

Rules and Regulations of the Municipal Civil Service Commission

Rule: XIII – DISCIPLINE-APPEALS
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Page 1 of 4

RULE XIII

DISCIPLINE - APPEALS

A. Discipline by the Appointing Authority

An appointing authority may discharge, reduce in pay or position, suspend or reprimand (verbal or written) an employee for: (1) incompetency; (2) inefficiency; (3) dishonesty; (4) insubordination; (5) neglect of duty; (6) inability to perform the job; (7) being under the influence of alcohol; (8) giving or receiving a bribe; (9) violation of a prescribed City work rule or a department work rule on file with the Commission; (10) the illegal use, possession or sale of any drug, narcotic, barbiturate, amphetamine, hallucinogen, drug of abuse, or controlled substance, as defined under the laws of the United States, State of Ohio and/or City of Columbus; (11) misfeasance, malfeasance and/or nonfeasance; (12) illegal political activity as defined under the laws of the State of Ohio, City of Columbus and/or these Rules; (13) any violation of the laws of the United States, the State of Ohio and/or City of Columbus deemed related to the job to be performed by the employee; and (14) any violation of Rule XX(A). The enumeration of these causes shall not be construed as exclusive.

A suspension imposed pursuant to this Rule shall not exceed thirty (30) days. A suspension imposed on an exempt employee shall be in accordance with the provisions of the Fair Labor Standards Act.

B. Discipline - Uniformed Ranks

Except as otherwise provided in the Charter, disciplinary action taken against uniformed employees of the Divisions of Police and Fire shall be taken as provided in these Rules.

C. Demotion or Discharge for Incapacity

1. When an employee becomes unable or unqualified to perform the essential functions of the position held and is charged pursuant to Section A(1), A(2) or A(6) above, the employee may be discharged or, upon the request of the appointing authority, be demoted to a vacant position for which the employee is qualified and able to perform the essential functions of the position in a class with a lower maximum rate of pay.

Nothing in this section shall preclude an appointing authority from disciplining or discharging an employee who fails to maintain a license or certificate which is required by law or by the appointing authority, to enable the employee to perform the duties of the position.

2. The employee shall be served with a written notice and the same procedures shall be followed as for disciplinary actions. If the employee is demoted, complete facts regarding such change in classification shall be reported to the Executive Secretary and the demotion shall not become effective until the qualifications of the employee are approved.

Rules and Regulations of the Municipal Civil Service Commission

Rule: XIII – DISCIPLINE-APPEALS
--

Page 2 of 4

3. A permanent employee will receive permanent status, without further examination, in the class to which the employee is demoted if it is within the same job family or if the employee previously held permanent status in that class.

4. If, within one year of demotion or discharge, the individual submits medical documentation to the Commission verifying the absence of the incapacity and confirming his/her ability to perform the duties of the original position from which he/she was demoted or discharged, the individual's name may be reinstated to the appropriate eligible list, if applicable, in accordance with Rule VIII(C).

Should, after review of the submitted medical documentation, there be a question of ability to perform the prescribed duties of the classification, the Commission may, in accordance with Rule VII(D), designate a doctor, at City expense, to provide a second medical opinion as to the status of the original incapacity.

D. Disciplinary Action by the Appointing Authority

1. Written charges and specifications shall be prepared and delivered either personally or by regular mail to the employee's address on file with the Commission and to the Commission.

2. The appointing authority shall give the employee an informal hearing wherein the employee will have the opportunity to be heard in the employee's own defense with respect to the charges and specifications.

3. Unless otherwise agreed by the appointing authority and the employee, or authorized by the Commission, no material changes in the charges and specifications shall be made. Non-material changes, amendments or supplements to the charges and specifications may be made at any time prior to the ultimate determination by the Commission.

4. An employee may be relieved of duty without pay pending the appointing authority's final determination on the charges and specifications. If the charges and specifications are determined in favor of the employee, either by the appointing authority or the Commission, the employee shall be paid and receive all benefits to which the employee is entitled for the time the employee was relieved of duty without pay.

5. The Commission shall be notified of the appointing authority's final determination on forms prescribed by the Commission. Such notification shall include the findings and supporting documents, if any, and testimony if transcribed. Nothing herein shall be construed as requiring a formal hearing before the appointing authority or requiring that the proceedings be transcribed.

6. Appointing Authority or Designee. Any disciplinary hearing to be held by an appointing authority for the purpose of gathering evidence and giving an employee the opportunity

Rules and Regulations of the Municipal Civil Service Commission

Rule: XIII – DISCIPLINE-APPEALS
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Page 3 of 4

to be heard may be held by an appointing authority or designee. If a designee is to preside at a hearing, the appointing authority shall so notify the Commission in writing prior to the hearing.

E. Employee Appeals

Except as otherwise provided in the Charter or by these Rules, an employee who is suspended, reduced in rank, position or compensation or discharged, may appeal such decision, order or action to the Commission. Such appeals must be in writing on forms prescribed by the Commission and be filed within ten calendar days from the date of such decision, order or action. There shall be no appeal from any action taken by an appointing authority except as provided herein.

F. Examination Appeals

1. An examinee taking a promotional competitive examination that will result in a list to be certified using the Rule of Three, may within five days of the test date appeal specific multiple-choice items to the Executive Secretary. No examinee may see the test materials after an examination has been given, except a review period may be provided immediately following the exam for purposes of appealing specific test items pursuant to this section. The Executive Secretary shall have 30 days to render a decision on the appeal. The decision of the Executive Secretary shall be communicated to the examinee in writing and shall be final unless the test plan for the examination provides for further appeal. If so provided, appeals to the Commission must be filed in writing within ten days of the notification of the action of the Executive Secretary.

2. In the event such a promotional examination includes one or more phases that are not multiple-choice tests, the appeal process may be expanded by the Executive Secretary to allow for appeals of the non-multiple choice phases. The expanded appeal procedure shall be provided to all promotional candidates who complete the phase subject to the expanded appeal process.

3. An appeal to the Executive Secretary or to the Commission shall not prohibit any certification carried out in accordance with these Rules.

4. There shall be no examination appeals other than as provided for in this section.

G. Applicant Appeals

1. No appeal of any kind may be made to the Civil Service Commission as a result of a positive pre-employment drug test, post-conditional offer medical exam, or psychological exam.

2. Any applicant who is rejected for consideration, or who is aggrieved by any action of the Commission staff for reasons other than those enumerated in XIII(G)(1) or XIII(H), may seek review of such action by the Executive Secretary within ten calendar days of the date the action was taken. The Executive Secretary shall review and/or investigate the matter as provided in these Rules. The decision of the Executive Secretary shall be communicated to the applicant in

Rules and Regulations of the Municipal Civil Service Commission

Rule: XIII – DISCIPLINE-APPEALS	Page 4 of 4
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writing and shall be final unless appealed to the Commission in writing within ten days of notification of the action of the Executive Secretary. The Commission in its discretion may accept or reject the appeal.

3. An applicant for a sworn entry-level Public Safety position who is rejected for consideration during the test application process, based on disqualifying information related to the Background Removal Standards for Police Officers, 911 emergency communications job classes, and Firefighters, may file a Background Administrative Review request within ten (10) calendar days of the date the action was taken. Applicants who fail to file the request within ten (10) days will not be approved to take the applicable test.

- a. When a Background Administrative Review request is filed timely, an applicant shall have ten (10) calendar days from the date the Background Administrative Review is filed to submit written information that demonstrates to the Commissioners that the facts underlying the rejection of the applicant's name are inaccurate.
- b. A Commission hearing officer will review the information submitted by applicants, and make a written recommendation to the Commissioners as to whether the applicant should be approved to take the applicable examination.
- c. The Commission will make the final determination as to whether an applicant will be approved to take the applicable examination. The applicant will receive written notification of this decision.

H. Background Reviews

Any applicant who is removed from the selection process due to information revealed during the Background Investigation of the applicant may submit a Request for a Background Review pursuant to Rule XIV(C). Such a request must be filed within ten calendar days of the date the action was taken.

I. Commission Review

Except as otherwise provided in these Rules or in the Charter, an appointing authority, an employee or an employee's representative may call for review of the actions of the Executive Secretary or staff of the Commission and such action shall be reviewed by the Commission. Upon review, the Commission may affirm, reverse or modify the action performed or taken.

Amended as of: November 25, 2019
