

**Rules and Regulations of the
Municipal Civil Service Commission**

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RULE XIV

APPEAL HEARINGS AND INVESTIGATIONS

A. Employee Appeals

1. Setting the Appeal. When an appeal is filed, the appointing authority whose decision or order is being appealed shall be notified immediately. The appeal shall be scheduled within ten workdays from the date of filing. The appeal shall be heard or referred to the Commission, a hearing officer or trial board for an evidentiary hearing within 45 days unless continued by one of the parties. All parties shall be notified in writing of the time, date, place, and forum of the hearing.

2. Requests for Subpoenas. The parties to the appeal may make requests to the opposing party or the Commission for discovery, the attendance of witnesses or production of documents. Any deposition that is intended to be introduced as evidence must be filed with the Commission at least five calendar days before the day of the hearing. In any case of disobedience or neglect of any subpoena or the refusal of any witness to testify regarding any matter upon which the witness may lawfully be interrogated, upon request of any party to the appeal and for good cause shown, the Commission shall apply to the Court of Common Pleas of Franklin County, or any judge thereof, to compel obedience and/or issue and enforce contempt citations as provided by law against such disobedient person.

3. Hearing Procedure.

- a. The proceedings before the appointing authority, including testimony if recorded, shall be introduced into evidence reserving to each party the right to object to matters contained in the proceedings.
- b. The appointing authority shall have the burden of going forward with the presentation of evidence. In matters in which the jurisdiction of the Commission is at issue, the party seeking to invoke the jurisdiction of the Commission shall have the burden of going forward.
- c. The Commission shall rule on all matters of evidence. In so doing, the Commission shall not be strictly bound by the Rules of Evidence.
- d. All parties shall have the right to appear and be heard in person, or by legal counsel, to present their case.
- e. All parties shall have the right to:
 - (1) Offer and examine witnesses to present evidence in support of their case;

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- (2) Cross-examine adverse witnesses; and
 - (3) Proffer evidence into the record if its admission has been denied.
 - f. The Commission shall maintain a record of its hearings for not less than thirty calendar days from the date of its final decision. Such record need not be stenographically taken. Parties seeking a stenographic record must acquire such stenographic record at their own expense.
 - g. In rendering its decision, the Commission may review all personnel records on file with the Commission of employees appearing before the Commission whether or not such records were introduced into evidence.
 - h. Any hearing may be continued by the Commission at the request of either party or the Commission.
 - 4. Decisions.
 - a. The Commission may affirm, disaffirm or modify the action of the appointing authority.
 - b. The Commission's decision shall be in writing and delivered personally or by regular mail to the parties, at their addresses set forth in the Commission's records, or to their legal counsel, if any.
 - 5. Resignation Before Decision. The acceptance by an appointing authority of the resignation of a person who has been disciplined and who has appealed to the Commission will be considered a withdrawal of the charges. Unless agreed to the contrary, the resignation will be recorded as a resignation not in good standing and the proceedings shall be dismissed without judgment.
- B. Applicant Appeals
- Upon receipt of an appeal filed pursuant to Rule XIII(F) or (G), the Commission or a Commission hearing officer shall review the appeal and determine whether to hear it on the regular agenda, refer it to a hearing officer, refer it to a trial board or reject it without a hearing on the matter.
- C. Background Reviews
- 1. An applicant who submits a Background Review request pursuant to Rule XIII(H) shall have ten days from the date the Review request is filed to submit written information to the

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Commission that demonstrates that the facts underlying the removal of the applicant's name are inaccurate.

2. If a request for a Background Review is not submitted within the time limit prescribed in XIII(H), the applicant's name shall not be reinstated to the eligible list.

If an applicant fails to submit written information within the time limit prescribed in XIV(C)(2), the applicant's name shall not be reinstated to the eligible list and the applicant will receive written notification of this decision.

D. Commission Hearing Officer

1. The Commission may appoint hearing officers to hear appeals.

2. The hearing officer shall have the same power and authority in conducting hearings as granted the Commission. The hearing officer shall be responsible for conducting the hearing in accordance with this Rule. The hearing officer shall prepare a report which includes findings of fact and a recommendation whether to affirm, modify or reverse the decision being appealed.

3. The hearing officer's report shall be submitted to the Commission. A copy of the report, if requested, shall be sent to the parties, and their legal counsel of record, if any, by regular mail. The parties shall be notified of the time and date of the public meeting at which the appeal will be considered by the Commission.

4. The Commission will review the hearing officer's report and will decide the appeal. Unless the Commission determines that further evidence is warranted, the appeal will be decided based upon the information contained in the report. Further evidence will not be permitted if the party requesting its admission had knowledge of it and an opportunity to present it at the hearing on the matter.

E. Trial Boards

The Commission may appoint a trial board to hear appeals.

1. Each trial board shall consist of three members. Each trial board for City employees shall be one Commissioner and two members of the Commission staff. Each trial board member for non-City employees shall be a Commission employee in the Personnel Administrative Officer job classification, or higher. The highest-ranking employee shall preside at the hearing.

2. The trial board shall have the same power and authority in conducting hearings as granted the Commission. The presiding member shall designate which board member shall prepare a report which includes the board's findings of fact and its recommendation whether to affirm, modify or reverse the decision being appealed.

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3. The trial board's report shall be submitted to all Commissioners. A copy of the report, if requested, shall be sent to the parties and their legal counsel of record, if any, by regular mail. The parties shall be notified of the time and date of the public meeting at which the appeal will be considered by the Commission.

4. The Commission will review the board's report and will decide the appeal. Unless the Commission determines that further evidence is warranted, the appeal will be decided based upon the information contained in the report. Further evidence will not be permitted if the party requesting its admission had knowledge of it and an opportunity to present it at the hearing on the matter.

F. Commission Background Officer

1. When a Background Review request has been submitted pursuant to Rule XIII(H) and pursuant to Rule XIV(C)(2), the applicant submits written information to attempt to substantiate that the facts underlying the removal of the applicant's name are inaccurate, the Background Administrative Officer shall review the materials and complete a recommendation form which indicates thereon whether the applicant's name should be reinstated to the eligible list. This form, together with the contents of applicant's file will be submitted to the Commission.

2. The Commission will review the materials submitted by the Background Officer pursuant to Rule XIV(F)(1) and decide whether the applicant's name will be reinstated to the list. The applicant will receive a letter which indicates the Commission's decision.

3. All decisions by the Commission on Background Administrative Reviews are final.

G. Administering Oaths

In the course of any investigation or hearing conducted by the Commission, the Executive Secretary, a Commission hearing officer or a trial board, the individual presiding at such hearing shall have the power to administer oaths and affirmations to witnesses and to take testimony relative to any matter which the Commission, the Executive Secretary, the hearing officer or the board has authority to investigate or hear.

H. Investigations

The Commission may make investigations, either sitting en banc or through a single commissioner, the Executive Secretary, or a Hearing Officer, concerning all matters touching the enforcement and effect of the Charter, as it applies to Civil Service and these Rules. In the course of an investigation, the Commission, a single commissioner, the Executive Secretary, or a Hearing Officer, may subpoena witnesses and/or require the production of documents and records relevant to the investigation. The Commission's investigation may be public or private and may terminate with such decision or report within the power of the Commission to render or make.

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