

**CITY OF FLINT**

**CIVIL SERVICE COMMISSION**

**RULES AND REGULATIONS**

## TABLE OF CONTENTS

PAGE (S)	RULE	TITLE
1-3.....	I.....	Organization
3.....	II.....	Continuation & Promulgation Of Rules
3-4.....	III.....	Appeal Hearings
4-5.....	IV.....	Classification and Allocation
5-7.....	V.....	Appeal Procedure
7.....	VI.....	Notice of Meetings
8.....	VII.....	Postponement of Hearing
9-10.....	VIII.....	Prehearing Conference
10.....	IX.....	Conduct of Hearings
11-12.....	X.....	Subpoenaes
12-13.....	XI.....	Presentation of Evidence
13-14.....	XII.....	Depositions
14-17.....	XIII.....	Order of Hearing
17-18.....	XIV.....	Decision of Commission
18.....	XV.....	Request for Rehearing
18-19.....	XVI.....	Deadwood Case File
19.....	XVII.....	Public Inspection & Copying Of Materials

### NOTICE

The original Civil Service Commission Rules and Regulations were adopted on December 21, 1977 and implemented on January 27, 1978. The rules were amended or revised on April 9, 1986 and on March 3, 1999. Said rules note the date of said amendment or revision.

## RULE I

### ORGANIZATION

- Section 1. The Civil Service Commission, at its first regular meeting of the calendar year, shall determine the number, time and place of regular monthly meetings, and select its officers, as necessary, for the calendar year.
- Section 2. The Civil Service Commission may conduct special meetings in addition to those regularly scheduled. Such meetings may be scheduled at the direction of the Commission upon request of two or more members of the Commission or by the Civil Service Director. At special meetings, the Commission may conduct other business in addition to that for which the meeting was called, if proper notice of such business being considered has been given.
- Section 3. A majority of the members appointed/elected to serve on the Commission (4) shall constitute a quorum. (4/9/86)
- Section 4. The Chairperson shall preside over the regular and special meetings of the Commission. The Chairperson shall be a voting member of the Commission.
- Section 5. It shall be considered cause for removal of a Commission member, if such member is absent for three consecutive regular meetings of the Commission, or if the member is absent from over one-third (1/3) of the regular meetings in the calendar year.
- Section 6. The issue of disqualification of a member to hear a case may be raised by a member on his/her own motion, stating any reasons for the conflict, or by a written petition by any party to the case. Such written petition shall be filed with the Director not later than four (4) days prior to scheduled hearing date. Immediately prior to receiving any testimony on the case, the Commission shall by majority voice of the members present, approve or disapprove the disqualification.

A member subject to a disqualification motion shall abstain from voting on the motion, but shall be allowed to state reasons why the disqualification motion should be approved or disapproved before the vote is taken.

Criteria for disqualification of a member shall be limited to the following reasons:

- A. Any party to the case is a member of the Commissioner's immediate family.
- B. The member is presently a business partner of any party or representative in the case.

- C. The member is employed or has been consulted or served as counsel to any party in the case.
- D. Petitioning party must submit substantive evidence of personal bias or prejudice for or against any party or representative to the case by the challenged member. (4/9/86)

- Section 7. The Director or his designate shall be responsible for taking the official minutes of the Commission meetings. The minutes shall include the names of Commissioners making and supporting motions, and the manner in which each Commissioner voted on each issue. Upon the request of a Commissioner, the minutes shall include an explanation of that Commissioner's vote. The Commission shall review and, as a matter of record, approve the minutes of each meeting submitted by the Director.
- Section 8. The Director shall administer the procedures established by the Civil Service Commission in accordance with provisions of the Charter of the City of Flint and the rules established thereunder. The Director shall develop and recommend new and revised rules to the Civil Service Commission. The Commission may make recommendations to the Chief Personnel Officer, Mayor, City Council and the Board of Hospital Managers concerning personnel administration and revision of all personnel matters. (4/9/86)
- Section 9. The Director shall each year prepare a budget request for the Civil Service Commission in accordance with the budget procedures and schedule of the administration. The Director shall present the budget to the Commission for its consideration and approval prior to its submission to the Mayor and City Council.
- Section 10. The Director shall perform all other lawful and necessary duties, essential to the effective administration of the Civil Service provisions, as may be assigned by the Commission.
- Section 11. In order to properly discharge its function in regard to the review of the disputed case, the Civil Service Commission shall have access to any files, correspondence, memoranda, etc., which it feels may be pertinent to the case and shall have the right of questioning any officers or employees of the City/Hurley Medical Center whom the Commission feels may be able to shed light on the case.
- Section 12. The Commission may delegate the power to hold hearings, gather evidence, administer oaths and take testimony to a Hearing Officer by resolution.
- Section 13. The Hearing Officer shall have at least the same qualifications as are required of the public-at-large representatives by the City Charter.

- Section 14. The Hearing Officer shall have the same powers as the Commission to gather evidence unless authorized by the Commission.
- Section 15. Upon completion of the hearing, the Hearing Officer shall submit a recommendation as to his/her findings to the Commission. (3/3/99)

## **RULE II**

### **CONTINUATION & PROMULGATION OF RULES**

- Section 1. These Civil Service Commission rules as presently constituted supersede all rules that presently pertain to the procedures of the Commission and shall continue in effect until amended or rescinded.
- Section 2. The rescission of a rule does not revive a rule which was previously rescinded.
- Section 3. The amendment or rescission of a valid rule does not defeat or impair a right of any party in a grievance filed with the Civil Service Commission prior to the time the rule is amended or rescinded.
- Section 4. If the Civil Service Commission finds that enforcing the Merit Principle in all aspects of personnel administration requires promulgation of an emergency rule without following the rulemaking procedure, as required by the City Charter, and the Mayor or City Council concurs in the finding of an emergency, the Commission may dispense with all or part of such procedure and file with the City Clerk copies endorsed as an emergency rule, three (3) of which shall have attached the Mayor's or Council's certificate concurring in the finding. (3/3/99)

## **RULE III**

### **APPEAL HEARINGS**

- Section 1. Any employee of the Classified Service or applicant to the Classified Service, unless otherwise stated in these rules, electing to appeal violations concerning the implementation and/or application of the Merit Principle may appeal to the Civil Service Commission.
- Section 2. Employees who have successfully completed a probationary period in one or more classifications shall have the right to appeal disciplinary action resulting in a discharge, suspension or demotion. (4/9/86)

- Section 3. Employees who have not successfully completed a probationary period in any classification shall not be entitled to a hearing relative to discharge unless, upon good cause shown, a hearing is granted by the Commission. The evidence considered by the Commission to determine good cause in this context shall be limited to brief/written statements, any relevant documents and/or affidavits and oral arguments. (3/3/99)
- Section 4. Employees laid off under rules adopted in accordance with charter provisions considering themselves aggrieved may appeal to the Commission for reinstatement or for redetermination of their seniority.
- Section 5. In the event a bargaining unit is permitted by contract language or past practice to elect the Commission procedure, a Request for Hearing must be filed within fourteen (14) calendar days following receipt of written notification of the last-step answer. However, the internal grievance must have been filed timely. Untimeliness of an internal grievance may be raised providing that an objection was made during the internal grievance process to any alleged untimeliness. (4/9/86, 3/3/99)
- Section 6. Complaints not specifically addressed as part of this rule may be grieved pursuant to Section 1.
- Section 7. No Request for Hearing will be honored unless the other party involved has had an opportunity to render a determination from which an appeal can be made. If the opportunity to render a determination has not been exercised within fourteen (14) calendar days following a request for determination, the parties may assume that a determination has been rendered adversely to the parties requesting the appeal. (4/9/86)

#### **RULE IV**

##### **CLASSIFICATION AND ALLOCATION**

- Section 1. The Civil Service Commission shall have original jurisdiction of classification and allocation complaints of employees, after an adverse determination is made by the Personnel Office. (3/3/99)
- Section 2. The Civil Service Commission shall consider disputes relative to classification and the allocation complaints arising between the employee and/or his or her recognized bargaining unit representative or an employee not eligible for membership in the bargaining units and the Personnel Office.
- Section 3. The Commission will schedule hearings on such complaints as part of the agenda of its regular or special meetings.

- Section 4. In the event that the personnel staff through its study and investigation makes a recommendation to the employees and/or a bargaining unit representative or to employees not eligible for membership in the bargaining units and with which the employee and/or bargaining unit representative is in disagreement, a written request for an appeal on the recommendation may be made to the Civil Service Commission and such appeal shall be made within fourteen (14) calendar days. If no such request is made, the recommendation of the personnel staff shall be considered final. (3/3/99)
- Section 5. In the event that the personnel staff and the employee and/or representative, or employees not eligible for membership in the bargaining units, do not reach agreement on one or more of the class evaluation factors, either party may apply for consideration and determination of the impasse factors to the Civil Service Commission within fourteen (14) calendar days. The Commission will not consider those factors on which agreement has been reached. If no such request is made, the existing class evaluation shall stand. (3/3/99)
- Section 6. Parties appealing classification and/or allocation matters and the Personnel Office representative, from whose action the appeal is taken, shall submit a written statement giving a summary of their positions on the matter being appealed at the prehearing conference. The statement shall list witnesses, nature of testimony and shall include pertinent documentation. Written statements will be read into the record, unless otherwise agreed to by both parties. Oral arguments, at the time of the hearing, shall be limited to facts in dispute. (4/9/86)
- Section 7. Following the recommendation by the personnel staff without an appeal being made, or following the decision made by the Commission on an appeal, no new request will be considered until it can be clearly shown that the duties and responsibilities of the class involved have changed materially.

#### **RULE V**

##### **APPEAL PROCEDURE**

- Section 1. Request for an appeal hearing before the Civil Service Commission must be filed on Form CSC-1 and properly timed stamped at the office of the Commission within fourteen (14) calendar days following the employee's or applicant's receipt of final written notification of the action taken by the authority taking the action. (CSC-1 Forms are available at the Commission office). (4/9/86)
- Section 2. In the event of unusual circumstances and good cause shown, the Civil Service Commission may authorize extensions of the time limits of the appeal procedure on a case by case basis.

- Section 3. The request must contain reasons why the grievant believes the action being appealed to has been unjust and state the remedial action requested; however, the issues at the hearing are not limited to the content of Form CSC-1 or the written request. (3/3/99)
- Section 4. Any interested party shall be entitled to file briefs or other written statements within the time specified by the Director.
- A. Any brief or written statement shall be stated in concise terms.
- B. An original copy of such document shall be filed with the Commission and one copy served on each of the other parties, with a statement of such service filed with the Commission. (3/3/99)
- C. Briefs or written statements of more than ten (10) pages shall be properly indexed.
- Section 5. Subject to the review of the Commission, the Director may consolidate any pending cases, or sever cases which have been consolidated on his/her or at the request of any party.
- Section 6. The Civil Service Commission shall commence a hearing and fully determine the matter within thirty (30) days after the filing of a Request for Hearing, unless the time is extended by agreement of the parties. The Commission may either affirm, modify or revoke the action giving rise to the appeal. (3/3/99)
- Section 7. The grievant shall be entitled to appear personally, produce evidence and to be represented by a bargaining unit representative, legal counsel or any other person of his or her choosing.
- Section 8. In the event that the grievant shall fail to appear in person or by counsel at the time and place set or hearing, after due notice, the grievant shall be presumed to have waived his or her right to further hearing. (3/3/99)
- Section 9. The Civil Service Commission may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain a postponement. An award shall not be made solely on the default of a party. The Commission shall require the other party to submit such evidence as it may require for the making of a determination.
- Section 10. The grieving party may withdraw a Request for Hearing before the Commission, provided such withdrawal is in writing and filed with the Commission. Once the request is withdrawn, it may not be reinstated. (3/3/99)

- Section 11. In its review of a disciplinary action, the Commission may consider:
- A. The appropriateness of the disciplinary action to the violation with regard to the case under consideration. (4/9/86)
  - B. The question of whether the employee is guilty of the violation with which he or she is charged.
  - C. Any other matters which are indispensable to rendering a determination.
- Section 12. The finding or decision of the Commission shall be certified to the official from whose order the appeal is taken, and shall forthwith be enforced and followed by him or her, unless an extension is mutually agreed to, in writing, by each party and the Civil Service Commission.
- Section 13. The Commission and/or the prevailing party may invoke the aid of Circuit Court of Genesee County to issue an appropriate order of compliance in the event any individual refuses to comply with and enforce a Commission finding.
- Section 14. Any employee or appointing authority who conceives himself/herself aggrieved by a determination of the Civil Service Commission may within twenty (20) calendar days, after the date of mailing notice of the final decision or order of the Commission by regular mail, file a petition to appeal said determination to the Circuit Court of Genesee County. The filing of the petition does not stay the enforcement of the Commission action, but that the Commission may grant, or the court may order, a stay upon appropriate terms.
- Section 15. The filing of a written request for a hearing before the Civil Service Commission shall constitute an election to use the Commission procedure.

## RULE VI

### **NOTICE OF MEETINGS**

- Section 1. The Director shall, in addition to giving proper notice of meetings required by the City Charter and State Law, publish and distribute to concerned parties a Subject Matter Agenda of items to be considered by the Commission at each regular and special meeting. The agenda shall be published in sufficient time (four calendar days before scheduled regular meetings) to allow its distribution throughout the City Service. In the event of special meetings, parties will be given at least forty-eight (48) hour notice. Any employee, applicant, citizen or other person, groups of persons, etc., that are specifically concerned in an agenda matter shall be

given notice of the meeting either by a copy of the Subject Matter Agenda or by special notification. In every case of appeal hearings, special notification will be given to the parties concerned.

Section 2. The Civil Service Commission shall post a copy of the notice of hearing conspicuously on bulletin boards throughout City Hall.

Section 3. The parties shall be given reasonable notice of the hearing, which shall include a statement of the date, hour, place and nature of hearing. Unless otherwise specified in the notice, the hearing shall be held at the City of Flint Council Chamber, Third Floor, City Hall, at 7:00 p.m. on the first (1<sup>st</sup>) and third (3<sup>rd</sup>) Wednesdays of each month. (3/3/99)

## **RULE VII**

### **POSTPONEMENT OF HEARING**

Section 1. Hearings on grievances filed with the Civil Service Commission may be postponed only upon good cause shown.

Section 2. In seeking a postponement of the hearing, a party must:

- A. Submit the request in writing whenever possible.
- B. Set forth reasons, in detail, for the request.
- C. Suggest alternative dates for any rescheduled hearing.
- D. Where possible, obtain the agreement of the other party.  
(4/9/86)

Section 3. The Commission shall provide all parties an opportunity to argue their respective positions before it rules upon a request for postponement.

Section 4. If either party or their representative requests a postponement on a matter before the Commission which may affect back pay, the Commission may consider said request in determining the award to be granted.

**RULE VIII**

**PREHEARING CONFERENCE**

- Section 1. Prior to the hearing, the Director shall direct the parties to appear before him/her for a conference at a designated time and place to consider among other things:
- A. Simplification of issues;
  - B. The necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation; (3/3/99)
  - C. Obtaining stipulations of fact or admission of undisputed facts or the authenticity of documents;
  - D. The procedure at the hearing;
  - E. Listing and limiting the number of witnesses and the general nature of their proffered testimony, together with any request for deposition and subpoenas; (3/3/99)
  - F. Documents to be used and demands for production of documents;
  - G. Motions for disqualification of a Commission Member;
  - H. Suggested findings of fact;
  - I. Any other matters which would tend to expedite the disposition of the proceeding. (4/9/86)
- Section 2. The action taken at the prehearing conference may be recorded, in summary form or otherwise, for use at the hearing. Stipulations and admissions of fact and amendment to pleadings shall be made a part of the record of the proceeding. Such record shall be conclusive as to the action embodied therein. (4/9/86)
- A. The issues presented at the hearing shall be limited to those stated in the prehearing summary unless expanded or limited by the Commission.
  - B. The prehearing summary shall set the date for compliance with all reasonable demands for the production of documents. These demands for production of documents for use at the hearing shall be considered at the prehearing conference by the Director and decided by him/her.

- C. The prehearing summary will set a date for listing all witnesses whose names could not reasonably be submitted at the time of the prehearing conference. The parties will not be allowed to call any witness not listed on the prehearing statement without Commission approval. (3/3/99)
- D. The Director shall consider any requests of the parties to take testimony by deposition and where he/she deems it appropriate allow the presentation of testimony by deposition, shall dictate the manner of the taking of such deposition, and shall set the deadline for taking such deposition in the prehearing summary.
- E. The Director shall consider and decide the question of the propriety of the mutual exchange of prepared testimony or exhibits and shall order the parties to do so, where appropriate, in the prehearing summary. The prehearing summary shall set a deadline for the exchange of these items, and failure to comply with this deadline shall bar its production at the Civil Service hearing, unless the Commission, for good cause shown, allows its admission.
- F. The Director shall decide upon the procedure to be used at the hearing, and shall set forth this procedure in the prehearing summary. The summary of procedure shall govern the subsequent course of the hearing at or before the hearing by the Commission.
- G. The Director may consider any other matters which would tend to expedite the fair disposition of the proceeding, and include these matters in the prehearing summary.

Section 3. The Director shall serve upon each of the parties a summary of the results of the prehearing conference within fourteen (14) calendar days following the prehearing conference, unless time is extended by mutual agreement of the parties. The summary will control the subsequent course of action unless modified at or before the hearing by the Director to prevent manifest injustice, and thereafter by the Commission upon good cause shown. (4/9/86)

Section 4. The Director may provide a prehearing calendar on which actions may be placed herein provided in the furtherance of justice, but not in conflict with these rules.

#### **RULE IX**

##### **CONDUCT OF HEARINGS**

Section 1. All meetings called for the purpose of conducting business

within the jurisdiction of the Civil Service Commission shall be public.

- Section 2. The Civil Service Commission may meet in closed session to consider the dismissal, suspension or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent, if the named person requests a closed hearing, or as otherwise provided by the Open Meetings Act. (3/3/99)
- Section 3. It shall be the duty of the Commission to inquire fully into all issues and to obtain a full and complete record upon which a decision can be made.
- Section 4. Any party to the proceeding shall have the right to appear at the hearing in person, by counsel, or by other representative, and to call, examine, cross-examine and rebut witnesses and to introduce documentary and other evidence on the issues.
- Section 5. The Chairperson shall conduct the proceedings of a hearing. In his or her absence, the Commission Vice-Chairperson shall preside. The Commission shall attempt to complete the hearing in one session.
- Section 6. Upon completion of closing statements by the parties, no one will be allowed to make final statements except at the discretion of the Commission.
- Section 7. The Commission may request the assistance of an impartial counsel.

#### **RULE X**

##### **SUBPOENAS**

- Section 1. The Director shall upon application by any party, and upon a showing of general relevance and reasonable scope of the evidence sought, issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence under oath, including books, records, correspondence or documents. Applications for the issuance of subpoenas shall specify the name and addresses of witnesses, books, records, correspondence or other documents sought and shall include the names and addresses of individuals from whom such material may be obtained. Every effort will be made to insure proper service and that individuals subpoenaed are given as much advance notice as possible. (4/9/86, 3/3/99)
- Section 2. Witnesses summoned before the Civil Service Commission shall be paid the same fees and mileage that are paid witnesses in Circuit Court of Genesee County, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in Circuit Court of Genesee County.

- Section 3. The Commission may invoke the aid of Circuit Court for the County of Genesee to issue an appropriate order of compliance in the event any individual refuses to obey a subpoena or refuses to be sworn or to testify, or if any witness, party or representative is guilty of any contempt while in attendance at the hearing.
- Section 4. If an appropriate ordinance exists prohibiting an individual's refusal to attend a hearing before the Commission, or refuses to produce any documentation that is subpoenaed, the Commission may request the Chief Legal Officer to prosecute said individual pursuant to the ordinance.

## **RULE XI**

### **PRESENTATION OF EVIDENCE**

- Section 1. All documents in the employee's personnel file in the Personnel Office, pertinent to the dispute before the Commission, is deemed to be in evidence.
- Section 2. The Civil Service Commission may choose not to consider evidence presented which is not in the employee's personnel file in the Personnel Office, or which he or she may not have had the opportunity to review.
- Section 3. Before taking testimony, the parties shall state the names of witnesses they propose to have sworn, and if requested by the Commission, shall state the nature of the testimony to be given by each witness. The Commission reserves the right to refuse to take testimony of witnesses where such testimony is not pertinent to the matter at hand.
- Section 4. Witness(es) shall be allowed to testify in narrative form.
- Section 5. Witnesses shall be examined orally under oath except that, for good cause shown, the Commission may permit the testimony to be taken by deposition under oath.
- Section 6. The rules of evidence prevailing in courts of law shall not be controlling. However, no evidence may be admitted where the admission would be contrary to the process of law.
- A. Objections to the introduction of testimony or documentary evidence may be made by a party or his or her representative, or on motion by a Commission Member. Objections shall be ruled upon by the chairperson, subject to appeal to the Commission on motion of a Commission Member. (3/3/99)

B. Objections to offers of evidence may be made and shall be noted in the record.

C. The Commission shall consider objections of a party regarding the conduct of the hearing and shall decide immediately whether or not to accept such objections. Such objections and their disposition shall be made a matter of record.

Section 7. On a motion of a Commission Member, or on his or her own Motion, the Chairperson may stop any line of questioning of a witness when, in his or her opinion, it is not contributing to the understanding of the case or when the testimony becomes irrelevant, immaterial or unduly repetitious. (3/3/99)

Section 8. The Commission, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced hereby, may provide for submission of all or part of the evidence in written form.

Section 9. The record shall include the Request for Hearing, notice of hearing, motions, rulings, objections, documentary evidence, any briefs or other documents submitted by the parties and any decision, opinion or report by the Commission. (3/3/99)

## **RULE XII**

### **DEPOSITIONS**

Section 1. The Commission or the Director may order the taking of testimony of a witness by deposition upon request of any party on the following grounds and reasons:

A. The witness is unable to attend the hearing because of illness, infirmity or hardship; or

B. The witness cannot be compelled to attend the hearing by subpoena; or

C. All parties agree to the presentation of testimony of a witness by way of deposition, and the Director deems such a request appropriate under the circumstances; or

D. The witness is an expert witness.

Section 2. The request of a party to take a witness's testimony by deposition shall be made at or before the prehearing

conference, or in any event no later than seven (7) days prior to the time scheduled for hearing before the Civil Service Commission. If not made at the prehearing conference, such application shall be made to the Director, and shall state the identity of the witness, show the materiality of the proposed testimony, and the reasons and grounds for requesting that the testimony be presented by deposition. This application shall be served upon the adverse party, who shall specify any objections he/she might have, either orally to the Director or in writing, within five (5) business days of his/her receipt of the request. Either party may appeal the decision of the Director to the full Commission.

Section 3. Conduct of Deposition

- A. The deposition shall be taken before a person authorized to administer oaths by the State of Michigan.
- B. Such depositions may be stenographically recorded, may be taken by video tape machines, or may be taken by other electronic means.
- C. The original copy of the transcription of stenographic depositions, or original recording of such deposition taken by other means, shall be forthwith furnished the Director. The parties may request a copy of the transcript or recording of such deposition.
- D. All rules governing the presentation of evidence before the Commission shall apply to examination and cross-examination upon deposition, with the exception that all objections made during the course of this deposition shall be made at the time of questioning the witness, the answer shall be given over the objection, and the substance of the objection ruled upon by the Commission upon the presentation of the deposition into the record.  
(3/3/99)

**RULE XIII**

**ORDER OF HEARING**

Section 1. This procedure is adopted for the sole purpose of bringing the full facts of the case before the Civil Service Commission as expeditiously as possible.

Section 2. Procedure provides that the charging party present and substantiate the charges preferred and give explanation as to the basis for determining the extent of the penalty. The charged party would then proceed to present evidence and/or give testimony to refute the charges to prove that the action taken to have been unjust and wrongful, and/or to give explanation as to why the penalty was too severe or unwarranted under the circumstances. (3/3/99)

Section 3. In cases other than discipline or regular discharge, the individual who requested the hearing has the responsibility to lead off with his or her presentation. In discharge and discipline matters, the burden of proof and the responsibility to lead off with presentation of evidence shall be on the employer. In all other matters, the burden of proof and responsibility to lead off with the presentation of evidence shall be on the individual who requested the hearing. (3/3/99)

Section 4. Usually the hearing follows this sequence:

- A. Introduction of the disputed case.
- B. Presentation of an outline of hearing rules (by Chairperson or Director--may be waived if the parties agree).
  - 1. The jurisdiction of the Commission shall be limited to that granted by the City Charter and collective bargaining contracts with regard to the enforcement of the Merit Principle in all aspects of personnel administration. (3/3/99)
  - 2. The parties may represent themselves or be represented.
  - 3. The parties and/or their representatives must be present throughout the hearing. Failure to do so may be cause for termination of the hearing.
  - 4. The Commission shall have the authority to exclude an unruly participant.
  - 5. The Chairperson or Director shall swear witnesses and label evidence and exhibits. (3/3/99)
  - 6. Witnesses shall testify one at a time. Comments from the audience will not be permitted unless allowed by the Chair.
  - 7. Witnesses shall have the freedom from restraint, interference, coercion, discrimination and reprisal.
  - 8. A recording of the hearing will be made and kept for six (6) months.
  - 9. During the time the case is pending, or the hearing is being conducted, neither party or their representative shall communicate with Commission

Members other than on the official hearing procedure or in matters pertaining to the scheduling of the case.

- C. Charging party's opening statement. (3/3/99)
- D. Charged party's opening statement. (3/3/99)
- E. Presentation of the charging party's witnesses, evidence and/or exhibits. (3/3/99)
  - 1. Charged party shall have the opportunity to cross-examination each.
  - 2. Commission Members have the opportunity to examine each.
- F. Presentation of the charged party's witnesses, evidence and/or exhibits. (3/3/99)
  - 1. Charging party shall have the opportunity to cross-examine each.
  - 2. Commission Members shall have the opportunity to examine each.
- G. Presentation of the charging party's closing statement. (3/3/99)
- H. Presentation of the charged party's closing statement. (3/3/99)
- I. Closing of all testimony and argument.
- J. Deliberation by the Commission.
  - 1. Only Commission Members who have heard the entire case shall participate in the decision, unless the Commission refers the matter to members not present for their vote provided that they receive and review a copy of the record and documents. (4/9/86, 3/3/99)
  - 2. A majority vote of the Commission Members participating shall be required for Commission action.
  - 3. Decisions shall be made within fourteen (14) calendar days after the completion of the hearing. The decision shall be reduced to writing, signed by the Chairperson or the Vice Chairperson and forwarded to the interested parties. (3/3/99)
  - 4. Any Commission Member participating in a

hearing, who does not agree with the majority opinion, may submit a written opinion which shall be filed with the Commission.

5. Tie votes will not be considered as final determinations. Matters involving tie votes shall be submitted to Commission Members not present who will render their vote following a review of the record and documents submitted by the parties. Individuals may request a rehearing pursuant to Rule XV. (4/9/86)

#### RULE XIV

##### **DECISION OF THE COMMISSION**

- Section 1. Following the hearing and upon completion of the record, the Commission shall issue an order or decision embodying its findings of fact and conclusions of law subject to clarification upon request. Said decision shall not be made except upon consideration of the record as a whole, or such portion thereof as may be cited by any party to the proceeding, and supported by and in accordance with competent, material and substantial evidence. (3/3/99)
- Section 2. The decision of the Commission shall be made part of the record and a copy thereof shall be served upon the parties by mailing a copy thereof by regular mail to the parties of record. Upon request from employees or other interested persons, and in the discretion of the Director, the decision will be served upon such persons or their representatives who appeared in the matter by mailing a copy thereof to such persons.
- Section 3. A party desiring a summary of findings of fact and conclusions of law shall state such a desire prior to the close of the hearing. The filing of suggested findings of fact and conclusions of law shall be within the discretion of the Commission.
- Section 4. Any party requesting findings of fact and conclusions of law shall propose suggested findings of fact and conclusions of law.
- Section 5. Any party filing suggested findings of fact and conclusions of law shall submit the original and seven (7) copies to the Commission within seven (7) calendar days after the close of the hearing, except that in extraordinary circumstances the Commission or its Director may extend such time. Copies of any suggested findings of fact and conclusions of law must be served on all other parties to the proceeding and a statement of such service filed with the Commission. (3/3/99)

Section 6. No request for findings of fact and conclusions of law shall stay the running of any time limitations.

**RULE XV**

**REQUEST FOR REHEARING**

Section 1. It is the duty of the parties to produce all their evidence at the scheduled hearings. The Civil Service Commission, however, on its own motion or on the request of a party may order a rehearing under any of the following conditions;

1. Where for justifiable reasons the record of testimony made at the hearing is found by the Commission to be inadequate for the purpose of rendering a decision.
2. Where new and important evidence has been discovered that could not with reasonable diligence have been produced at the hearing.
3. If a party has been prevented from making out a claim or defense by fraud, accident or mistake without fault on his/her part or if a similarly strong showing is made. (4/9/86)

Section 2. A request for a rehearing shall be filed within fourteen (14) calendar days after notice of the decision has been mailed, and shall contain sworn affidavits stating the reason(s) justifying reopening the case. (4/9/86)

Section 3. If granted, a rehearing shall be noticed and conducted in the same manner as the original hearing. The evidence received at the rehearing shall be included into the record for Commission consideration. (4/9/86)

Section 4. A previous decision or order shall be amended or vacated after the rehearing. (4/9/86)

**RULE XVI**

**DEADWOOD CASE FILE**

Section 1. Four times a year the Civil Service Commission will review all cases which have been filed with its office and pending for more than three (3) months.

Section 2. A list of all such cases will be sent to all parties involved.

Section 3. Unless the party who filed the Request for Hearing shows good cause for an extension, the Commission may terminate further consideration of the request. (3/3/99)

**RULE XVII**

**PUBLIC INSPECTION AND COPYING OF MATERIALS**

Section 1. The Civil Service Commission shall make available for public inspection and copying during its business hours on request of any person:

- A. Final orders or decisions in disputed cases and the records on which they were made.
- B. Promulgated rules.
- C. Other written statements which implement or interpret law, rules or policy, including but not limited to guidelines, manuals and forms with instructions, adopted or used by the Commission in the discharge of its function.

Section 2. To the extent required to prevent unwarranted invasion of personal privacy, the commission may delete identifying details when it publishes or makes available a matter required to be published and made available for public inspection.

Section 3. The publications may be in pamphlet, loose leaf or other appropriate form in printed, mimeographed or other written manner. Except as otherwise provided by law, the Commission may charge not more than cost for each copy of the publication.

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