

## **RULES OF CIVIL SERVICE BOARD**

### **RULE 1 SCOPE OF RULES**

The Civil Service Rules shall apply to all regular full-time or regular part-time employees of the City, except that they shall not apply to elected or appointive officers, probationary, or temporary employees of the City not under civil service. If an employee under civil service is represented by a collective bargaining unit which has entered into an agreement with the City, the terms of such agreement will be controlling if in conflict with the provisions of these rules.

### **RULE 2 DEFINITIONS**

The following words, terms, and phrases, when used in these rules, shall have the meaning ascribed to them in this rule.

- a. "BOARD," the Civil Service Board of the City of Sioux Falls.
- b. "APPOINTMENT," the final action by the hiring authority to fill positions in the civil service of the City.
- c. "ORDINANCE," means Chapter 39 of the Code of Ordinances of Sioux Falls, SD (the "Code").
- d. "CITY," the City of Sioux Falls.
- e. "CIVIL SERVICE," means the status of all employees holding positions in the City's position classification plan who are subject to and protected by the civil service provisions provided by ordinance or by rule.
- f. "DEPARTMENT," means the Human Resources Department.
- g. "HIRING AUTHORITY," means the Mayor or his authorized representatives having the authority to fill positions in the civil service of the City.
- h. "REINSTATEMENT," means action where a resigned or discharged employee is returned to his or her position, salary grade, or employment either at the discretion of the hiring authority or by order of the Board as provided in ordinance.
- i. "DEMOTION," means a personnel action where a civil service employee is demoted from a higher-rated position to a lower-rated position due to his/her inability or failure to satisfactorily perform the functions of the higher job classification, or otherwise for cause.
- j. "SUSPENSION," means a personnel action where the civil service employee is ordered to temporarily absent himself from work without pay for cause.
- k. "DISCHARGE," means a personnel action where the civil service employee is terminated from City employment for cause.

- l. “JOB DESCRIPTION,” means the written description of the functions, responsibilities, and qualifications of the written position in the civil service of the City adopted in the position classification plan.
- m. “SENIORITY,” for purposes of layoff shall mean the time the employee has served continuously as a regular civil service employee starting from the date of hire; for purposes of application of seniority points in the promotion examination process shall mean each full year of service in the civil service of the testing department.
- n. “ENTRANCE ELIGIBILITY LIST,” means a qualified list of applicants who are not employees in the civil service of City and who are not legal incumbents of a position in the City’s position classification plan.
- o. “PROMOTION/TRANSFER ELIGIBILITY LIST,” means a qualified list of employees in the civil service of the City who are legal incumbents of a position in the City’s position classification plan.

Other words, terms, and phrases, used in these rules but not defined in this rule, shall have the meanings ascribed to them in Section 39.001 of the Code, except where the context clearly indicates a different meaning.

### **RULE 3 CLASSIFICATIONS**

- a. **POSITIONS.** A position classification plan, prepared by the department and approved by the Civil Service Board and the Mayor, as amended, shall include all job descriptions of civil service positions in the City.

### **RULE 4 JOB POSTING**

- a. **VACANCY POSTING—WHEN.** A job posting will occur when there is no active eligibility list or when the Director of Human Resources calls for a new list. Simultaneous internal and public posting of a vacancy may occur; however, the existence of an active promotion transfer eligibility list containing two or more candidates will prohibit the Director from calling for a new list for those positions represented by a collective bargaining agreement. The existence of a promotion transfer eligibility list with six or more candidates will prohibit the Director from calling for a new list for those positions not represented by a collective bargaining unit.
- b. **VACANCY POSTING—WHERE.**

***Internal Posting:*** Vacancies for positions in civil service of the City shall be posted at a designated area within the Human Resources Department, and on the City Intranet for a minimum of ten days. When a vacancy occurs in a position classification that is located in multiple departments, the posting shall only apply to the position in the department/division in which the vacancy occurred. The promotion/transfer job posting shall include notice that authorized military leave, City business, or approved FMLA leave will be taken into consideration in test

scheduling. **Public Posting:** When such a vacancy is to be posted publicly, notice of the vacancy shall be advertised with the South Dakota Department of Labor and Regulation, the City's website, the recruitment sources as identified in the City's Affirmative Action Plan, and may be advertised in other media as approved by the department.

- c. **ACCESSIBILITY.** Posted vacancies will be made available in alternative accessible formats for persons with disabilities upon request.
- d. **JOB INTEREST.** Persons interested in employment with the City may indicate interest in civil service positions via the City's job database and shall be notified via email when vacancies in identified job categories are posted publicly for hire.

## **RULE 5 ENTRANCE CIVIL SERVICE PROCESS**

- a. **FILING APPLICATIONS.** Applicants for positions in civil service must complete an application for employment. No application for a position in civil service will be accepted after the posted filing deadline.
- b. **REJECTION OF APPLICATION.** The department may reject any application if it is found that the applicant does not possess the knowledge, skills, abilities, and/or qualifications as determined by the department, or for causes set forth in Section 39.044, Section 39.045, or Section 39.049 of the Code.
- c. **PREEMPLOYMENT MEDICAL.** A preemployment medical examination, which may include a job function test, psychological test, and/or alcohol and drug screening, shall be administered following a conditional offer of employment.
- d. **CONTENT OF EXAMINATIONS.** The examination to establish a list of eligible candidates for hire for positions in civil service of the City shall consist of one or more of the following parts: written test, oral interview, performance tests, physical ability tests, behavioral assessment, and assessment center evaluation.
- e. **EXAMINATION SCHEDULING.** Entrance applicants who are selected for examination will be notified of the assigned examination date, time, and location by the department.

Applicants who fail to appear for their appointment within the specified time period will be withdrawn from further consideration for that particular position.

- f. **CONDUCT OF EXAMINATION.** Examinations shall be organized and proctored by the department.
- g. **METHOD OF RATING FOR EXAMINATION.**

**Police Officer/Firefighter Entrance Examination.** The passing score, upon completion of the written examination for entrance Police Officer and Firefighter positions, shall be as established by the test originator and the department. Each applicant shall be notified of whether the written examination was passed or failed. A passing score on the written examination will make an applicant eligible to

advance to the next phase of the examination process. Examination results shall be communicated to the applicant as pass/fail and are the property of the City and/or independent contractor.

**Nonuniformed Position Examination.** The passing score, upon completion of an entrance examination, shall be pass/fail scoring methodology. Each applicant shall be notified of whether the examination was passed or failed.

- h. **PREFERENCE FOR MILITARY SERVICE.** Preference for veterans is generally provided for in Section 39.047 of the Code. Veterans must present their DD-214 with their application for employment to receive veteran's preference consideration.
- i. **EXAMINATION REVIEW.** There shall be no review of entrance examinations and examination results by entrance applicants.
- j. **ENTRANCE NAMES LISTED AND CERTIFIED FOR NONUNIFORMED POSITIONS.** The names of all applicants who have passed entrance examinations shall be placed on eligible lists kept by the department. The department shall release a certified list of all names to the hiring authority according to Section 39.050 of the Code. The effective date of the entrance eligibility list for nonuniformed positions shall be determined by the department at the conclusion of the last phase of the examination process.
- k. **ENTRANCE NAMES CERTIFIED FOR UNIFORMED FIRE POSITIONS.** No entrance eligibility list shall be established for uniformed Fire positions. Names of all applicants who have successfully passed all phases of the entrance Fire examination will be certified effective on the date of hire. Those candidates who have successfully progressed through phases of the entrance examination process shall remain active for further consideration even after a new written examination has been conducted. At no time shall a candidate remain under active consideration for an entrance position greater than 24 months from the candidate's actual written examination date.  
**ENTRANCE NAMES CERTIFIED FOR UNIFORMED POLICE POSITIONS.** No entrance eligibility list shall be established for uniformed Police positions. Names of all applicants who have successfully passed all phases of the entrance Police examination will be certified effective on the date of hire. Those candidates who have successfully progressed through phases of the entrance examination process shall remain active for further consideration even after a new written examination has been conducted. At no time shall a candidate remain under active consideration for an entrance position greater than 24 months from the candidate's actual written examination date.
- l. **ELIGIBILITY FOR VARIOUS POSITIONS.** Any applicant taking more than one examination for positions in the civil service of the City may be placed on as many eligible lists as he or she may qualify for under these rules. However, upon appointment to any position in civil service of the City, the applicant shall be deemed to have waived all rights upon other eligible lists and his/her name shall be removed from such eligible lists.

- m. **REASONS FOR REMOVAL FROM ELIGIBLE LIST.** Failure to update contact information; failure to respond to contact by the department within a reasonable period of time as determined by the department; applicant declines job offer; failure to report to duty at the time agreed upon with the hiring authority; disqualification at any phase of the hiring process.
- n. **EXPIRATION OF ELIGIBILITY NONUNIFORMED POSITIONS.** Entrance eligibility lists shall be established for nonuniformed position(s) in the civil service of the City and shall expire in three months. The Civil Service Board may, by order, extend the eligibility list for a period not to exceed an additional nine months upon request of the department.

**RULE 6  
PROMOTION/TRANSFER CIVIL SERVICE PROCESS**

- a. **BASIS FOR PROMOTION.** Promotion to any position in the civil service of the City shall be administered in accordance with Sections 39.053, 39.054, and 39.055 of the Code, or as provided by an applicable collective bargaining agreement. The City retains sole discretion in determining whether a vacancy exists and when and if a vacancy will be posted.
- b. **FILING APPLICATIONS.** Applicants for promotion/transfer in civil service must complete an application. No application for a position in civil service will be accepted after the posted filing deadline.
- c. **REJECTION OF APPLICATION.** The department may reject any application if it is found that the applicant does not possess the knowledge, skills, abilities, and/or qualifications as determined by the department or for causes set forth in Sections 39.044, 39.045, or 39.049 of the Code.
- d. **CONTENT OF EXAMINATIONS.** The examination to establish a list of eligible candidates for promotion/transfer positions in the civil service of the City shall consist of one or more of the following parts: written test, oral interview, performance tests, behavioral assessment, assessment center evaluation.
- e. **EXAMINATION SCHEDULING.** Promotion/Transfer applicants who are selected for examination will be notified of the assigned examination date, time, and location by the department.

Applicants who do not confirm or fail to appear for their appointment within the specified time period will be withdrawn from further consideration for that particular position posting. The promotion/transfer job posting shall include notice that authorized military leave, City business, or approved FMLA leave will be taken into consideration in test scheduling.

- f. **CONDUCT OF EXAMINATION.** Examinations shall be organized and proctored by the department. An assessment center examination phase may be eliminated upon the recommendation of the applicable department director and the department if it is determined that there is only one candidate for the promotional examination. Once the assessment center examination has begun, the exam shall proceed to

conclusion even if only one candidate remains in the process. This rule applies to all Police and Fire assessment center examinations conducted by the department.

g. **METHOD OF RATING FOR EXAMINATION.**

**Police Sergeant Promotional Examination with an Assessment Center.** *Written Test:* 35% of total score with a passing score of 70% or better to advance to the Assessment Center; *Assessment Center:* 35% of total score with a passing score of 70% or better to advance to the Interview; *Interview:* 30% of total score with a passing score of 70% or better to pass. *Seniority points:* credit of one (1) point per full year of service with SFPD, limited to a maximum of ten points.

**Police Sergeant Promotional Examination Scoring Criteria Absent an Assessment Center.** *Written Test:* 50% of total score with a passing score of 70% or better to advance to the Interview; *Interview:* 50% of total score with a passing score of 70% or better to pass. *Seniority points:* credit of one (1) point per full year of service with SFPD, limited to a maximum of ten (10) points.

**Fire Apparatus Operator Promotion Examination.** *Written Test:* 45% of total score with a passing score of 70% or better to advance to the Practical Exam; *Practical Exam:* 45% of total score with a passing score of 70% or better to advance to the Interview; *Interview:* 10% of total score with a passing score of 70% or better to pass. *Seniority points:* 1/3 point per year of service with SFFR.

**Fire Captain Promotion Examination with an Assessment Center.** *Written Test:* 30% of total score with a passing score of 70% or better to advance to the Incident Command Scenario; *Incident Command Scenario:* 30% of total score with a passing score of 70% or better to advance to the Assessment Center; *Assessment Center:* 30% of total score with a passing score of 70% or better to advance to the Interview; *Interview:* 10% of total score with a passing score of 70% or better to pass. *Seniority points:* 1/3 point per year of service with SFFR. *Education points:* Associate's Degree: 2 points; Bachelor's Degree or above: 4 points, limited to a maximum of four (4) points.

**Fire Captain Promotion Examination Scoring Criteria Absent an Assessment Center.** *Written Test:* 45% of total score with a passing score of 70% or better to advance to the Incident Command Scenario; *Incident Command Scenario:* 45% of total score with a passing score of 70% or better to advance to the Interview; *Interview:* 10% of total score with a passing score of 70% or better to pass. *Seniority points:* 1/3 point per year of service with SFFR. *Education points:* Associate's Degree: 2 points; Bachelor's Degree or above: 4 points, limited to a maximum of four (4) points.

**Fire Inspector (Uniformed) Promotion Examination.** *Written Test:* 90% of base score with a passing score of 70% or better to advance to the Interview; *Interview:* 10% of total score with a passing score of 70% or better to pass. *Seniority points:* 1/3 point per year of service with SFFR. *Education points:* Associate's Degree: 2 points; Bachelor's Degree or above: 4 points, limited to a maximum of four (4) points.

**Selection Process for Nonmanagement Uniformed Police and Fire.** Following the examinations for Police and Fire nonmanagement uniformed positions, all eligible candidates shall be placed on the eligibility list(s) in rank order. The hiring authority will select candidates in rank order for promotion.

**Nonuniformed Position Examination.** The passing score, upon completion of a promotion/transfer examination, shall be pass/fail scoring methodology. Each applicant shall be notified of whether the examination was passed or failed.

**Police and Fire Management Promotional Examination.** The examination to establish the eligibility list for management promotional positions may consist of one or more parts as identified in subsection (d) of Rule 6.

- Written Test: passing score of 70% or better.
- Assessment Center: passing score of 70% or better.
- Interview: passing score of 70% or better.
- If a management promotional examination consists of more than one part, the method of scoring using multiple examinations parts shall be established by the Director of Human Resources and the respective Fire Chief or Police Chief prior to the examination posting and test date. Candidates will be notified of the multiple examination scoring methodology at the time of the posting. Section 39.051 of the Code states that the eligible list shall be certified by name in alphabetical order and absent test scores. All candidates whose name appears on the certified eligibility list are deemed eligible for selection by the Hiring Authority. Once the eligible list has been certified, the Hiring Authority may determine which candidate from the list is best qualified. In determining best qualified, the Hiring Authority is not restricted to selection based upon highest score.

h. **EXAMINATION REVIEW.** Police and Fire promotional candidates may review written examination test and assessment center test results upon appointment notification and scheduling in the department. Review of promotional examinations and examination results by examinees shall be dictated by the terms of contractual agreements with the testing vendors. There shall be no review for those applicants not completing all scheduled and attended phases of the promotional examination.

i. **SENIORITY POINTS FOR POLICE AND FIRE UNIFORMED PROMOTIONS FOR POSITIONS COVERED BY A COLLECTIVE BARGAINING AGREEMENT.** Calculation of seniority points will be based on the date of the last phase of the promotional examination for the position to which the applicant has applied. In the event of a makeup test, the calculation of seniority points shall be based on the date of the original examination.

j. **PROMOTION/TRANSFER ELIGIBLE LISTS AND CERTIFICATION.** Certification of promotion/transfer eligibility lists shall be as provided in Section 39.051 of the Code.

If there is no promotion/transfer eligibility list, vacancies must be posted as a promotion/transfer opportunity every time there is a vacancy. The effective date of the eligibility list shall be the date of the conclusion of the last phase of the total examination process.

An employee may be included on more than one certified promotion/transfer eligibility list at any one time, provided that once an employee accepts an appointment from one of the lists, the employee shall not be eligible to accept an appointment from another eligibility list until the employee's six-month probation has elapsed.

- k. **SERVICE/SENIORITY REQUIREMENTS.** An employee will be eligible to test for a posted position if he/she meets the minimum service/seniority requirements set forth for the posted position by the date of the written examination.
- l. **MILITARY LEAVE, FMLA LEAVE, AND AUTHORIZED CITY BUSINESS.** If an employee is on authorized military leave, City business, or FMLA leave during scheduled examination dates, he/she will be allowed to complete the examination(s) upon his/her return and shall have his/her name added to the certified eligibility list(s) accordingly. If any promotions have been made prior to placement of his/her name upon the eligibility list, and if he/she ranks higher on that list than the employee appointed for the promotion, he/she may request to bump the employee from the position to afford his/her rightful appointment to the position.
- m. **EXPIRATION OF ELIGIBILITY FOR NONUNIFORMED POSITIONS.** Certified promotion/transfer eligibility lists for general positions in the civil service of the City shall be established and remain in effect for each vacant position for a period of three months, provided that the Board may by order extend the period for up to an additional nine months if requested by the department or the Hiring Authority.
- n. **EXPIRATION OF ELIGIBILITY FOR NON-MANAGEMENT UNIFORMED POLICE POSITIONS.** Certified promotion/transfer eligibility lists for non-management uniformed Police positions shall be established and remain in effect for a minimum period of one year, provided that the Board may by order extend the period for up to one additional year if requested by the department or the Hiring Authority.
- o. **EXPIRATION OF ELIGIBILITY FOR NON-MANAGEMENT UNIFORMED FIRE POSITIONS.** Certified promotion/transfer eligibility lists for non-management uniformed Fire positions shall be established and remain in effect for a minimum period of one year, provided that the Board may by order extend the period for up to one additional year if requested by the department or the Hiring Authority.
- p. **EXPIRATION OF ELIGIBILITY FOR MANAGEMENT UNIFORMED POLICE & FIRE POSITIONS.** Certified promotion/transfer eligibility lists for management uniformed Police and Fire positions shall be established and remain in effect for each vacant position for a period of three months, provided that the Board may by order extend the period for up to an additional nine months if requested by the department or the Hiring Authority.



**RULE 7  
CIVIL SERVICE APPEALS**

- a. **GENERAL.** The Civil Service Appeals Notice and Appeal process is generally provided for in Chapter 39, Sections 39.060, 39.061, 39.062, 39.063, and 39.064 of the Code. The Notice of Appeal shall be documented on a Civil Service Appeal form adopted and amended from time to time by the Board. (Adopted 1-9-02.) The Civil Service Appeal Procedures shall be distributed to the appellant at the time of the filing of an appeal with the director.
  
- b. **CIVIL SERVICE APPEAL SCHEDULING.** The department will, to the extent practicable, coordinate availability with the hearing officer, City and appellant attorney, and/or union representative and the appellant when setting the date of the hearing. Once the notice has gone out to the parties, there must be a compelling reason to postpone the date of hearing after it has been set. Options available to the City or to the appellant when a witness is not available and the reason is judged reasonable or compelling are telephonic testimony or depositions. The Hearing Panel Chair shall make the decision on a case-by-case basis.
  
- c. **CIVIL SERVICE APPEAL PROCEDURES.** Appeals to the Civil Service Board may be made by an employee who believes he or she has been discharged, suspended, or demoted from a position of employment by the City of Sioux Falls without just cause as set forth in Chapter 39 of the Code. The Civil Service Board is composed of four Sioux Falls citizens appointed by the Mayor. When an appeal is filed, it will be made to the Board. A panel composed of three members of the Board will comprise the hearing body. This hearing panel hears employee appeals in much the same way a judge hears a case in a court of law. The hearing requested is to allow the appealing employee, the employee's representatives, and representatives acting on behalf of the City of Sioux Falls to present relevant evidence concerning the circumstances surrounding the disciplinary action taken. Several ground rules have been established to make sure the appeal hearing is conducted fairly for both parties. Rules of procedures for such hearings are established to govern the conduct of all parties involved in order to ensure a fair and competent presentation to the satisfaction of both the employee and the City of Sioux Falls.

**I. BOARD AUTHORITY:**

When a Civil Service appeal is filed by an employee, the Board is authorized to take the following actions:

- 1. Conduct an administrative hearing to determine whether or not a violation of Civil Service procedures as set forth in Chapter 39 of the Code has occurred. The hearing will be confined to the determination of the question of whether the suspension, demotion, or termination was made for race, color, religion, sex, sexual orientation, national origin, creed, ancestry, pregnancy, age, genetic information, or disability and was made in good faith for cause.

2. In the course of the hearing, the hearing panel will administer oaths and will be authorized to require by subpoena both the attendance and testimony of witnesses and the production of evidence relevant to the appeal.
3. At the completion of the hearing, the hearing panel will determine in closed session to affirm or deny the demotion, suspension, or termination of the employee, or if the hearing panel determines that the action taken against the employee was made by the City for race, color, religion, sex, sexual orientation, national origin, creed, ancestry, pregnancy, age, genetic information, or disability reasons or was not made in good faith for cause, order the reinstatement or reemployment of the employee in the office, place, position, or employment from which he/she was demoted, suspended, or terminated. The hearing panel, in lieu of affirming or reversing the City's action, may also modify the City's action in some lesser or greater form.

## II. RIGHTS OF THE PARTIES:

The hearing is the only time that evidence **or** testimony can be presented for consideration. The hearing will not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted except where precluded by statute if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Board shall give effect to the rules of privilege recognized by law. It is important that the employee carefully read these guidelines and be aware of these procedures.

Both parties have the right to:

1. **Representation:** The employee may choose to be represented by an attorney or a union representative who is familiar with the hearing procedures and your appeal. The employee may also choose to represent him or herself.
2. **Review of File:** The employee or the employee's representative may review any documents contained in the employee's official personnel file or medical file before the appeal hearing.
3. **Present Evidence:** Any information in the form of documents, diagrams, photos, or other items of evidence which either party feels is important and relevant to his or her side of the story can be offered as evidence.
4. **Witnesses:** The employee or their representative(s) can have people testify as witnesses on his/her behalf and can also cross-examine witnesses that are called by the City to testify. All witnesses will testify under oath.

5. **Subpoena Witnesses or Evidence:** Either party may request that the Civil Service Board require the presence of a witness at the hearing to testify regarding the appeal. Either party may also request that the Board subpoena certain documents or other evidence relevant to the appeal on his/her behalf. Such a request must be submitted in writing to the Civil Service Board secretary in the Human Resources office and must specify the persons or specific evidence to be subpoenaed by the Board. When requests for subpoena of witnesses or evidence are made prior to the hearing, such requests should be made at least 48 hours before the date and time set for the hearing. The party causing such a subpoena to be issued will be responsible for paying any fees or expenses associated with the service of the subpoena, such as witness fees, transportation, lodging, or service fee.
6. **Reasonable Opportunity to Inspect All Evidence Used in the Hearing:** During the hearing, each party will be given time to review evidence prior to its acceptance by the hearing panel.
7. **Opportunity to Object to Evidence:** The employee or their representative(s) may object to its introduction and a ruling may be made by the hearing panel. If the employee makes such an objection, the employee will be required to explain the basis of the objection to the hearing panel.
8. **Protection Against Reprisal:** Adverse action cannot be taken by the City against an employee because that employee has filed a Civil Service appeal or participated as a witness in a Civil Service appeal hearing.

### III. ATTENDANCE AT HEARING:

1. Because the subject matter of most Civil Service appeals necessitate discussion and/or review of the contents of an employee's official personnel record during the hearing, including matters of discipline, performance, benefits allocation, and other confidential employee matters, such a hearing will be deemed to be a "closed hearing," to the exclusion of the general public and the news media, and will be restricted to those persons specified below.
2. Persons who will be permitted to be in attendance during the hearing will include members of the Board, court reporter, secretary to the Civil Service Board or designee, representatives for the City, and representative for the appealing party, Human Resources Manager, the appealing party, management representatives of the City departments involved, and witnesses for both parties. Witnesses will be excluded, upon motion by either party, from the hearing until after they testify.

3. The parties may request that attendance by certain persons other than those indicated here be permitted, and permission may be granted at the discretion of the hearing panel on a case-by-case basis.

#### **IV. STANDARDS OF CONDUCT:**

1. The employee may not communicate directly or indirectly with the members of the hearing panel regarding the subject matter of the case prior to the hearing. This is to make certain that the FINDINGS of the Civil Service Board members are based only on the information presented in the written appeal and/or the information presented through testimony and evidence by the parties during the hearing.
2. If any member of the Civil Service Board has advance knowledge of the subject matter of the appeal beyond that obtained from the sources noted in No. 1 of this section, or if another substantial conflict of interest exists for the member relating to the appeal, he or she will be disqualified and will not be assigned to the hearing panel for that appeal. The employee shall have an opportunity to raise an objection to the membership of the Board hearing panel at the time the appeal is submitted to the department. The employee may not object, absent exceptional circumstances, to the presence of any member of the hearing panel after the appeal has been submitted to the department. In the event a Board member is disqualified after being assigned to a hearing panel, the hearing will be suspended until such time as a qualified member has been assigned to the hearing panel. If such a conflict exists for more than one member of the Board leaving less than three members to be assigned to the hearing panel, a temporary member(s) may be appointed to serve on the hearing panel as set forth in Chapter 39, Section 39.085 of the Code.
3. If the appealing employee fails to appear in person or through a representative before the Civil Service Board at the designated time, date, and place of the hearing, without good cause appearing therefore, the employee's appeal will be dismissed by the Board, and the employee will have waived his or her right to any further action regarding the matter. In addition, the appealing employee will be charged with all expenses connected with arranging a Civil Service Board appeals hearing.

#### **V. CIVIL SERVICE HEARING PROCEDURES:**

These procedures are set forth in Chapter 39 of the Code, established Civil Service Rules, and direction from the Civil Service Board.

1. **Appeal Filed:** To file an appeal with the Civil Service Board, the appealing employee must present a written notice of appeal form adopted by the Board to the City Human Resources Department within ten (10) calendar days of the issuance of the Employee Incident Report documenting the

suspension, demotion, or termination of his or her status as a civil service employee of the City.

2. **Hearing Scheduled:** Within 30 days of a Civil Service appeal being received by the Board, a date, time, and place of hearing of the appeal will be scheduled. Notice of the date, time, and place of the scheduled hearing will be delivered to the appealing employee either personally or by certified mail.
3. **Hearing Panel:** A hearing panel consisting of three Civil Service Board members, one of whom will be designated chairperson, will be appointed to hear the appeal. The hearing panel will conduct the appeal hearing, rule on questions, evidence, testimony, and motions by the parties, and make a determination on the appeal based upon existing ordinances and rules.
4. **Order of Procedure:** When the appeal before the Board is based upon a suspension, demotion, or termination of the appealing employee by the City, the City bears the burden of proof and will therefore open and close the hearing.
5. **Opening Statements:** Both parties will be permitted to make brief opening statements about what they intend to prove in the hearing. Opening statements are not evidence or argument, so the parties should not go into great detail at this point. Evidence will be presented at the next step of the hearing. The appealing party must also include the following in the opening statement:
  - a. The City action being appealed and/or Chapter 39 of the Code or Civil Service Rule(s) that are alleged to have been violated by the City.
  - b. The relief from the City being sought by the appealing employee.
6. **Introduction of Evidence:** The City will present its evidence first, followed by the appealing party. Both parties will be given an opportunity to review documents or items introduced into evidence and will be allowed to make objections to their introduction. Such objections will be ruled upon by the hearing panel. If the evidence is accepted, it will be entered into the record in the form of "Exhibits," which will be numbered or lettered by the court reporter. When used by the parties during the examination of witnesses or when preparing documents, evidence may be referred to by the assigned exhibit number or letter.

All materials introduced as evidence must be relevant to the appeal. The employee will present documents that tend to support his/her side of the issue and be prepared to justify acceptance of the items into evidence. The employee should bring at least four copies of the documents he/she intends to enter as evidence. The employee does not have to read the documents to the hearing panel, as they will review them once the hearing

has concluded. The employee should, however, call attention to specific parts of the documents he/she feels are important. This can be done at the time the evidence is introduced or through the testimony of a witness during examination. The employee may ask about, respond, or object to documents offered into evidence by the City.

7. **Motions and Objections:** All motions and objections to testimony, evidence, or matters of administrative procedure made by the parties will be stated orally on the record and will be included in the record, as will the ruling on such motion or objection as made by the chairperson of the hearing panel.
8. **Examination and Cross-Examination of Witnesses:** Persons whose testimony is to be taken will be sworn before their testimony is accepted as evidence and before any questions are put to them. The City will first call its witnesses for testimony. The appealing party will then call its own witnesses for testimony. After each of the witnesses is questioned by the calling party, the opposing party will be given an opportunity to cross-examine the witness. After cross-examination of the witness, the calling party will be given the opportunity to ask additional questions of the witness to clarify statements made by the witness during cross-examination, to introduce new evidence through the witness in response to cross-examination, or to redirect previous testimony. Members of the hearing panel may also ask questions of the witnesses.

The employee should limit questions to matters to which the witness can testify on the basis of his or her own observations, knowledge, or experience. "Second-hand" or "hearsay" testimony may not be accepted by the hearing panel. Everything the employee has to say about his/her case should be presented at this time. The employee will not be given another chance to introduce new evidence or testimony after questioning is closed. During testimony or cross-examination of a witness, the employee may object to questions being asked or responses of the witness on the basis of the relevance to the appeal, qualification of a witness to respond on a subject, or the manner in which a question is asked (such as a "leading" or "argumentative" question).

9. **Summation or Closing Statement:** Both parties will be given an opportunity to offer a summation following the presentation of all evidence and examination of all witnesses. No new evidence or testimony can be presented at this time by either party. In the employee's closing statement, he/she should show how the evidence and testimony that has been presented proves his/her side of the question. The hearing panel will establish the maximum time permitted for the closing statements of both parties.

10. **Filing and Service of Proposed Findings and Conclusions:** Upon the conclusion of the hearing, the hearing panel may ask the parties to prepare findings of fact and conclusions of law and fix the time for filing such briefs. The hearing panel will determine the order in which the briefs are to be filed and may direct that the briefs are to be filed simultaneously. Briefs not filed and served on or before the dates fixed by the hearing panel will not be accepted for filing, unless the hearing panel extends the time for filing briefs for good cause. All filings of briefs must be directed to the Civil Service Board secretary who will be responsible for the administrative processing of such documents. Copies of the proposed findings and conclusions will be distributed to each of the parties.
11. **Decision of the Board:** The Civil Service Board will issue a decision subsequent to the hearing. Generally, this decision will be made within 30 days following the hearing; however, this may be extended by the Board. In some cases, the hearing panel will confer in confidential session immediately following the hearing to make the decision and orally announce their decision from the bench.

The decision will be prepared in the form of a written “order.” Each party will receive a copy of the final findings of facts, conclusions of law, and the final order signed by the hearing panel chairperson.
12. **Appeal:** If either party is not satisfied with the decision of the Civil Service Board, the Board’s decision may be appealed to the circuit court within thirty (30) days of the final action of the Board as set forth in state statute. If an appeal is to be made, findings of fact and conclusions of law must be filed with the Board before the appeal is perfected.

## **VI. DEADLINE EXTENSIONS:**

The Board establishes deadlines for the submission of findings of fact, conclusions of law, objections, order, and briefs. Extensions may be granted for good cause. Any request for an extension of a deadline must be (1) submitted to the Civil Service Board hearing panel chairperson and the Board secretary; (2) requested prior to the established deadline; and (3) agreed upon by both parties. Submissions made after established deadlines will not be allowed absent exceptional circumstances.

## **RULE 8 MEETINGS**

Meeting of the Board shall be held at the call of its Chair, the department, or at the request of two members of the Board.

**RULE 9  
NEW RULES**

Amendments to these rules or a new rule are subject to Chapter 39, Sections 39.088 and 39.089 of the Code.

**RULE 10  
REPEAL**

All rules and administrative decisions of the Civil Service Board heretofore adopted and not included herein are repealed.

Date Adopted: 5-5-2004

Revised: 05/12/05 (Rule 5—E, J, N)

04/05/06 (Rule 6—G)

01/11/07 (Rule 6—G)

11/03/10 (Rule 4—D; 5—A, G; 6—D, G, J, O)

11/15/12 (Rule 4-A, B; 5-A, C, E, F, G, H, K; 6-B, E, J, L, M, N, O; 7-C, 7II4,  
7II7, 7III2)

07/25/13 (Rule 2; Rule 5; Rule 6; Rule 7; Rule 9)

07/09/14 (Rule 4; Rule 5; Rule 6)

09/13/16 (Rule 4; Rule 5; Rule 6)