

RULE XIII

APPEALS, HEARINGS, INVESTIGATIONS, AND REVIEWS

SECTION 1. APPEALS:

The Commission shall have power, and it shall be its duty to consider and determine any matter involved in the administration and enforcement of Article XVIII and the rules and ordinances adopted in accordance therewith that may be referred to it for decision by the Director, or on appeal by any appointing authority, employee, or taxpayer of the City, from any act of the Director or of any appointing authority. The decision of the Commission in all such matters shall be final, subject, however, to any right of action under any law of the State or of the United States. No rehearing shall be granted from a final decision of the Commission.

(a) *Appeals by employees from disciplinary actions:* Any regular permanent employee in the competitive service, subject to the provisions of Article XVIII and these rules, who believes he has been dismissed, retired, demoted, suspended or reduced in pay without just cause may, within ten (10) days after the effective date of such action or receipt of status form, request in writing a hearing or review to determine the reasonableness of such action. The Commission shall act on the employee's request in an expeditious manner and shall grant the employee such hearing or other review as soon as possible considering the nature of the appeal and the Commission's docket of hearings and reviews. An employee in his working test period who is removed from his position for failure to pass the working test period shall have no right of appeal from the action.

(b) *Decision of the Commission:* After hearing and/or reviewing and considering the evidence for and against the employee, the Commission shall prepare a report of its findings and conclusions of law approving or disapproving the disciplinary action. In case of approval, the disciplinary action shall be deemed final as ordered. In case of disapproval, the Commission shall order the reinstatement, demotion, suspension and/or reduction in pay of the employee or such other action as it deems suitable and order full pay for the time lost as the result of disciplinary action.

(c) *Appeals from disapproval by the Director of disciplinary actions taken by the appointing authority:* Whenever the Director, after review of a dismissal, demotion, or reduction in pay ordered by an

appointing authority, shall indicate disapproval of the action, the appointing authority may request in writing a review or a hearing before the Commission to determine the reasonableness of such decision. The Commission shall act on the appointing authority's request in an expeditious manner and shall have a hearing and/or review of the request as soon as possible considering the nature of the appeal and the Commission's docket of hearings and reviews.

(d) *Decision of the Commission:* After hearing and/or reviewing and considering the evidence for and against the employee, the Commission shall prepare a report of its findings and conclusions of law, approving or disapproving the disciplinary action. In the case of approval, the disciplinary action shall stand as made by the appointing authority. In the case of disapproval or modification, the employee shall be restored to his or her former status or the action shall be modified as ordered by the Commission. In reviewing any appeal made under these rules, the Commission may in its discretion adjudicate the appeal based on written submissions or engage a hearing officer for the purpose of conducting a hearing with regard to said appeal. Said hearing officer shall be empowered to do all things the Commission is authorized to do in connection with such a hearing, except for rendering a decision on the appeal at issue.

SECTION 2. DISCIPLINARY ACTION FOR NON-MERIT REASONS:

If the Commission finds that any disciplinary action was for reasons of race, national origin, sex, political or religious affiliations or beliefs, age, or disability, then the employee shall be immediately reinstated in his position and be reimbursed for any loss of pay occasioned by such disciplinary action.

SECTION 3. ADMINISTRATIVE AND OTHER APPEALS:

(a) In reviewing any appeal made under these rules, the Commission may defer its consideration until a determination has been made under an appropriate administrative appeals procedure established or approved by the Director of Personnel. In cases of the existence of an established administrative appeals procedure, all matters appealable under such procedure shall be dealt with through such procedure unless the Commission determines that it is appropriate to assume original jurisdiction. Determinations made under any administrative appeals procedure adopted or approved by the Director of Personnel which are subsequently appealed to the Civil Service Commission may be determined on the basis of the record of such proceedings, or

through such other hearing, investigation, review, or submission of additional information as the Commission deems appropriate. Appeals to the Commission of the results of any approved administrative appeals procedure of any matter otherwise appealable shall be made in writing within ten (10) days after the date of notification of the results of the administrative appeal.

(b) Appeals to the Commission on matters involved in the administration and enforcement of Article XVIII and these rules not involving disciplinary action shall be made in writing within ten (10) days after the effective date of the action being appealed. Such appeal shall set forth the point at issue and the reason or reasons for the request. The Commission shall act on the request as expeditiously as possible and shall determine the manner of consideration of the appeal. The Commission may determine to hold a hearing, make an investigation, or review the matter at issue. On completion of consideration of the matter at issue, the Commission shall apprise all parties of its decision. The powers of the Commission to grant remedies in such cases shall be the same as in other matters over which the Commission has jurisdiction in accordance with the Charter and these rules.

SECTION 4. REPRESENTATION:

Any person appearing at a hearing as a party to the cause being heard shall be entitled to counsel, if he so desires, but this section shall not be construed to mean that such representation is necessary nor to be in contradiction to Rule III, Section 4.

SECTION 5. POWER TO ADMINISTER OATHS, SUBPOENAS, AND DEMAND PRODUCTION OF RECORDS:

In the course of any hearing, investigation, or tests of fitness conducted under the provisions of this Article, the Director of Personnel and any other person authorized by him as his representative for such purposes, shall have power to administer oaths, to subpoena and require the attendance of witnesses within the City and the production by them of books and papers pertinent to any matter of inquiry and to examine such witnesses under oath, in relation to any matter properly involved in such proceeding. For such purposes, the Director or his authorized representative may invoke the power of any court of record in the City, or judge thereof, in term time or vacation, to compel the attendance and testimony of witnesses and the production of books and papers in compliance with such subpoenas. All witnesses so subpoenaed, who are not employees of the City, shall be

entitled to the same fees as are allowed in civil cases in courts of record.

SECTION 6. FALSE STATEMENTS UNDER OATH AND REFUSAL TO TESTIFY FORBIDDEN:

If any officer or employee in the classified service shall make any false statement under oath or shall willfully refuse to testify or answer any questions relative to the matter being heard by the Commission or the Director on any grounds, he shall be dismissed from the classified service and shall not be eligible for appointment to any position in the classified or exempt service for a period of five (5) years. His false statement under oath or refusal to testify shall be incorporated in his personnel record and shall be considered as a factor at any time at which he may make application for appointment to the City Service.

SECTION 7. INVESTIGATION BY COMMISSION:

The Commission may, upon its own initiative, make such inquiries and investigations as it may deem to be warranted regarding the administration and effect of the provisions of this Article and of ordinances and rules adopted in accordance therewith, and make such recommendations to the Director and to the Mayor and Aldermen as in its judgment may be warranted in the premises.

SECTION 8. PUBLIC HEARINGS:

All hearings shall be closed to the public. No further action shall be required of the Commission, the hearing officer or the parties to close such hearings.

SECTION 9. HEARING ON REMOVAL OF THE DIRECTOR OF PERSONNEL:

Whenever the Director has been charged with nonfeasance, malfeasance, or misfeasance in office, he shall be given a public hearing by the Commission within ten (10) days after he has received written notices of the charges accompanied by a statement in writing of the specific acts charged. At the conclusion of the hearing, the Commission shall recommend to the Mayor whether or not the Director of Personnel shall be removed from office. The Mayor may either accept or reject the recommendation and his decision shall be final.

SECTION 10. DISMISSAL OF APPEALS:

The Secretary to the Commission shall have power to dismiss such appeals as do not have standing under these rules, provided that records of such dismissals shall be available for the review of any Commissioner. (Rule XIII, Section 1 amended by the Civil Service Commission, September 3, 1985.)

Revised 11/17/16