



# **Civil Service Commission Rules and Regulation**

*January 2022*

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## **RULE I - ORGANIZATION AND OFFICIAL STAFF**

### **Section 1. Jurisdiction**

Regarding jurisdiction of these regulations, the applicable Ohio Revised Code sections shall apply and so govern the local school district only. All rules and regulations which follow apply to the classified positions within the City of Cleveland Heights, unless the rule includes the school district in its content.

### **Section 2. Officers**

The officers of the Commission shall consist of a President and a Vice President, elected annually by Commission members, each of whom shall hold office for one year, or until the election of successors. The President shall preside at all meetings of the Commission and sign all documents deemed necessary by the Commission. In the absence of the President, the Vice President shall perform the duties of the President.

### **Section 3. Secretary**

The Secretary of the Commission, who is duly appointed by the City Manager pursuant to the Charter and ordinances of the City, shall be its Chief Executive Officer and Chief Examiner and, subject to the approval of the Commission, the Secretary shall supervise its office and have charge of the preparation for and administration of examinations, the certification of candidates, the keeping of records in the administration of these rules and the routine business of the Commission. The Secretary shall maintain official records of the acts of the Commission and shall oversee the maintenance of all records in the office and the filing and preservation of all records, papers and other data belonging to the Commission. The Secretary shall not be a member of the Commission.

### **Section 4. Appointing Authority**

The Mayor is the Appointing Authority for the City.

### **Section 5. Meetings**

Regular meetings of the Commission shall be held monthly, as needed, at the office of the Commission on such day and such time as the Commission shall designate. Special meetings shall be held at the office of the Commission upon call by the President or by the other two members of the Commission; unless all members are present, all business transacted at such special meeting shall be confined to the purpose specified in either a personal or written notice thereof, to be given to the members at least one day prior to the meeting. A majority of the Commission shall constitute a quorum for the transaction of business at any regular or special meeting of the Commission. The meetings of the Commission shall be conducted in

general conformance with *Roberts Rules of Order*.

## **RULE II - CLASSIFICATION**

### **Section 1. Positions Classified**

The Classified Service shall consist of those offices and positions provided by the Codified Ordinances of the City of Cleveland Heights as constituting the Classified Service. The unclassified service of the City of Cleveland Heights shall consist of all other employees, positions and offices not included in the Classified Service.

### **Section 2. Classification Plan**

The classes of City positions as named and described pursuant to the Codified Ordinances of the City of Cleveland Heights and in specifications as adopted by the Commission for school district positions shall constitute the "Classification Plan" for the classification of positions in the service of the City of Cleveland Heights and the local school district.

### **Section 3. Classes**

If not heretofore included within the Classification Plan, every position in the service existing when these rules take effect, or hereafter created, shall be included within the Classification Plan by allocation to its appropriate class. Such classification shall be made by the Civil Service Commission. Whenever a position has been classified in the manner aforesaid, the title of such class shall then become the rule of such position and shall be used in payroll records, in requests to the Commission for certification of candidates, and in all similar administrative and employment processes and documents.

### **Section 4. New or Changed Positions**

Whenever a new position is established, or the duties of a position are so changed that in effect the old position as described by the specifications of the class to which it was originally allocated no longer exists, but in its place there is created a position of a different class, the Appointing Authority shall report such fact to the Civil Service Commission and transmit a description of the duties. The Commission shall classify such position changes accordingly. The Civil Service Commission shall, when it deems it necessary, make investigation of all positions in the service of the school district, and propose changes in classification whenever the facts are considered to warrant such action. Classification or reclassification in all such cases shall take effect immediately upon approval by the Commission.

### **Section 5. School District Positions**

Where a school district position has been reclassified by the Commission on



account of additional duties and responsibilities or to correct original errors in classification, the incumbent of the former position may be promoted or appointed to the new position without examination upon request of the proper authority. It must be shown to the satisfaction of the Commission that the person for whom such promotion or appointment is requested has fully performed the additional duties and assumed the responsibilities on account of which reclassification was allowed and is fully qualified to fill the position.

#### **Section 6. Amendments of School District Positions**

The Civil Service Commission may, whenever circumstances warrant, amend the specifications or characteristics for any class and abolish, merge or divide existing classes, or create new classes under the Classification Plan as it relates to school district positions only.

#### **Section 7. Classification of School District Positions**

In classifying school district positions, the specifications or characteristics of classes of positions in the classification plan are hereby declared to have the following force, effect and intent:

(a.) They are descriptive only and not restrictive. They are intended to indicate the kinds of positions that should be classified, under the respective classes as determined by duties, responsibilities and qualification requirements. Every factor essential for the proper performance of the duties of a position shall be considered in assigning such position to its proper class.

(b.) In determining the class to which any school position should be allocated, the specifications or characteristics of each class shall be considered as a whole. Consideration is to be given to the general duties, typical tasks, responsibilities, desirable entrance qualifications and relationships to other classes in determining the class into which a position shall be assigned.

(c.) In classifying school district positions the following principles of interpretation shall apply:

- (1.) The “duties statement” shall be construed as a general description of the kind of work involved in a position that properly falls within the class and not in any sense as designating what the duties of any position shall be, nor as affecting or limiting the conceded power which the employing authority is now or hereafter may be vested with respect to the right to prescribe or alter the duties of any positions; provided, however, that where substantial change of duties is made, except for a temporary period or by the addition of duties that are incidental to the main employment, such change shall be reported to the Civil Service Commission with a view to a

possible reclassification of the position.

- (2.) The “typical tasks” shall be construed as examples only, illustrative of the duties as outlined by the general statement. These examples are not intended to be complete or exclusive, and the fact that the actual tasks performed in a position do not appear therein shall not be taken to mean that the position is necessarily excluded from the class, provided that the tasks constituting the main work or employment are duly covered by the general statement of duties. On the other hand, anyone example of a typical task, taken without relation to the general statement of duties and all other parts of the specifications, shall not be construed as determining that a position shall be included within the class.
- (3.) The statement of “minimum entrance qualifications” constitutes a part of the description or definition of the kind of employment by expressing the minimum qualifications desirable in the case of new appointees if they are to perform the work properly, and is to be so construed as not imposing in itself any new or additional requirements for filling of positions. Although they may not be mentioned in the statement, other qualifications common to all positions may properly apply.

### **RULE III - APPLICATION REQUIREMENTS**

#### **Section 1. Application**

- (a.) The application for admission to any examination for a position in the Classified Service must be upon forms prescribed by the Commission, on paper or electronically and signed by the applicant. The application must be filed with the office of the Commission before the time fixed in the announcement as the last time for filing.
- (b.) All applications shall be reviewed by an authorized representative of the Commission. Applications may be rejected if the applicant has not met the qualifications specified on the announcement by the date established, or has made a false statement on the application with regard to any material fact. Applications may be rejected for any just or reasonable cause which is job-related, as determined by the Commission. Upon rejection of the application, the applicant shall be promptly notified of such fact and the reason therefor.

## **Section 2.     Specific Requirements**

### **(a.)     Equal Opportunity**

The City of Cleveland Heights provides equal employment opportunities (EEO) to all employees and applicants for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, familial status or disability. In addition to federal law requirements, the City of Cleveland Heights complies with applicable state and local laws governing nondiscrimination in employment. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

### **(b.)     Citizenship**

Every applicant for admission to examination for a position in the City Classified Service must be a citizen of the United States.

### **(c.)     Residency Requirement**

(1.) Every temporary or regular officer or employee in the Classified Service shall reside in one of the following Ohio counties at the time of application and appointment and thereafter during such person's tenure with the City: Cuyahoga, Lorain, Medina, Portage, Summit, Geauga or Lake.

### **(d.)     Age Requirement - Division of Fire**

Applicants for appointment to the Classified Service of the Division of Fire must be not less than 21 years of age nor have attained the 32nd birthday at the date of appointment. Applicants having attained the 32nd birthday shall not be eligible for appointment and shall be removed from the eligibility list.

### **(e.)     Age Requirement - Division of Police**

Applicants for appointment to the Classified Service of the Division of Police must not be less than 21 years of age or more than 36 years of age at the date of appointment. Applicants having attained the 37th birthday shall not be eligible for appointment and shall be removed from the eligibility list. The 36-year age restriction shall not apply to an applicant who entered into the employ of the Division of Police through the unclassified service level of Basic Patrol Officer (BPO) prior to age 36 and

said applicant has remained in the continuous employ of the Division of Police prior to admission for examination in the Classified Service.

(f.) Certification Requirement - Division of Fire

Every applicant for appointment to the Classified Service of the Division of Fire shall be required to hold a current, valid certification from the State of Ohio to practice as a paramedic, and a State of Ohio firefighter I/II certification. Candidates that are currently enrolled in a Paramedic class or FFI/II class may apply with proof of enrollment (letter from Director of program). However, the candidate may not be appointed to the Division until the course(s) are successfully completed.

(g.) Educational Requirement - Division of Police

Persons making application for original appointment to the Classified Service of the Division of Police between August 1, 1997 and July 31, 1999 shall be required to have at least three (3) years of successful college achievement at a college, university, junior or community college, accredited by the North Central Association of Colleges and Secondary Schools or its equivalent regional accrediting authorities or their successor equivalent accrediting authorities as minimal educational requirement for admission to examination. Persons making application for original appointment to the Classified Service of the Division of Police between August 1, 2018 and February 28, 2021 shall be required to have at least two (2) years of successful college achievement at a college or university accredited by the North Central Association of Colleges and Secondary Schools or its equivalent regional accrediting authorities or their successor equivalent accrediting authorities as minimal educational requirement for admission to examination. For the purpose of this section, two (2) years of successful college achievement is defined as at least 60 semester hours or 90 quarter hours where a grade of at least a "C" or its equivalent has been attained in each semester hour or quarter hour of credit. On and after March 1, 2021, applicants for original appointment to the Classified Service Division of Police shall be required to have a high school diploma or GED. An applicant shall be required to present such proof as the Commission may require to establish these educational requirements.

**Section 3. General Requirements**

No applicant shall be examined nor certified as an eligible nor appointed to any office in the public service who is found to lack any of the established primary requirements for the examination, or who is found to be physically, medically or psychologically unfit for the performance of the duties of the position sought, or who is found currently or habitually to be using drugs, unless the drug use is based

on medical advice, or whose use of alcohol may interfere with the reasonable performance of the duties of the position he or she seeks, or who has been found guilty of any felony crime, or attempted to practice any deception or fraud in the application or in the examination, or in establishing eligibility, or in securing appointment.

## **RULE IV - EXAMINATIONS**

### **Section 1.    Types**

Examinations for positions in the Classified Service may be of three types, as defined herein.

#### **(a.)    Open Competitive Examination**

This type shall be used to test applicants for original appointments to the Classified Service of the City and, as its title implies, is open to all applicants who qualify under Rule III.

#### **(b.)    Non-Competitive Examination**

This type may be held for such positions as, in the judgment of the Commission, require peculiar and exceptional qualifications of scientific, managerial, professional, or educational character. Noncompetitive examinations shall be of such character as will determine whether or not the applicant possesses the requisite knowledge, ability and physical qualifications to perform the duties of the position. The applicant shall be required to attain a qualifying rating to be fixed by the Commission in order to become eligible for the position. Competitive examinations may be ordered for any position previously filled by noncompetitive examinations.

#### **(c.)    Promotional Examination**

This type may be used to test applicants for positions in the promotional ranks of the Classified Service of the City and is only open to those persons in lower classes or ranks in the Classified Service as set forth in Section 9 of this Rule.

### **Section 2.    Contents of Examinations**

#### **(a.)    General Purpose**

Examinations shall be of such a character and relate to such matters as will fairly test the relative fitness of the persons examined to discharge the duties of the position to which they seek appointment.

(b.) Types of Tests

Each of the examination types listed in Section 1 of this Rule may consist of one or more of the following tests or examinations as deemed proper by the Commission for the evaluation of the fitness of applicants:

- (1.) Written test. This type may include all or part of the following: An objective type examination designed to test the applicant's familiarity with information and material which could reasonably be expected of applicants for the position, or dissertation on one or more subjects dealing with problems encountered in the classification. This type may be given a weight in examination or may be used in excluding from further examination applicants who do not meet the minimum required standards.
- (2.) Oral test. This type of test shall consist of an evaluation of personal qualifications which are requisite to an applicant's probable success in employment. This type of examination may be used in either open competitive or promotional examinations. This type shall be administered by a panel of examiners composed of persons selected by the Commission or its designee, because of their familiarity with the requirements for success in the classification under examination. This type may be given a weight in examination or may be used in excluding from further examination applicants who do not meet the minimum required standards.
- (3.) Physical test. This type may consist of a test of muscular strength, agility, endurance and coordination of applicants.
- (4.) Medical examination. This type shall consist of an examination administered by a licensed physician designated by the Commission to determine the bodily condition of the applicant. The medical examination shall be administered only to those persons who have been placed on an eligible list and certified to the Appointing Authority in order to fill a vacancy in the Classified Service. Eligible candidates rejected by the physician administering the examination may, within seven days following the placement of notification of rejection in the United States mail, request reexamination by a different licensed physician to be designated by the Commission. Only those eligible candidates who meet the prescribed standards in the medical examination shall be considered by the Appointing Authority for appointment.
- (5.) Any other relevant testing deemed necessary, including, but not

limited to, a psychological test, a polygraph or voice stress analyzer test, and drug and alcohol tests.

Failure to reach satisfactory standards in this part of an examination shall cause the rejection of a candidate without regard to the grade attained on other parts of the examination.

**Section 3. Notice**

Whenever it appears to the Commission that the good of the service will be promoted thereby, it may hold an examination for any office or position in the Classified Service. Public notice of the time and place of every examination shall be given at least ten days prior to the date thereof on at least one of various media, which may include bulletin boards, electronic publications, and websites. When greater publicity shall be deemed necessary, notice of the examination may also be published in one or more newspapers of general circulation in Cuyahoga County. Such notice shall also contain other information relating to the respective subjects and component parts of the examination process and to the qualifications of the applicants.

**Section 4. Fee**

A fee to be determined by the Commission may be charged for the examination for any position. Said fee shall be paid by the applicant at the time of the filing of the application for examination. All fees collected under the provisions hereof shall be paid into the City Treasury.

**Section 5. Examiner**

Examinations shall be conducted by the Chief Examiner under the supervision of the Commission and when necessary Special Examiners may be designated to assist.

**Section 6. Identification Sheet**

A written test will commence by requiring each competitor to fill out and sign an identification and declaration sheet containing the examination number as shown on the official envelope provided, the competitor's address, age, and such other information as the Commission may require, and the same shall be sealed in the official envelope. All envelopes shall be placed in a sealed package and deposited in a safe depository and shall be opened for the identification of papers only after the examinations have been graded. All examination papers, challenges or protests submitted by applicants shall contain the number only and any paper bearing the name of an applicant or other identification mark shall be rejected, except that the examiner may at the time of the examination provide for the affixing

of the candidate's right thumb print to an appropriate place on the examination paper. In any instance where the Commission utilizes an oral test in addition to or in place of the written test, a process similar to the above stated procedure shall be utilized for the oral test in order to maintain and assure objectivity and confidentiality in grading.

**Section 7.     Grading**

All markings shall be in accordance with the weights for the respective subjects established by the Commission and the Chief Examiner. The examination shall be rated, with 70% being the minimum required passing grade on the written and oral examinations.

**Section 8.     Credits on Examinations for Original Appointments**

(a.)     Military Service Credit

An applicant for an original appointment in Classified Service who has attained at least the minimum passing grade shall be credited with five (5) additional points if said applicant has had at least twelve (12) months active duty service in the United States Armed Forces and, if separated, has been separated under honorable conditions.

(b.)     Basic Patrol Officer Credit

(1.)     An applicant for an original appointment in the Classified Service of the Division of Police who has obtained at least the minimum passing grade, shall be credited with additional points equal to 20% of the attained grade if said applicant at the time of the examination is then serving as a Cleveland Heights Basic Patrol Officer and has so served for at least six (6) months.

(2.)     Although an applicant may be eligible for both veteran and Basic Patrol Officer (BPO) credits, provided that applicant has attained at least the minimum passing grade and is otherwise eligible, no applicant shall receive both veteran and BPO or equivalent credits on the same examinations but shall receive such credit of the two as will provide the greater number of points.

(c.)     Proof for Additional Credit



An applicant shall be required to present such proof as the Commission may require to be entitled to the additional credits provided in the Commission's Rules and Regulations.

**Section 9. Promotions**

(a.) Manner

Promotions in the Classified Service of the Division of Police or Fire shall be made from class to class, from the lowest class to the highest within the respective Division.

(b.) Military Credit Prohibited

No extra credit for prior military service shall be given for promotional examinations.

(c.) Examination Content

Applicants for promotion shall be examined upon such questions as in the judgment of the Commission pertain to the office to which promotion is sought, upon the State laws and City ordinances pertaining to the duties of the said office, upon the rules and regulations of the particular department, and upon such other subjects or tests which the Commission may prescribe.

(d.) Disqualification due to Pending Administrative or Criminal Charges

An application will not be accepted while administrative charges or criminal charges are pending against an applicant.

(e.) Seniority and/or Efficiency Credit

The Commission may award credit points to a final examination score based upon the seniority and the efficiency record of the applicant in the service. In the event the Commission determines to award such credit points, the formula for determining the number of credit points for seniority and efficiency shall be fixed by the Commission on or before the time the notice of the examination is given.

(f.) Eligibility

No person in the Police Division, and no Battalion Chief or Assistant Fire Chief in the Fire Division, shall be eligible to take an examination for promotion to a position in a higher grade or rank who has not served at least twelve (12) months in the next lower grade or rank; provided, however, that in those cases where there are less than two (2) persons in such next lower rank who have served twelve (12) months therein and are willing to take the examination, the twelve (12) month service requirement shall not apply. If the non-application of the twelve (12) months service requirement to persons in the next lower rank does not produce two (2) persons eligible and willing to compete, then the same methods shall be followed by going to successive lower ranks until two (2) or more persons are eligible and willing to compete in an examination for the vacancy. In the event two (2) persons are unwilling to compete for such examination in accordance with this section, then the one (1) person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying examination.

(g.) Eligibility for Promotional Exam - Division of Fire

No person in the Fire Division shall be eligible to take an examination for promotion to Lieutenant who has not served at least eighty-four (84) months as a Firefighter, and no Lieutenant in the Fire Division shall be eligible to take an examination for promotion to Battalion Chief who has not served at least thirty-six (36) months as Lieutenant; provided, however, that in those cases in which there are less than two (2) persons in the next lower rank who have served the requisite periods of time and are willing to take the examination, the eighty-four (84) or thirty-six (36) month requirement shall not apply. If the non-application of the service requirement to persons in the next lower rank does not produce two persons eligible and willing to compete, then the same methods shall be followed by going to successive lower ranks until two (2) or more persons are eligible and willing to compete, then the same methods shall be followed by going to successive lower ranks until two (2) or more persons are eligible and willing to compete in an examination for the vacancy. In the event two (2) persons are unwilling to compete for such examination in accordance with this section, then the one person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying examination.

(i.) Proof for Additional Credit

An applicant shall be required to present such proof as the Commission may require to be entitled to the additional credits provided in the Commission's

## Rules and Regulations.

### (j.) Right to Inspect and Object to Written Test

Competitors in a written promotional examination shall have the right within fourteen (14) days after the date of examination to inspect the test and the designated answers and to make any objections thereto. Any such objections, however, must be made within seven (7) days from the date of inspection of the test and answers. The Commission will consider the objections and take such action as the circumstances warrant and its findings shall be final. Competitors in a written promotional examination shall not take notes, transcribe, or dictate in any form, any portion of the test, master key or answer master key, other than the specific questions and answers for which an objection is to be filed. No competitor shall use or have in his or her possession any type of recording device during the inspection process.

## **Section 10. Educational Credit - Original Appointments**

An applicant for original appointment in the Division of Police shall be credited with up to an additional nine points to the attained grade for education achievement and training in accordance with the following formula, provided that the applicant has achieved at least the required minimum passing grade on the examination. All educational achievements which follow must have been attained at a university, college, junior college or community college which is accredited by the North Central Association of Colleges and Secondary Schools or its equivalent regional accrediting authorities or their equivalent successor authorities.

### (a.) Baccalaureate Degree

3.0 educational points for each applicant who has earned a Baccalaureate Degree.

### (b.) Graduate Degree

2.0 educational points in addition to the 3.0 points for the Baccalaureate Degree if an applicant has achieved a Master's Degree.

4.0 additional educational points in addition to the 3.0 points for the Baccalaureate Degree if an applicant has achieved a Juris Doctor, or other Doctorate Degree.

### (c.) Additional Educational Credit Criteria

In no event shall educational credits exceed by any combination a maximum of nine points.

An applicant will be required to present such proof as the Commission may require to establish these educational credits, as well as, other credits provided for in the Commission's Rules and Regulations.

**Section 11. Education Credit - Promotions**

An applicant for promotion in the Division of Police shall be credited with up to an additional ten points to the attained grade for educational achievement and training in accordance with the following formula, provided that the applicant has achieved at least the minimum passing grade on the examination. All educational achievements which follow must have been attained at a university, college, junior college, or community college which is accredited by the North Central Association of Colleges and Secondary Schools or its equivalent regional accrediting authorities or their equivalent successor authorities.

(a.) No Degree Attained

.04 of a point for each semester hour in a college level course where a grade of "C" or better has been attained.

The maximum number of educational points to be attained without a degree under this Section shall not exceed 2.0 points; however, if an applicant has satisfactorily completed the third year of a four-year Baccalaureate Degree Program, 3.5 points shall be granted.

(b.) Associate Degree

2.5 points for an Associate Degree when such degree is not in a law enforcement major.

3.0 points for an Associate Degree attained in a Law Enforcement major.

A maximum of 3.0 shall be granted for an Associate Degree.

An applicant holding an Associate Degree may attain up to a maximum of 2.0 additional points, at the rate of .04 of a point for each semester hour attained with a grade of "C" or better or for each fully completed fifteen (15) classroom hours in police science or training courses provided a certificate of satisfactory completion has been achieved; however, such additional credits up to a maximum of 2.0 points must be earned for courses taken after the Associate Degree has been attained.

(c.) Baccalaureate Degree

6.0 educational points for each applicant who has earned a Baccalaureate

Degree.

No applicant shall receive educational points for both an Associate Degree and a Baccalaureate Degree. The maximum educational points to be received by an applicant having a Baccalaureate Degree shall be 6.0.

(d.) Graduate Degree

2.0 educational points in addition to the 6.0 points for the Baccalaureate Degree if an applicant has earned a Master's Degree.

4.0 educational points in addition to the 6.0 points for the Baccalaureate Degree if an applicant has earned a Juris Doctor, or other earned Doctorate Degree.

(e.) Additional Educational Credit Criteria

In no event shall educational credits exceed by any combination a maximum of ten points.

No educational points shall be given in a promotional examination to an applicant who took police science training or law enforcement courses as part of the mandatory requirements of the Ohio Revised Code, the Ohio Peace Officers Council or other State regulations, or taken on City time and at City expense by assignment of the Chief of Police.

All credits shall be converted to semester system hours.

An applicant will be required to present such proof as the Commission may require to establish these educational credits, as well as other credits provided for in the Commission's Rules and Regulations.

**Section 12. Postponement and Cancellation**

Any examination may be postponed or canceled by order of the Commission for good and sufficient reasons. The Chief Examiner has the authority to make emergency postponements, and they shall be reported to the Commission at its next meeting.

**Section 13. Void Examinations**

Any competitor in an examination who is found to be using unfair, unethical or fraudulent methods in the course of the examination shall be immediately dismissed

from such examination by the Examiner and that competitor's papers shall be taken up by the examiner and marked void, and report of such action made to the Commission. There must be a review by the Commission before such person may take any future examination.

## **RULE V - ELIGIBLE LIST (ORIGINAL APPOINTMENT AND PROMOTION)**

### **Section 1. Eligible List**

The names of all candidates who receive at least a minimum passing grade in the examination and are otherwise eligible shall be placed on the appropriate list based upon the total of their examination score and other credits. Against each name shall be noted the date of the examination, the date on which the name was entered on the list, and the total score.

### **Section 2. Tie Scores**

When two or more candidates have received the same total score, the person first filing an application, or if the examination be for promotion, the person with greater seniority in the Division, shall have priority.

### **Section 3. Duration of List**

Eligibility lists for promotions and original appointment shall be effective for periods of six (6) calendar months with automatic extensions for subsequent six (6) month increments up to a maximum of two years unless requested by the Appointing Authority that such list(s) be allowed to expire.

#### **Section 4.     Disqualification**

If at any time the Commission has reason to believe that any person upon any list of candidates has in any manner become disqualified for the position, a notice to such person and an opportunity to be heard shall be given. Upon failure to satisfy the Commission that the person is duly qualified, the person's name shall be removed from the eligible list. When the age of a person upon any list exceeds the maximum age limit specified for the position, the person's name shall be removed from the list and the person shall be notified.

### **RULE VI - REQUISITION, CERTIFICATION AND APPOINTMENT**

#### **Section 1.     Original and Promotional Vacancies**

- (a.) For promotional appointments, upon receipt of notice from the Appointing Authority that a vacancy exists in the Classified Service, the Commission shall certify to such Appointing Authority the three names graded highest on the appropriate eligible list. Such Appointing Authority shall thereupon appoint one of the three so certified if qualified to fill the office. In case there is more than one office to be filled, additional names shall be certified so that at least twice the number of candidates than the number of positions to be filled shall be certified.
- (b.) For original appointments, upon receipt of notice from the Appointing Authority that a vacancy exists in the Classified Service, and subject to the provisions of Section 4(b) of this Rule, the Commission shall certify to the Appointing Authority the ten names graded highest on the appropriate eligible list. Such Appointing Authority shall thereupon appoint one of the ten so certified if qualified to fill the office. If there are multiple vacancies to be filled, additional names shall be certified to the Appointing Authority so that there are a total number of names on the list equal to ten for the first vacancy and three for each additional vacancy. The Appointing Authority may make an appointment from any of the certified candidates, regardless of the numeric position on the list.
- (c.) In the event that no eligible list exists for a promotional position, the Commission shall hold an examination forthwith, but no later than 180 days after notification of a vacancy by the Appointing Authority.
- (d.) In the event one or more of the names so certified is found prior to appointment not to be qualified for the position, the Appointing Authority may appoint a qualified eligible candidate from the remaining name(s) so certified, or the Appointing Authority may request in writing from the Commission enough names from the eligible list to provide a choice from the number of names the Appointing Authority would otherwise have, as

provided in Section (1)(a) or (1)(b) of this Rule.

**Section 2. Manner of Appointment**

- (a.) On an original appointment, if an appropriate eligible list contains less than three names, or contains less than ten names for an original appointment to the Division of Police, the names remaining on said list may be certified and the Appointing Authority may appoint from this certification or may demand a complete list of three/ten names or more if the circumstances warrant, because of multiple vacancies.
- (b.) On an examination for promotion, if there are less than three names on an eligible list because less than three candidates were eligible for, or competed for, or passed an examination for promotion, then the Commission shall certify the names or name comprising the respective list and the Appointing Authority shall appoint one of the two candidates, or the candidate on the list to fill any such vacancy.
- (c.) For any original or promotional appointments no name shall be certified more than two times to the same Appointing Authority for the same or a similar position except on the written request of such Appointing Authority.

**Section 3. Notification**

The person selected for appointment shall be notified by the Appointing Authority. If the person so selected shall fail to report as so directed by the Appointing Authority, or his/her designee, that person may be considered as declining the appointment. The Appointing Authority may then appoint a qualified eligible candidate from the remaining name(s) of the original name(s) certified for the position or the Appointing Authority may request in writing from the Commission enough names from the eligible list to provide a choice of names for the position equal to that specified in Section (1)(a) or (1)(b) of this Rule.

**Section 4. Report to Commission; Return to Eligible List or Retention as Certified**

- (a.) The Appointing Authority shall report to the Commission the name of the person so appointed or promoted. Except for original appointments to the Division of Police, the names of persons certified and not appointed shall be restored to the appropriate positions upon the eligible list.
- (b.) Any name certified to the Appointing Authority for an original appointment to the Division of Police who is not appointed shall remain certified until the expiration of the eligible list. In the event the Appointing Authority shall need to make additional appointments prior to such expiration, the Commission shall certify additional names from the eligible list so that the



total number of certified names shall equal ten for the first vacancy, plus three additional names for each additional vacancy.

**Section 5. Probationary Period**

Pursuant to Chapter 137 of the Codified Ordinances of the City of Cleveland Heights, the following shall apply: All promotions by the Mayor in the Classified Service of the City shall be for a probationary period of twelve (12) months. The probationary period for an original appointment to the Classified positions of Police Officer in the Division of Police be for a probationary period of twenty (24) months. The probationary period for an original appointment to the Division of Fire shall be for a probationary period of twenty-four (24) months. In the Division of Police the Appointing Authority may require that the appointee execute a contract or agreement of understanding that if the appointee fails to obtain a passing grade on the final examination administered by the Ohio Peace Officer Training Council or its equivalent successor upon completion of the Police Academy basic course, then the appointee shall be discharged. In all cases noted above, if the conduct, capacity or fitness be unsatisfactory the appointee may be discharged at any time during such term or returned to the original rank; provided, however, that if the appointee has served less than one-third of the probationary period, the procedures of Rule VIII, Sections 3 through 11, shall be followed. If the appointee has served one-third or more of the probationary period, the procedures of Rule VIII need not be followed to discharge or reduce in rank a probationary appointee whose performance does not merit continued employment in the rank or classification. Whenever an employee is granted a leave of absence, laid off, or suspended from duty during the probationary period, the time between the effective date of said interruption in service and the return to duty shall not be considered to be part of the probationary period. If the conduct, capacity or fitness of the probationer are satisfactory to the Appointing Authority, the retention after the end of such probationary term shall be equivalent to permanent appointment.

**Section 6. Temporary and Emergency Appointment**

Temporary and emergency appointments may be made by the Appointing Authority when the good of the service or the welfare of the public make it necessary in the judgement of the Appointing Authority to do so. However, notice must be given to the Commission with the reasons for making such provisional appointments and such reasons must be sufficient and satisfactory to the Commission. Such temporary or emergency appointments shall not continue for a period longer than ninety days or until candidates can be certified.

## **RULE VII - LAYOFFS AND REINSTATEMENTS**

### **Section 1. Method of Lay-Off**

Whenever it becomes necessary to lay off employees within any rank or classification in the Classified Service for any reason, those persons who have been appointed last within that rank or classification shall be the first to be laid off from the service. The Appointing Authority shall notify the Commission and the employee being laid off immediately in writing and state therein the reason(s) for such layoff.

### **Section 2. Recall Eligibility**

When any employee in the Classified Service is laid off, the name of such employee shall be placed at the head of the eligible list for the rank or classification from which he or she is laid off; if there is no existing eligible list at the time, the name of such person shall constitute one. When two (2) or more employees have been laid off, whether at the same time or not, the names shall be placed at the head of such eligible list in the order of the appointment in the rank or classification held when laid off. Such persons shall be eligible for certification and reappointment for a period of two (2) years thereafter. When the Appointing Authority determines that the conditions for the layoff(s) no longer exist, the person whose name stands highest on the eligible list shall be certified and reappointed to fill any vacancy in the rank or classification from which he or she was laid off.

### **Section 3. Accepting Other City Employment**

Any laid off employee may accept an appointment in another rank or classification in the Classified service or the Unclassified Service of the City and retain his or her position on the eligible list for the rank or classification from which he or she was laid off for the period set forth in Section 2 of this Rule.

### **Section 4. Termination of Recall Rights**

If a laid off employee fails to accept reappointment to the rank or classification, from which he or she was laid off, his or her recall rights pursuant to this Rule shall be terminated. Such action shall be deemed to constitute a resignation from such employment with the City.

### **Section 5. Reinstating a Separated Former Employee to the Same Rank or Classification**

Under limited circumstances, a separated former permanent employee in the Classified Service may be reinstated (i.e., rehired) to the same rank or classification and fill a vacancy in such rank or classification. No separated former employee has any right to reinstatement/rehire. Rather, the decision to reinstate a qualifying

former employee to his or her previously held rank or classification in the Classified Service to fill a vacancy is at the sole and exclusive discretion of the Appointing Authority, consistent with the requirements contained in this Section. In order for a separated former permanent employee in the Classified Service to be considered for reinstatement to a vacant position, all of the following conditions must be met:

- (a.) the separated former permanent employee in the Classified Service voluntarily resigned without fault or delinquency;
- (b.) at the time of voluntary resignation, the Appointing Authority deemed the former permanent employee in the Classified Service suitable for reappointment;
- (c.) the separated former permanent employee in the Classified Service may only be considered for reinstatement to a vacancy in the same rank or classification that person formerly held;
- (d.) reinstatement under this Section may only occur within one year from the former permanent employee in the Classified Service's date of separation;
- (e.) the separated former permanent employee in the Classified Service who seeks reinstatement must pass a physical, medical and/or psychological examination as the Commission may determine; and
- (f.) the separated former permanent employee continues to meet or hold all qualifications, licensures, certificates, continuing education/training and/or other requirements necessary to hold the position at issue.

Reinstatement shall originate only upon departmental request and after approval by the Appointing Authority. If a separated former permanent employee in the Classified Service seeks reinstatement, meets all the criteria in this Section, and the Appointing Authority elects to reappoint that former employee to a vacancy in the same rank or classification that person formerly held, then such appointment may be made without the application process contained in Rule III and without the examination process contained in Rule IV. Further, the Appointing Authority may reinstate a qualifying former employee pursuant to this Section prior to filling a vacancy in the manner described in Rules V and VI. (For the sake of avoiding uncertainty, this means the Appointing Authority may elect to reinstate a former employee in accordance with this Section prior to filling a vacancy from an existing or prospective eligible list as otherwise contemplated in these Rules.)

A reinstated employee will not be required to serve a probationary period described in Rule VI, Section 5 unless so required by the Appointing Authority, in which case the Appointing Authority shall notify the employee of such requirement. A reinstated employee may, at the Appointing Authority's discretion, be credited for continuous service prior to separation for

purposes of base pay upon reinstatement. For purposes of accrued time off or accrual of time off, a person who separates from the City, then is reinstated may be credited for prior service in accordance with City policy. A person who separates from the City, then is reinstated shall not be credited for prior service or seniority for any other purpose unless specified in this Section.

## **RULE VIII - SUSPENSIONS, REDUCTIONS AND REMOVALS**

### **Section 1. Tenure**

The tenure of every employee in the Classified Service shall be during good behavior and efficient service. No such employee shall be reduce in pay or position, suspended, discharged or otherwise disciplined except as hereinafter provided.

### **Section 2. Causes for Discipline**

Any employee in the Classified Service may be discharged, suspended, reduced in rank or pay, or otherwise disciplined for any one or more of the following causes:

- (a.) Neglect of duty.
- (b.) Absence from duty without leave.
- (c.) Incompetency or inefficiency in performance of duties.
- (d.) Fraudulent conduct or false statements in any application or examination for a position in the Civil Service of the City.
- (e.) Conduct unbecoming an employee in the public service.
- (f.) Misuse or abuse of alcohol, drugs or narcotics affecting a person's employment or sworn duty.
- (g.) Disorderly, immoral or unethical conduct while on duty.
- (h.) Insubordination.
- (i.) Committing any form of workplace harassment based on race, color, religion, sex, sexual orientation, gender identity, national origin, familial status or disability.
- (j.) Offensive conduct or language toward fellow employees, superiors or the public in the course of employment.
- (k.) Violation of any of the provisions of law governing the Civil Service of the City or of the Rules and Regulations of the Commission or of the Department or Division.
- (l.) Conviction of any felony or conviction of a misdemeanor involving moral turpitude.
- (m.) Negligent or willful damage to public property.
- (n.) Wasteful or unauthorized use of City vehicles, equipment, materials or property.
- (o.) Negligent, improper or inefficient handling or accounting for public funds or accounts or violation of any department rule or regulation respecting the handling or accounting for public funds or accounts.

- (p.) The use or attempted use of political influence or authority upon any person in the Civil Service or engaging in any political activity prohibited by Civil Service laws or by the Rules of the Civil Service Commission.
- (q.) Excessive absenteeism or excessive tardiness.
- (r.) For other failure of good behavior which is detrimental to the service or for any other act of misfeasance, malfeasance or nonfeasance in office.

**Section 3. Authority to Bring Charges**

The Appointing Authority shall have the sole right to bring charges against the Chief of a Division of the Department of Public Safety. Charges may be placed against all other members of a Division of the Department of Public Safety by the Chief of the Division involved. Charges may be placed against all other members of the Classified Service over which the Commission has jurisdiction by such person or persons as provided by law.

**Section 4. Pre-Disciplinary Conference**

(a.) Procedure

When any disciplinary action is contemplated as to an employee in the Classified Service, the Appointing Authority or the Chief of the Division of Fire or Police, whichever division is involved, shall give such employee oral or written notice of the action contemplated and an opportunity to respond to the contemplated action.

The Appointing Authority or Chief of the Division involved shall notify in writing the Secretary to the Commission of any pre-disciplinary conference which results in disciplinary charges being brought against an employee pursuant to Section 2 of this Rule.

(b.) Immediate Relief from Duty

When in the opinion of a superior, the conduct of the employee is such as to require that he/she be relieved of duty immediately, such employee may be relieved from duty by oral order, provided that such employee be notified of the reason(s) for the superior's actions as soon as possible and promptly afforded an opportunity to respond to the charge(s) against him/her. In all such instances, such opportunity shall be provided the employee within three (3) working days after being relieved from duty.

**Section 5. Notice of Suspension for Five (5) Scheduled Work Days or Two (2) Tours of Duty or Less**

When, after following the procedures set forth in Section 4 of this Rule, the Appointing Authority or Chief of the Division of Fire or Police decide to suspend

the employee for purposes of discipline for a period of five (5) scheduled work days or less, or in the case of a member of the Division of Fire who is working twenty-four (24) hour shifts, for a period of two (2) tours of duty or less, the Appointing Authority or Chief of the Division involved shall promptly notify the employee in writing of the suspension. Said notice shall include the reason(s) for the suspension and the duration thereof. At the same time such written notice is delivered to the suspended employee, a duplicate copy thereof shall be sent to the Secretary of the Civil Service Commission. The Commission will entertain no appeal from a suspension of five (5) work days or two (2) tours of duty or less. Successive suspensions are not permitted to circumvent Section 6 of this Rule.

**Section 6. Charge, Hearing and Penalty on Suspension for More than Five (5) Scheduled Work Days or Two (2) Tours of Duty, Discharge or Reduction in Rank**

(a.) Notice of Discipline, Written Charges and Specifications

When, after following the procedures set forth in Section 4 of this Rule, the Appointing Authority or the Chief of the Division of Fire or Police decides that the employee should be discharged, suspended pending discharge, suspended for more than five (5) scheduled work days or more than two (2) tours of duty in the case of a member of the Division of Fire who is working twenty-four (24) hour shifts, or reduced in rank or salary, the Appointing Authority or the Chief of the Division involved shall promptly notify the employee in writing of such decision, setting forth the charges and specifications therefore.

(b.) Hearing Authority

The Civil Service Commission shall conduct the hearing on charges directed against the Chief of a Division of the Department of Public Safety and in all other cases where the Appointing Authority brings the charge(s). The Appointing Authority, or his/her designee, shall conduct a hearing on charges against any other members of the Classified Service of the City.

(c.) Burden of Requesting Hearing on Employee

The charging letter shall further inform the employee that he/she must advise the Civil Service Commission if he/she desires to have a disciplinary hearing before the appropriate authority as set forth in Section (A) of this Rule, and that the designated Hearing Authority must receive such request for a hearing in writing within seven (7) working days of the date of service of the charging letter. At the same time such written notice is delivered to the employee, a duplicate copy thereof shall be sent to the Secretary of the Civil Service Commission. Failure to request a hearing within the required seven (7) working days will cause such charges to stand uncontested and in

such cases the appropriate Hearing Authority shall review the charges and sustain, modify or overrule the action of the charging party in discharging, suspending or reducing the employee concerned.

(d.) Procedure for Hearings

If a hearing is properly requested pursuant to Section (C) of this Rule, this procedure shall be followed. The hearings provided for herein shall be informal but shall follow the following described procedure:

- (1.) A reading of the charge and a plea by the employee to such charge;
- (2.) The party bringing the charges or a representative therefor shall briefly state the charges and produce evidence to support those charges;
- (3.) The employee charged may present a defense to the charge including evidentiary support of the defense; and
- (4.) Rebuttal evidence may be presented by the party making the charge.

The Hearing Authority shall then determine the guilt or innocence of the party so charged applying a burden of proof upon the charging party of establishing the charge(s) by a preponderance of the evidence. Nothing herein stated shall require a hearing if the employee so charged enters a plea of guilty to the charge. Upon a finding of guilt by the Appointing Authority or a majority of Commission members, the Hearing Authority shall assess the penalty, which may include termination of employment and removal from the service. In determining the penalty, the Hearing Authority shall consider the performance and record of such employee while a member of the Classified Service.

(e.) Continuance of Hearing Pending Criminal Charges

In the event that the discharged, suspended, or reduced employee was, at the time of separation from service, charged with or under indictment for a felony or charged with a misdemeanor involving moral turpitude, either the charging party or the said employee, by timely filing a request with the Hearing Authority, shall be granted a postponement of the hearing required by this Rule until after the aforementioned alleged violation of law has been adjudicated.

**Section 7. Continuance of Hearing**

Except as provided in Section 6 (e) of this rule, the Hearing Authority may continue

any hearing provided for in Section 6 of this Rule upon the request of any party or upon the Hearing Authority's own motion for good cause shown. Further continuances shall not be granted unless a party makes such request, in writing, to the Hearing Authority at least three (3) days prior to the scheduled hearing date, setting forth the reasons therefore, and the Hearing Authority shall have sole discretion whether to grant such request and shall notify the parties accordingly. No continuance shall be granted for a period longer than ten (10) days. The granting of a continuance to a party, as herein provided, shall not operate in any manner to prejudice the rights of the opposing party to the proceedings.

**Section 8. Preferring of all Charges Against Officer or Employee**

When the Appointing Authority or the Chief of the Division involved prefers charges against an employee pursuant to Section 2 of this Rule, he/she shall at that time set forth all charges that can or may be preferred against such employee up to the time of charging or such charging party shall thereafter be barred from preferring charges which arose prior to the notice to such employee, except those charges which could not, with reasonable diligence, have been discovered or known.

**Section 9. Service of Notice**

- (a.) Any notice to an employee provided for in Rule VIII shall be served upon such employee personally or by certified mail, return receipt requested, in the United States mail, at the last known address of the employee. The last known address shall be that address most recently supplied by the employee to the Commission.
- (b.) The Secretary to the Commission shall receive notice from the Appointing Authority or the Chief of the Division involved of the method and date of service of such notices including, where available, a copy of the certified mail return receipt. The date of service shall be considered the date of personal service or the date of receipt of the certified mail or, if no receipt is returned, three (3) calendar days from the date of transmittal of the notice by certified mail to the last known address of the employee.
- (c.) The method and date of service shall be documented by one of the following:
  - (1.) For personal service: (a.) a dated signature of the employee indicating that he/she received the notice; or (b.) a dated statement signed by the individual who personally served the employee indicating that he/she delivered the notice to the employee.
  - (2.) For service by certified mail: (a.) a dated receipt for certified mail issued by the United States Post Office indicating receipt of certified



mail for delivery to the employee at his/her last known address; or  
(b.) a dated statement signed by the individual who deposited the notice in the United States Mail, certified mail return receipt card affixed thereto, indicating the date that the notice was mailed to the employee's last known address.

**Section 10. Effective Date of Disciplinary Action**

A discharge, suspension or reduction in rank shall be effective from and after the decision of the Hearing Authority sustaining the same. Any time intervening between the date when the employee was separated from the service and the date when the Hearing Authority sustains the charge(s) shall be construed to be a suspension pending discharge. Where the Hearing Authority overrules the charge(s), the employee concerned shall be restored immediately to his position as of the date such employee was first relieved of duty.

**Section 11. Appeal**

- (a.) The following procedures shall be followed on appeal from rulings of the Appointing Authority for the City:
  - (1.) Procedure: If an employee so disciplined shall be dissatisfied with the finding of guilty by the Appointing Authority or with the penalty invoked, and if such penalty shall be more severe than that described in Section 5 of this Rule, such employee shall have seven (7) calendar days from the date of such finding in which to file with the Civil Service Commission an appeal from the ruling of the Appointing Authority. Such notice of appeal shall be in writing, directed to the Commission, and filed in the office of the Secretary of the Commission. The Commission shall, within thirty (30) days after receiving notice of appeal, conduct a hearing on such appeal. The Commission shall give both the Appointing Authority and the disciplined employee not less than seven (7) days; notice of the date and time of the hearing. The hearing on appeal shall be de novo before the Commission.
  - (2.) Hearing on Appeal: On the hearing of any appeal, the Commission shall confine its considerations to the charges originally placed against the accused employee and no substantial amendment of, nor addition to, such charges and specifications will be permitted or considered by the Commission. The order of procedure shall be as follows:
    - (a.) The party making the charge(s) shall briefly state the nature of the charge and outline the evidence to be presented in support of such charge(s);

- (b.) The appealing employee shall briefly state the defense(s) to the charge(s) and outline the evidence to be introduced in support of such defense(s);
- (c.) The party making the charge(s) shall present the evidence in support of the charge(s);
- (d.) The appealing employee may present the evidence in support of his defense(s) to the charge(s);
- (e.) The party making the charge(s) may present any rebuttal evidence;
- (f.) Arguments may be permitted by the Commission; and
- (g.) Either party to the proceedings may waive any right to make a statement or present evidence as outlined immediately hereinabove.

The admission and exclusion of evidence and the determination and decision of the Commission shall be guided in general by the rules of evidence applied by the courts in civil cases, and the burden of proof shall be upon the Appointing Authority to sustain his/her ruling(s) by a preponderance of the evidence. Either party may personally represent himself or be represented by counsel. The Commission shall, after due consideration, render its judgment affirming, disaffirming or modifying in part or in whole the order of the Appointing Authority which was the subject of the appeal. In case judgement is one of disaffirmance or modification, the appealing employee shall be reinstated under such conditions as the Commission may make in connection therewith. In case the judgment of guilty of the charge is affirmed, the Commission shall consider the performance and record of the appealing employee while a member of the Classified Service in determining whether or not to affirm the discipline assessed by the Appointing Authority.

(b.) Failure to Appear for Appeal

If the appellant fails to appear at the time and place fixed by the Commission to prosecute the appeal, the appeal may be dismissed by the Commission. If the party making the charge fails to appear at such time and place and offer evidence in support of the charge(s) and the discipline imposed, the Commission may hear evidence offered by the appellant and render its decision on the merits.

(c.) Effect of a Resignation on the Appeal

The acceptance by the Appointing Authority of the resignation of any such appellant before final action on the appeal by the Commission shall be considered withdrawal of the charges, and thereupon the appeal shall be dismissed without decision and the action of the employee thus resigning shall be entered as a resignation.

(d.) Announcement of Decision

The Commission shall announce its decision after reviewing all of the testimony, exhibits, briefs and arguments of counsel.

(e.) Finality of Decision

The decision of the Commission shall be final upon its enactment of written Findings of Fact and Conclusions of Law. The prevailing party shall, upon request, prepare proposed written Findings of Fact and Conclusions of Law and submit them to the Secretary of the Commission at least five (5) working days prior to the next regularly scheduled meeting of the Commission which shall be voted upon and enacted by the majority of the Commission that had voted to sustain the prevailing party's position. Prior to approval of any proposed Findings of Fact and Conclusions of Law, such majority may make any changes thereto which it deems appropriate. A decision of the Commission is final upon adoption by the Commission of the minutes.

**Section 12. When Absence Without Leave Construed as a Resignation**

Absence from duty without leave for ten (10) or more consecutive scheduled work days or, in the case of a member of the Division of Fire who is working twenty-four (24) hour shifts, for an absence of three (3) or more consecutive scheduled tours of duty, shall be deemed a resignation from the Classified Service by the absent employee; however;

(a.) Notice to Employee to Explain Absence

Prior to deeming an employee resigned for an absence as set forth above, the Appointing Authority or Chief of the Division of Fire or Police shall notify the employee personally, in writing or by certified mail directed to the employee's last known address, that his/her unexcused failure to appear for duty as scheduled will be construed as a resignation unless the employee advises the Appointing Authority or Chief of the Division involved within two (2) weeks of the date of transmittal of the notice of a satisfactory explanation for his/her absence. Failure to provide such an explanation

shall be deemed a resignation by the employee, effective the working day following the tenth consecutive work day or the third consecutive twenty-four (24) hour tour of duty on which the employee is absent without leave. The resignation shall be entered upon the records of the Commission upon receipt from the Appointing Authority or Chief of the Division of Fire or Police of documentation of the unexcused absence, and of transmittal of the above notice to the employee. The Appointing Authority or Chief of the Division involved shall not transmit notice of the employee's resignation to the Commission prior to the end of the two-week period provided for the employee's explanation.

(b.) Appeal to the Commission

Notice that the Commission has been notified of the employee's resignation shall be sent by the Appointing Authority or Chief of the Division of Fire or Police by certified mail to the last known address of the person who has been deemed resigned pursuant to this Section. The notice shall also advise such person that he/she may contest the entry of his/her resignation by notifying the Commission of his/her desire for a hearing and that the request for a hearing must be received by the Secretary to the Commission within the ten (10) working days of the date of the above notice by the Appointing Authority or Chief of the Division of Fire or Police to the employee.

Such hearing shall consist of a review of whether the Appointing Authority or Chief of the Division involved has complied with the requirements of this Section. The Commission may determine upon good cause shown that additional evidence is required. If the Commission so determines, such hearings shall follow the procedures set out in Section 6 of this Rule to the extent that those procedures are not inconsistent with the provisions of this Section. As a result of such hearing, the Commission may affirm or disaffirm the entry of resignation.

(c.) Disciplinary Rules Unaffected

Nothing in this Section shall be construed to preclude the discipline of any absent employee through discharge, suspension or demotion, in accordance with the provisions of Section 2 of this Rule.

**Section 13. Mental or Physical Incapacity**

Any employee in the Classified Service may be discharged for incapacity or inability to perform the duties of the employee's classification due to mental or physical condition. As a condition precedent to filing this charge, the Appointing Authority or Chief of the Division of Fire or Police shall request the Civil Service

Commission to order a mental or physical examination of any employee for the purpose of determining the mental or physical condition of the employee wherever a reasonable question is raised as to the physical or mental ability of an employee to perform the duties required within his/her classification. The Appointing Authority or Chief of the Division involved shall then determine, based on the duties of the employee's classification and the report of the employee's condition, the capacity or ability of the employee to continue or resume employment. All of the procedural rights set forth in this Rule shall be afforded the employee who is discharged due to incapacity or inability to continue or resume employment in his/her classification.

## **RULE IX - RESIDENCY REQUIREMENT**

Any person who, on the effective date of this rule, is serving as a member of the Classified Service of the City and who subsequently desires to change the situs of residence shall be governed by the provisions set forth in Rule III, Section 2(c).

## **RULE X - LEAVES OF ABSENCE**

Except as limited or prescribed by law, or by any collective bargaining agreement as may govern a subject employee, leaves of absence without pay may be granted by the Appointing Authority for a period not to exceed ninety (90) days without the consent of the Commission. Leaves of absence for a longer period than ninety (90) days shall be granted by the Appointing Authority only with the consent of the Commission. Written notice of all leaves of absence granted, stating the commencement and period thereof, shall at once be given to the Commission.

## **RULE XI - EFFICIENCY RECORDS**

### **Section 1. Efficiency Appraisal Forms**

The Chiefs of the Division of Fire and the Division of Police and the Appointing Authority will develop forms and procedures for appraising the performance and efficiency of employees. The efficiency rating system shall be reviewed periodically and approved by the Commission.

### **Section 2. Efficiency Ratings to Commission**

All employees' efficiency ratings shall be given to the Commission, noting significant trends.

## **RULE XII - WAIVER OF RULES**

In specific cases where, in the judgment of the Commission, it is in the interest of the public service, any of the rules hereby adopted may be waived by a majority vote of the

Commission. Such action and the reasons therefore shall be entered in the minutes of the Commission.

### **RULE XIII - AMENDMENTS**

#### **Section 1. Authorization**

The Commission may at its discretion change, amend, revoke or modify these rules, or any rule herein or any part thereof, by a majority vote of the Commission, provided one week notice of such proposed change, together with the text of the proposal, shall be given by posting on the bulletin board in the office of the Commission and the office of the Board of Education.

#### **Section 2. Effective Date**

All present Rules and Regulations shall continue in force pending approval of the minutes of the meeting at which the proposed Rules and Regulations are adopted. Upon approval of said minutes, the former Rules and Regulations are therewith repealed.

### **RULE XIV - SAVING CLAUSE**

If any section or part of a section of these rules is held by any court to be invalid or unconstitutional the same shall not invalidate or impair the validity, force and effect of any other section or part of a section of these rules unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held invalid or unconstitutional.

### **RULE XV - INVESTIGATIONS AND SUBPOENA POWER**

#### **Section 1. Authorized**

The Commission shall have the power to make investigations concerning all matters touching enforcement and effect of the Civil Service provisions of the Codified Ordinances and of the Commission's Rules and Regulations; and, in the course of any such investigation, any hearing provided for in these Rules and Regulations, or at any trial on appeal, the presiding officer of the Commission shall have the power to subpoena and require the attendance and testimony of witnesses, the power to administer oaths and affirmations and to take testimony relative to any such investigation or hearing, and the power to require the production by subpoena of any relevant evidence pertinent to such investigation, inquiries or hearing.

**Section 2.     Service of Subpoenas**

A subpoena provided for by Section 1 of this Rule may be served by a member of the Commission, the Secretary to the Commission, an attorney at law or by any person designated by the presiding officer of the Commission who is not a party and is not less than eighteen (18) years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person or by reading it to him in person or by leaving it at his usual place of residence. The person serving the subpoena shall file a return thereof with the Secretary of the Commission.

**Section 3.     Witness Fees**

The fee which must be tendered with the service of a subpoena referred to in Section 1 of this Rule shall be the same as the fee required by the Cleveland Heights Municipal Court.

**Section 4.     Contempt**

Failure of any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the Commission and enforceable through the Cleveland Heights Municipal Court.

Adopted this 18th day of February, 2021

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Anna Smith, Secretary  
Civil Service Commission of Cleveland Heights