparation of all examinations and such other duties as the Civil Service Board may designate, or as may be necessary, not inconsistent with the Charter of the City of Corpus Christi.

### SECTION 2. REPORTS REQUIRED FROM APPOINTING AUTHORITIES TO DIRECTOR OF HUMAN RESOURCES DIRECTOR

HiringAppointing authorities shall make prompt and complete reports to the Director of Human Resources on the following matters:

- a. Appointments, whether full-time, part-time, temporary, or emergency ~~or permanent.~~
- b. Reinstatement appointments
- c.     —Transfers
- d. Leaves of Absence
- e. Suspensions
- f.     —Removal from the service, and the cause of such removal, —whether resignation, discharge-termination or reduction in force.
- g.     —Change in compensation
- h.     —Creation or abolition of any office or place of     —employment.
- i.     —Any material changes in the duties of an officer or     —employee, or in

the organization of departments:

j. ~~\_\_\_\_\_~~ All other information found ~~needful~~ necessary by the Civil ~~\_\_\_\_\_~~ Service Board in the performance of its duties and ~~—~~ completion of any of its various records.

Every record shall contain the affected employee's name and ~~address~~ City employee identification number of the employee affected, together with the date upon which the action takes effect, and such other facts and information as will make it possible for the Civil Service Board to maintain a complete and correct record.

## ARTICLE IX MISCELLANEOUS PROVISIONS

### SECTION 1. DISCRIMINATION

The City shall not engage in unconstitutionally discriminatory employment practices. Information regarding suspect classifications gathered by the City for statistical and ~~Affirmative Action~~ equal employment purposes will not be considered or used except as authorized by law.

### SECTION 2. RECORDS

All names of applicants, examination papers and questions, and certificates must be filed in the Human Resources Department and kept not less than three years, unless otherwise required. Medical information shall be kept in confidential files separate from employee Human Resources records.

### SECTION 3. CHANGE OF RULES

These rules may be amended, repealed, or supplemented by the Civil Service Board at any time and new rules adopted by majority vote of the Board. Such changes shall not become operative until approved by the City Council.

### SECTION 4. MEETING

- A. The Civil Service Board shall meet as often as necessary and/or upon call of two members, giving notice at least seventy-two hours in advance to the third member. Notice of meetings shall be posted in conformity with state law.
- B. In any investigation or hearing conducted by the Board, it shall have the power to subpoena and require the attendance of witnesses and the production of documents pertinent to the investigation and to administer oaths to such witnesses.
- C. Any witness fees for non-City employees shall be paid by the party calling such witnesses.

### SECTION 5. CLASSIFICATION AND COMPENSATION



Classification and Compensation shall be established by authority provided through ~~the~~ City ~~Compensation and Classification Plan Ordinance~~.

## **SECTION 6. PUBLIC INFORMATION**

The City Secretary shall be designated as the Public Information Coordinator for the Civil Service Board.

~~Prepared by the Human Resources Department  
Revisions through July 13, 1999~~

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May 2, 2001~~