

**RULES AND REGULATIONS
OF THE CIVIL SERVICE
COMMISSION OF
THE CITY OF FAYETTEVILLE**

ADOPTED DECEMBER 14, 2017

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**RULES AND REGULATIONS
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ARTICLE 1.

PROBATIONARY APPOINTMENT POLICY

1:01 QUALIFICATION FOR APPLICANTS

All applicants for appointment to the Fayetteville Fire or Police Department must by the application deadline date:

- (a) Be a citizen of the United States;
- (b) Provide documentary proof that applicant will be not less than 21 years of age by the test date;
- (c) Have graduated from an accredited High School or have passed the General Education Development Test indicating High School graduation level;
- (d) Have never been convicted of a felony;
- (e) Be of good moral character;
- (f) Ark. State Code provides that no person who has arrived at the age of thirty-five (35) shall be eligible for appointment to the Fire Department except where the applicant is already a paid firefighter. The maximum age of thirty-five (35) shall not apply to:
 - 1. Any person who has at least two (2) years of previous experience as a paid firefighter with another department and whose years of experience as a paid firefighter, when subtracted from the person's age leaves a remainder of not more than thirty- two (32) years; or
 - 2. Any person who is applying for a position within the Fire Department in which the primary function of the jobs involve duties administrative, managerial, or supervisory in nature.
- (g) Applicants for the Fire Department must have attained certification as an Emergency Medical Technician either through the State of Arkansas Department of Health or through the National Emergency Medical Technician Registry Program or possess one of the following prior to application:
 - 1. Medical certification or license at a higher level (paramedic, nurse, etc.)

2. 12 college credit hours in core curriculum courses (English, Math, Science, Communications, Speech, Journalism or Foreign Language)
3. Firefighter I and Firefighter II certification through IFSAC
4. Accredited Fire Academy certification (NFPA, Pro-Board, etc.)
5. A minimum of two years' honorable service in the US Armed Forces including National Guard.

(h) Police department applicants must meet all minimum standards for employment for police officers set by the Arkansas Commission on Law Enforcement Standards.

COMMENT:

- A. Citizenship is required by the Minimum Standards for employment for police officers set by the Arkansas Commission on Law Enforcement Standards.
- B. Both the Minimum Standards and Ark. Code Ann. Sec. 14-51-301 require a minimum age of 21 for appointment.
- C. The code states only that the Rules prescribed by the Board (Commission) shall provide for the rejection of candidates as eligible who fail to comply with reasonable requirements of the Board in regard to age, sex or physical condition.

Minimum standards set no maximum age for Police.

- D. High School graduation or a G.E.D. does not appear to be a requirement of state law. Minimum Standards sets this requirement and authorizes waiver of the requirement by the governing body of the city, not the Commission.
- E. Ark. Code Ann. Sec. 14-51-301 prohibits appointments of a convicted felon and Minimum Standards prohibit appointment of a person "convicted by any state or by the Federal Government of a crime, the punishment for which could have been imprisonment in a federal penitentiary or a state prison".

1:02 APPLICATION

The applicant must submit the City provided application form no later than the published application deadline. The following documents must be supplied by each applicant no later than the published application deadline, unless waived by the Commission:

- (a) A completed application form;
- (b) A copy of the applicant's birth certificate, naturalization record, or unexpired United States passport or United States passport card;

- (c) A copy of the applicant's high school diploma, college diploma, high school transcript showing graduation date or General Education Development Certificate;
- (d) If the applicant has been in the military service of the United States, a copy of the discharge paper from such service;
- (e) A copy of the applicant's driver's license.
- (f) Applicants for the Fire Department must provide a copy of EMT certification or a copy of documentation that meets one of the requirements listed below:
 1. A higher level medical license or certification (Paramedic, Nurse, etc.)
 2. College transcript reflecting earning at least twelve credit hours in English, Math, Science, Communications, Speech, Journalism or Foreign Language
 3. IFSAC Firefighter I and II certificates
 4. Accredited Fire Academy Certificate of completion (NFPA, Pro-Board, etc.)
 5. Military discharge papers (DD-214) or if currently serving, other documentation which reflects a minimum of two years' honorable service in the Armed Forces including National Guard.
- (g) Applicants for the Fire Department must provide a copy of proof of passing the Candidate Physical Ability Test (CPAT). This document must be valid at the time of the application deadline.

At the time of formal application, police applicants for all positions are to be informed in the written or electronic application cover sheet of all elements of the selection process, the expected duration of the selection process, and the agency's policy on reapplication. Candidates should also be made aware that sensitive or confidential aspects of their personal lives may be explored.

COMMENT:

- A. Each of the enumerated documents with the exception of (f) and (g) is required by Minimum Standards.
- B. CALEA standards require certain information be communicated to the applicants about the selection process.

1:03 EXAMINATION REQUIREMENTS

Prior to taking the oral examination, all applicants must pass the following:

- (a) Preliminary background investigation to determine good moral character;
- (b) Mental abilities and aptitude test(s) developed and validated pursuant to currently accepted professional standards, and;

- (c) A physical fitness assessment established by the department prior to the interview portion of the testing process.

COMMENT:

- A. Ark. Code Ann. Sec. 14-51-301 requires the Commission Rules and Regulations to provide for the rejection of candidates who fail to meet reasonable requirements of the Commission in regard to physical fitness.

1:04 EXAMINATIONS

The examination shall consist of three parts, for a total score of 100 points:

- (a) The first part shall consist of a written exam(s) for a total of 50 points.

Written examination minimum passing scores will be set by Human Resources or their Police or Fire Department designee in accordance with professional standards and norms recommended by the testing service for each respective test. Raw or percentile scores will be converted by a mathematical ratio to a 50 point range.

- (b) An oral interview consisting of two tests for a total value of 50 points.
 - 1. An oral interview with the Commission for a total of 30 points;
 - 2. The Police Chief or the Fire Chief or their appointed representatives will evaluate the suitability of an applicant for appointment. The evaluation will be based upon prior experience, potential and qualifications necessary for the position for a total of 20 points.

COMMENT:

- A. Ark. Code Ann. Sec. 14-51-301 requires the Commission Rules and Regulations to provide for open competitive examination to test the relative fitness of applicants for the position, and rejection of candidates as eligible who have attempted fraud or deception in connection with the examination. Ark. Code Ann. Sec. 14-51-306 requires that all examinations be fair and impartial, and such as to test the qualifications of the applicants for the particular service and position to be filled.

1:05 SCORING

All applicants receiving a combined total of at least 70% on the written examination and oral interviews shall be declared to have passed the examination. The names of all persons receiving a passing score on the examination shall be placed on the eligibility list in order from the highest total combined score to the lowest.

COMMENT:

- A. Ark. Code. Ann. Sec. 14-51-301 requires the Rules and Regulations to provide for the creation of eligibility lists for employment for which shall be entered the names of successful candidates in the order of their standing in the examination.

1:06 SELECTION

When a position becomes vacant, the Chief of the respective department may select, for appointment, one (1) of the highest three (3) individuals on the eligibility list. After selection of an individual to fill a position, all remaining applicants for appointment, including those certified but not selected by the chief will remain on the eligibility list. The applicant selected for appointment will be given written notice and has three (3) calendar days to accept the appointment. Upon failure to accept appointment, that individual shall forfeit all rights under the eligibility list. The Chief may select from the three (3) highest individuals then certified. This procedure shall be repeated until a selected individual from a list accepts appointment. The Chief shall notify the Commission of the person appointed. The Police Chief may remove an individual from the Police Officer certification list subject to the provisions of Section 1002 3. (e) of the Rules and Regulations of the Commission on Law Enforcement Standards and Training.

COMMENT:

- A. Ark. Code Ann. Sec. 14-51-301 requires the Commission Rules and Regulations to provide for certification to the department head of the three (3) standing highest in the eligibility list for appointment and for the department head to select, for appointment one (1) of the three (3) certified and notify the Commission thereof.
- B. An applicant selected for appointment who does not accept the appointment within the time prescribed by this section, must file a new application pursuant to Section 1:02 and be recertified pursuant to Section 1:03 – 1:06 of these Regulations.

1:07 EMPLOYMENT REQUIREMENTS

Before employment by the respective department, each applicant must complete and pass, to the satisfaction of the Chief of the respective department:

- (a) A comprehensive background investigation;
- (b) A detailed psychiatric or psychological examination;
- (c) A physical examination by a licensed physician;
- (d) Fingerprinting and submission of those fingerprints to the FBI and

State fingerprint files to check for criminal records; police candidates only.

- (e) A hearing test by a certified ENT, a licensed Audiologist, or other certified medical technician; for fire candidates only
- (f) Failure of any applicant to complete/pass to the satisfaction of the Chief sub-paragraphs a, b, c, d, and e will result in removal from the certification list.

COMMENT:

- A. (a), (b), (c) and (d) are required by Minimum Standards.

1:08 PROBATIONARY PERIOD

An applicant appointed to a position of firefighter must serve a probationary period of twelve (12) months before the appointment is complete. An applicant appointed to a position of police officer must serve a probationary period of eighteen (18) months before the appointment is complete. The head of the respective department, or the Acting Authority, may discharge the appointee during the probationary period by written notice for any reason.

COMMENT:

- A. Ark. Code Ann. Sec. 14-51-301 requires the Commission Rules and Regulations to provide for a period of probation of not to exceed twelve (12) months before any appointment is complete for firefighters and twenty-four (24) months for police officers. The Police Chief requested to extend the probationary period to eighteen (18) months rather than twenty-four (24) months. During the probationary period, the employee may be discharged by the Chief, or Acting Authority, of the respective department. Any discharge must be backed by written documentation from the respective Chief or Acting Authority.

1:09 SPECIAL QUALIFICATIONS

In the case of a vacancy in a position requiring peculiar or exceptional qualification of scientific, professional or expert character, upon satisfactory evidence that competition is impractical and the position can best be filled by the selection of some person designated and of recognized attainment, the Commission may, by a majority vote, suspend competition and certify such person as eligible to fill said vacancy. Such appointee shall be deemed the best one available.

COMMENT:

- A. This section follows the language of Ark. Code Ann. Sec. 14-51-307.

ARTICLE 2.

PROMOTIONAL POLICY

2:00 GENERAL

Only current sworn Civil Service members of the Fayetteville Police and Fire Departments are eligible to take the respective departmental promotional examinations. However, if there are only two or fewer applicants for a specific job vacancy, the Civil Service Commission may open the promotional examination to currently employed qualified applicants who meet section 2:11 standards provided herein from Police and Fire Departments other than the Fayetteville Police and Fire Departments.

The Chiefs of the Police and Fire Departments are hereby each designated as the position of authority in administering each respective Department's role in the promotional process.

COMMENT:

- A. The second paragraph is required to meet CALEA standards.

2:01 FIRE DEPARTMENT

In the Fire Department, no person shall be eligible for examination for advancement from a lower rank to a higher rank until that person has attained EMT certification and the certification of Fire Fighter I & II, or their equivalent.

- (a) No person shall be eligible for examination for advancement to the rank of Driver/Operator until that person has completed a minimum of three years of continuous service at the rank of Fire Fighter with the Fayetteville Fire Department and has successfully completed the IFSAC Driver/Operator program, preceding the date of the written promotional examination. The IFSAC Instructor-I course will also be required after December 31, 2020.
- (b) No person shall be eligible for examination for advancement to Fire Captain until that person has completed five (5) years continuous service with the Fayetteville Fire Department and has successfully attained and held the rank of Driver/Operator with the Fayetteville Fire Department for two (2) continuous years immediately preceding the date of the written promotional examination and has successfully completed International Fire Service Accreditation Congress, (IFSAC), Instructor-I. After December 31, 2020, Fire Officer I, Incident Safety Officer, Inspector I, and NIMS ICS 300 & 400 will also be required.
- (c) No person shall be eligible for examination for advancement to Battalion Chief until that person has completed at least eight (8) years continuous service with the Fayetteville Fire Department immediately preceding the date of the written promotional examination and has successfully attained and held the rank of Fire Captain for three (3) continuous years immediately preceding the date of the written promotional examination.

After December 31, 2022 an Associate's Degree, or higher, from an accredited college or university will be required.

- (d) No person shall be eligible for examination for advancement to the rank of Division Chief until that person has completed at least ten (10) years of continuous service with the Fayetteville Fire Department immediately preceding the date of the written promotional examination and has two (2) year of continuous service with the Fayetteville Fire Department as a Battalion Chief and has a Bachelor's Degree from an accredited college or university after December 31, 2024.
- (e) No person shall be eligible for advancement to the rank of Assistant Fire Chief until that person has completed at least ten (10) years continuous service as a full-time employee with the Fayetteville Fire Department preceding the date of the written promotional exam, and has successfully attained and held the rank of Battalion Chief or Division Chief for two (2) years immediately preceding the date of the written promotional examination. After December 31, 2024 a Bachelor's degree from an accredited college or university will be required.
- (f) In the event a vacancy occurs for Fire Captain, Battalion Chief, Division Chief or Assistant Fire Chief and only one person of lower rank meets the requirements prescribed hereby, the Commission may, at its discretion, alter the section 2:01 (a), (b), (c), (d) or (e) to permit consideration of a greater number of applicants. In the event that more than one vacancy occurs in a particular rank, this paragraph will apply to mean that there must be at least one more candidate than the number of vacancies open at the time of examination.
- (g) No person shall be eligible for examination for advancement from a lower to a higher rank until that person shall have served at least one (1) year in the lower rank. In case of emergency, as determined by the Commission, the Commission may permit persons who do not fulfill this requirement to be tested for the higher rank.
- (h) For purposes of Section 2:01 (a), (b), (c), (d), or (e) continuous service shall be defined to include paid holidays, paid vacation time, paid or unpaid sick leave, leave time resulting from a work related injury or illness, Uniformed Services Employment and Re-employment Rights Act leave, leave granted under the Family & Medical Leave Act, formally granted educational leave, or paid or unpaid personal leave granted by the department.

A single or multiple disciplinary suspension(s) incurring a cumulative maximum of ten 24 hour shifts or less within five (5) years immediately preceding the date of the promotional exam shall constitute an unbroken period of service and shall not be deemed a break in service.

2:02 POLICE DEPARTMENT

No person shall be eligible for examination for advancement from a lower rank to a higher rank within the Police Department until that person has successfully completed a basic course in law enforcement at an accredited college, university or state recognized law enforcement academy.

- (a) No person shall be eligible for examination for advancement to Police Sergeant until that person has at least five (5) years continuous experience as a police officer with the Fayetteville Police Department, immediately preceding the promotional exam date.
- (b) No person shall be eligible for examination for advancement to Police Lieutenant until that person has at least seven (7) years continuous experience as a Fayetteville Police Officer, two (2) of which have been in the capacity of a Sergeant immediately preceding the date of the promotional exam.
- (c) No person shall be eligible for examination for advancement to Police Captain until that person has at least ten (10) years continuous experience as a Fayetteville Police Officer, three (3) of which have been in the capacity of a Lieutenant immediately preceding the date of the promotional exam.
- (d) No person shall be eligible for examination for advancement to Deputy Chief of Police until that person has at least thirteen (13) years continuous experience as a Fayetteville Police Officer, three (3) of which have been in the capacity of a Captain immediately preceding the date of the promotional exam.
- (e) In the event a vacancy occurs for a Police Sergeant, Police Lieutenant, Police Captain or Deputy Chief of Police and only one person of lower rank meets the requirements prescribed hereby; the Commission may at their discretion alter the section 2:02 (a), (b), (c) or (d) service eligibility standards for that particular test to permit consideration of a greater number of applicants. In the event that more than one vacancy occurs in a particular rank, this paragraph will apply to mean that there must be at least one more candidate than the number of vacancies open at the time of examination.
- (f) In case of emergency, as determined by the Commission, the Commission may permit persons who do not fulfill this requirement to be tested for the higher rank.
- (g) For purposes of sections 2:02 (a), (b), (c), or (d), continuous service shall be defined to include paid holidays, paid vacation time, paid or unpaid sick leave, leave time resulting from a work related injury or illness, Uniformed Services Employment and Re-employment Rights Act leave, leave granted under the Family & Medical Leave Act, formally granted educational leave, or paid or unpaid personal leave granted by the department.

A single or multiple disciplinary suspension(s) incurring a cumulative maximum of 30 working days or less within five (5) years immediately preceding the date of the promotional exam shall constitute an unbroken period of service and shall not be deemed a break in service.

2:03 APPLICATION FOR PROMOTION

A Civil Service application for promotion must be submitted by the published deadline.

2:04 COMPETITIVE EXAMINATION

When a written examination minimum passing score is required by the Rules of the Commission, it will be set by Human Resources or their Police or Fire Department designee in accordance with professional standards and norms recommended by the testing service for each respective test. Raw or percentile scores will be converted by a mathematical ratio to the appropriate point range.

A. Police Department

Promotion shall be based upon open competitive examination consisting of a written examination (totaling 60 points), Civil Service Commission Interview (totaling 40 points), and Department Performance Review (totaling 50 points). Of the total 150 points, 90 points must be achieved by the candidate in order to be certified for promotion. Further, of the 100 combined points for the Civil Service Commission Interview and written exam, a score of not less than 60 points must be achieved in order for the candidate to be certified for promotion.

- (a) A departmental evaluation totaling 50 points.
- (b) Any personnel files pertaining to applicants for promotion will be made available to the Commission.
- (c) In order to ensure fairness and impartiality, any police promotional candidate shall have the right to appeal in writing the results of each promotional element as listed in the promotional announcement to the Civil Service Commission within ten (10) calendar days of the initial posting of certification list on the City's web site. Within fifteen (15) calendar days of receipt of such appeal, the Civil Service Commission shall schedule an appeal hearing date for this and any other similar appeals. Neither the Chief nor the appealing applicant shall be entitled to any representation, but both may address the Commission and call witnesses who will be questioned only by the Commission. The Commission shall make a determination consistent with ensuring that a fair and impartial promotional process has occurred. No one shall be promoted until all appeals having the potential to affect said promotion are final. The Commission's decision shall be final with no right of appeal.

B. Fire Department

Promotion shall be based upon a competitive examination process as outlined below:

- (a) A written examination totaling 45 points. Raw or percentile scores will be converted by a mathematical ratio to a 45 point range.
- (b) A departmental evaluation totaling 75 points. The total score for this portion of the examination process will be added to the cumulative score.
- (c) An interview with the Civil Service Commission totaling 30 points. The total score for this portion of the examination process will be added to the cumulative score.

A candidate must achieve a total point score of not less than 90 points in order to be certified for promotion.

Upon request, the Civil Service Commission will be provided access to any and all personnel records pertaining to the promotional candidates.

COMMENT:

- A. 2:05 A. (c) is required to meet CALEA standards.

2:05 PROMOTIONAL ELIGIBILITY RANKING

All persons who qualify for promotion under Section 2:05 shall be placed on the promotional eligibility list. Names on the promotional eligibility list will be ranked from the highest total score to lowest total score. If identical scores are received, then ranking shall be determined by seniority.

2:06 REMOVAL FROM PROMOTIONAL ELIGIBILITY LIST

Candidates shall be removed from the promotional eligibility list if, for the time frame covered by that list, they become ineligible for promotion due to a demotion or due to a disciplinary action stating they are ineligible for promotion.

2:07 CANDIDATE SELECTION

When a position becomes vacant and subject to being filled by promotion, the head of the respective Department shall select for appointment one of the three persons ranked highest on the promotional eligibility list for such rank of service. If such member of the Department fails to accept such appointment within three (3) calendar days, the Chief may choose from the 3 highest names remaining on the promotional eligibility list.

2:08 APPOINTMENT OF DEPARTMENT CHIEF

In the event of an appointment to the position of Chief of either Department, the act of selection and appointment shall be made by the Mayor.

2:09 PROMOTIONAL PROBATIONARY PERIOD

A promotion to any rank in service shall not be complete for a period of six (6) months and any member promoted to a higher rank cannot step-up or work in a higher rank until the probationary period has been successfully completed. The Chief may reduce in rank, any promoted member of the Department during this initial six (6) month period for any reason with written documentation. The respective Chief shall provide written notice of such reduction in rank to the individual being reduced, the Civil Service Commission, and Human Resources. This notice shall state the reasons for such action. Such notice shall not be considered as granting to the member being reduced in rank the right to a hearing before the Commission or appeal there from, nor shall the requirement of stating the reasons therefore be considered as to require such reduction to be for good cause.

2:10 TIME OF PROMOTION

Promotions shall be made within sixty (60) calendar days of a vacancy created by death, termination, resignation, demotion, retirement or promotion unless the position is determined to be eliminated, except to the extent necessary to comply with the Uniformed Services Employment and Reemployment Rights Act. Promotion shall be made from the eligibility list in effect on the date that the vacancy occurs if possible.

COMMENT:

A. This section follows the language of Ark. Code Ann. Sec.14-51-301.

2:11 EXTERNAL APPLICANT REQUIREMENTS

The Commission may open a promotional examination to employees of other Police and Fire Departments if there are insufficient internal applicants pursuant to section 2:00. Such external applicants must satisfy all requirements set forth in these Rules for the particular position, as well as the age limitations set forth in rule 1:01, and will be evaluated in accordance with the same procedures and criteria specified for internal applicants seeking promotion. Provided, however, that in lieu of the Departmental Performance Review required by Section 2:05, an external applicant must consent to: (a) release by his or her present and former employers to the Fayetteville Police or Fire Department, a true and correct copy of his or her personnel files; and (b) interviews by senior officers of the Fayetteville Police or Fire Department with his or her present and former supervisors and fellow officers concerning his or her job performance. Evaluation of the personnel files and interviews shall be conducted by those senior officers who conduct the Departmental Performance Review under Section 2:05. The evaluation shall be conducted according to the same standards and have the same maximum value of 50 points as a Departmental Performance Review. Provided further, that Section 2:09 is inapplicable and that the probationary period set forth in Section 1:08 shall apply.

ARTICLE 3.

EXAMINATION POLICY

3:01 EXAMINATION STANDARDS

All examinations referred to in these Rules shall be open and competitive and shall be designed to test the relative knowledge, aptitude and proficiency of applicants for such positions.

3:02 EXAMINATION DATES

Appointment and promotional examinations may be given for the respective Departments approximately every six months, and special examinations may be given at any time, the necessity of which is determined by the Department Chief.

3:03 NOTICES

The Secretary of the Commission shall issue, at least fourteen (14) days before the application deadline, a notice of entry level examinations, stating the date, time, location and purposes thereof, which shall be published in a newspaper having a bona fide circulation in the city of Fayetteville. Notices of both entry level and promotional examinations shall be posted at least fourteen (14) days before the application deadline in the City Administration Building of the City of Fayetteville, in the Police Department and in each Fire Station. Notices of entry level and promotional examinations shall be posted on the City's website.

3:04 NOTICES FOR VACANCIES WHEN NEW ELIGIBILITY LIST NEEDED

- (a) If a vacancy is created as a result of death, termination, resignation, demotion, retirement or promotion, and there is not an eligibility list sufficient to fill the vacancy, the Fire Chief or Police Chief shall notify the Civil Service Commission within five (5) business days of such vacancy and the need for testing. The Civil Service Commission shall schedule an examination to establish an eligibility list from which an appointment or promotion shall be made unless the position is determined to be eliminated or not funded by the Fayetteville City Council.
- (b) Notices for police promotions shall be posted prominently and in a timely fashion. They shall be posted at least fourteen (14) days before the application deadline. The announcement of the police promotional process shall include a concise description of the vacancy and include the salary and duties, responsibilities, knowledge, skills, and abilities required. It shall provide a reading list of study materials that interested employees may obtain. The announcement shall clearly demonstrate what candidates can expect about the testing process to include expected duration and format of tests, interviews, and assessment centers and numerical weight assigned to each element of the process.

COMMENT:

- A. (a) of this Section follows the language of Ark. Code Ann. Sec.14-51-301.
- B. (b) of this Section is required to meet CALEA standards.

3:05 TEST RESTRICTION

An applicant may not take both fire and police entry-level examinations at the same testing period. An applicant not currently certified may take the examination for the same department more than once in a 12 month period. The new score will override any previous score. If an applicant is on a current civil service certification list he/she is not eligible to take the entry level examination unless that applicant's certification expires within 30 days of the written test date.

3:06 IMPARTIALITY

All examinations shall be conducted impartially and instructions pertaining to the examinations shall be made available to all candidates.

3:07 EXAM ADMINISTRATION

Commissioners may be present during the administration of all written appointment and promotional examinations given by the Commission. If an exam is proctored by a third party, advance notice as determined by the third party is required if any Commissioner(s) would like to be present during an examination. This allows time to complete any authorization process that may be required by the proctoring facility or testing company for individuals other than the candidates to be present during the examination. The Commission shall normally delegate the administration of examinations and the grading of objective portions of examinations to City Human Resources staff. City Human Resources staff may delegate the administration and grading duties of entry level examinations to personnel within the Police and Fire Departments, a third party proctoring entity or a testing company.

3:08 ACCESS TO TEST SCORES

(a) All examinees shall have the right to see their score on each part of the exam, and shall be permitted access to the range of scores on each portion of the examination upon completion of the testing process.

(b) Within ten (10) calendar days of the initial posting of a promotional certification list on the City's website, promotional candidates shall be entitled to review their own test results. During the employee review process, the employee may not copy test questions in any form whatsoever.

3:09 CERTIFICATION OF CANDIDATES

As soon as is practicable after any examination, the Commission shall complete their review of the examination eligibility lists. The lists shall then be certified and such lists shall be in full force and effect for the period of one (1) calendar year subsequent to the date of certification. If upon the date of certification, a

prior eligibility list is still effective, the Commission shall integrate the new list with the existing list, in order of examination grades, so that only one list shall exist for appointment or promotional purposes. All eligibility lists shall expire one year after the date of certification regardless of the period of time such list may have existed as the sole eligibility list. In no event shall a candidate's name remain on the certified list for a period longer than one year; unless that candidate has re-tested within the provisions of these Rules.

3:10 POSTING OF CERTIFIED CANDIDATES

Once the Commission certifies an eligibility list, it shall be posted by 5:00pm on the next business day to the City's website.

3:11 FRAUD OR DECEPTION

Any applicant for appointment or any member eligible for promotion who has attempted any fraud or deception with reference to the examination process shall be ineligible for appointment or promotion, respectively, and in the cases of existing members of either Department, shall be subject to disciplinary action, including termination.

ARTICLE 4.

TEMPORARY PROMOTIONS AND APPOINTMENTS

4:01 DURATION OF TEMPORARY PROMOTIONS AND APPOINTMENTS

A temporary promotion or appointment for a vacancy created by death, termination, resignation, demotion, retirement or promotion shall not be made for longer than sixty (60) days when there is a current eligibles list, except to the extent necessary to comply with the Uniformed Services Employment and Reemployment Rights Act. If an appeal is filed for a vacancy created by a termination or demotion, the vacancy may be filled by a temporary promotion or appointment until all appeals in connection with the termination or demotion are exhausted.

4:02 SHORT TERM AND EMERGENCY PROMOTIONS AND APPOINTMENTS

- (a) A vacancy that is created by vacation, bereavement leave, medical leave, military leave or suspension may be filled by a temporary promotion on a day-to-day basis as vacancies occur.
- (b) In cases of emergency, temporary employees without examination may be temporarily appointed by the Chief of the respective department with consent of the Civil Service Commission until an eligibility list is available for appointment.

COMMENT:

A. This Article follows the language of Ark. Code Ann. Sec.14-51-301.

ARTICLE 5.

CONDUCT, DISCIPLINE AND GRIEVANCE PROCEDURE

5:01 PROHIBITED CONDUCT

All employees of the Fire and Police Departments are subject to the City's Personnel Policies, as well as any other City policies or written standards governing employee behavior; this includes but is not limited to the City's sexual harassment policy.

The following list of items relating to failure in conduct is representative but not limited to those considered to be adequate grounds for disciplinary action. No employee of the Fire or Police Department shall:

- (a) Use intoxicating liquor, beer or wine while on duty;
- (b) Make unlawful use of a controlled substance, either while on or off duty;
- (c) Gamble while on duty;
- (d) Willfully fail to obey any lawful and reasonable direction given by a superior having authority to give such direction;
- (e) Be disrespectful or discourteous in manner, action or attitude toward superiors, fellow employees or private citizens while on duty;
- (f) Be absent from duty at any time without leave;
- (g) Exhibit incompetence, incapacity, inefficiency or ineptitude in the performance of his duties;
- (h) Use or drive any machine, vehicle or apparatus of the Department carelessly, or maliciously, or in such a manner as to collide with and injure the person or property of any citizen;
- (i) Engage in conduct detrimental to the efficiency or morale of the Department;
- (j) Exhibit dishonesty or deception, or falsify any report or record;
- (k) Fight with another employee of the Department;
- (l) Engage in any political activity when on duty, when in uniform or when acting in an official capacity;
- (m) Use physical force against any citizen except such as necessary to perform official duties and responsibilities;

- (n) Violate any Departmental rule or regulation or personnel policy set out by the Chief of the Department and approved by the municipal governing body;
- (o) Violate any federal, state or local law;
- (p) Abuse sick leave or other paid time off benefit;
- (q) Steal;
- (r) Engage in any sexual activity while on duty;
- (s) Use position with department or departmental resources to endorse a product or service without prior approval of the Department Chief.
- (t) Work their part-time job, be at their part-time place of employment, be gainfully employed at a place other than the City of Fayetteville, or provide any type of labor or service to another fire or police department during a period of absence taken from the City of Fayetteville for the purpose of caring for oneself or another due to a medical situation, unless prior written approval is granted by the respective Chief, or his/her designee after consulting with Human Resources to ensure compliance with the Family Medical Leave Act and other relevant legal considerations. This paragraph shall include all situations covered by the Family Medical Leave Act.

5:02 AUTHORITY OF DISCIPLINE

Members of the Police and Fire Departments may be disciplined by the heads of the respective Departments, or the Acting Authority, for violation of the Rules of the Civil Service Commission, the Rules of the respective Departments and for any other lawful purpose.

5:03 DISCIPLINARY ACTIONS

Disciplinary action may include any of the following: supervisor counseling, oral reprimand, written reprimand to be placed in the employee's employment records, suspension for not longer than thirty (30) calendar days, with or without pay, reduction in rank or compensation and/or discharge.

5:04 JUSTIFICATION FOR DISCIPLINE

Any member reduced in rank or compensation (a suspension without pay shall not be considered a reduction in pay), suspended for twenty-four (24) or more consecutive work hours or discharged after promotion or appointment is complete for disciplinary reasons, shall be served with written notice of the action to be taken and the reasons for such discharge, reduction in rank, or compensation or suspension signed by the Chief (or in the Chief's absence, by the Assistant Fire Chief, Deputy Chief of Police or Acting Authority).

5:05 RESPONSE

The person so discharged, reduced in rank or compensation, or suspended for twenty-four (24) or more consecutive work hours for disciplinary reasons, shall have the right within ten (10) calendar days from the date of such written notice to reply in writing to the Commission. The Commission shall have fifteen (15) calendar days to respond to any request for a trial. Should said person deny the truth of the facts upon which discharge or reduction is predicated and demand a trial, the Commission shall grant a trial pursuant to the provisions of Ark. Code Ann. 14-51-301 and 14-51-308 (Repl. 1968), as such sections may hereinafter be amended.

5:06 RECORDS OF PROCEEDINGS

- (a) The written notification of disciplinary action, the reply to such notice and/or the request for hearing shall constitute a part of said hearing and shall be made a part of the record of the hearing. The City Attorney shall make arrangements to have such hearing stenographically reported. All witnesses shall testify under oath.
- (b) The attorney representing the employee and the attorney representing the Chief shall review the record including the investigatory file pertaining to the disciplinary hearing. At a date before the hearing determined by the Civil Service Commission, both attorneys shall individually designate which, if any, documents they will present to the Civil Service Commission during the hearing and who each attorney intends to call as a witness. Both attorneys shall present their designated documents during the hearing and be limited to these designated documents and witnesses, unless for good cause shown, the Chair of the Civil Service Commission allows additional evidence.

5:07 HEARING DETERMINATION

As soon as is practicable after such hearing, the Commission shall announce its decision and notice thereof will be presented in writing to the person requesting the hearing or to such person's representative.

5:08 GRIEVANCE HEARING

- (a) Any member of the Police or Fire Departments can request a grievance hearing to review a suspension of less than 24 consecutive work hours by submitting a written explanation to the Civil Service Commission within ten days of receiving such disciplinary action stating why such discipline was unwarranted or otherwise improper. The Civil Service Commission shall meet to briefly review this written request and any written response thereto by the Chief and then shall determine by majority vote whether or not to grant an informal grievance hearing to resolve any dispute.
- (b) If a grievance hearing is granted by the Civil Service Commission, a hearing will be scheduled as soon as possible. Neither the Chief nor the employee shall be entitled to any representation, but both may call witnesses who will be questioned only by the Commission. No transcript shall be made of this hearing.

- (c) The Civil Service Commission may affirm the disciplinary action, dismiss and remove the discipline, reduce the discipline or increase it (but only up to a maximum of 23 consecutive work hours with loss of pay). The Commission's decision shall be final with no right of appeal.

5:09 CITIZEN COMPLAINT

- (a) Complaints by any citizen against a member of the Police Department shall be filed in writing with the Commission within ninety (90) calendar days from the date of the incident on which the complaint is based. Such complaints shall set out, in detail, the specific nature of the complaint and the factual basis therefore. Upon receipt of such a complaint, the Commission shall immediately forward the complaint to the Chief of Police for investigation. The Chief shall then conduct a thorough investigation of the complaint and shall file a written report of the results of said investigation with the Commission within thirty (30) calendar days, unless the head of OPS authorizes an extension. Said report shall specifically state each, if any, violation of Civil Service Regulations, Departmental Regulations or Federal, State or local laws. Complainants will be notified as to the verification of receipt of the complaint, status of a complaint and results of any investigation upon conclusion.
- (b) Within fifteen (15) calendar days from the date on which verification of receipt of said results of investigation is mailed to the complainant, he may file a written request with the Commission for a hearing on his complaint. Said request shall specifically state the evidence which the complainant desires to present to the Commission and the facts which such evidence would establish. Within ten (10) calendar days from receipt thereof, the Commission shall consider said request. If a majority of the full Commission votes in favor of granting the request, the Commission shall set a date for the hearing, which date shall be within thirty (30) calendar days. Refusal of the Commission to grant the request of a complainant for a hearing shall not be construed as giving the complainant any rights of appeal to courts of law or equity other than as provided by law.

5:10 COMPLAINT AGAINST THE CHIEF

Upon receipt of a complaint against the Chief or Acting Chief of either Department, the Commission shall immediately forward the complaint to the Mayor for investigation and action.

ARTICLE 6.

REINSTATEMENT POLICY

6:01 PHYSICAL EXAM REQUIRED

Before any member of the Fire Department or the Police Department is reinstated to the Department following a leave of absence, (that status of employment where the individual receives no pay from the City of Fayetteville), whether the leave of

absence shall have been based upon a physical disability or otherwise, such member may be required to submit to a physical examination by a licensed physician of the City's choice, at the City's expense, and obtain from the physician, certification that the member is capable of performing the functions of the position to which he or she would be reinstated.

6:02 REHIRE OF FORMER EMPLOYEE

Any member of the Fire Department or Police Department who severs his or her employment with the Department, must make application pursuant to Sec. 1:02 and be certified pursuant to Sec. 1:03 – 1:06 of these regulations.

ARTICLE 7.

MISCELLANEOUS PROVISIONS

7:01 RECORD RETENTION

The Secretary of the Civil Service Commission, together with the Mayor of the City, shall be charged with maintaining records of all proceedings, including examination, of the Civil Service Commission.

The Secretary of the Commission shall appoint a stenographer to be present at each general business meeting whose job will be to transcribe the minutes of the meeting.

For the purposes of physical security, testing materials for entry level testing shall be maintained in a secure manner by either Human Resources or the respective department. Promotional testing materials shall be maintained in a secure manner by Human Resources.

Records for candidates not selected for appointment shall be maintained in a secure manner for a period of not less than four years.

For those police applicants that are hired, the candidate's background information shall be made part of their permanent records and shall be maintained in a secure manner. For police applicants not selected for employment, their background information shall be kept for a requirement of not less than four years in a secure manner.

For those applicants that are hired, records of medical examinations and psychological examinations shall be included with the employee's confidential medical documentation and shall be stored in a secure manner. For those applicants not selected for employment, records of medical examinations and psychological examinations shall be stored in a secure manner for a period of not less than four years.

COMMENT:

Paragraphs 3-6 are required to meet CALEA standards.

7:02 CITY PERSONNEL POLICY

The number of full time equivalent positions within each of the respective Departments, the pay policies and fringe benefits policies are all matters which the Commission considers to be within the scope of the authority of the governing body of the City of Fayetteville. Specifically, the Board adopts by reference the City's Personnel Policies, as well as any other City policies or written standards governing employee behavior; this includes but is not limited to the City's sexual harassment policy. This applies to the policies and written standards as now exist or as may hereafter be amended, except as such policy may be affected by other Rules contained herein.

7:03 HEADINGS AND SUBHEADINGS

The headings and subheadings used are inserted for the convenience of reference only and are not to be considered in construction of the provisions hereof.

7:04 ARKANSAS STATE CODE

In the unlikely event of a conflict between the local Civil Service Commission Rules and Regulations and State law, State law will control.

ARTICLE 8.

AMENDMENT AND ADOPTION OF RULES

8:01 PROCEDURE

The Rules of the Commission shall be adopted and amended only after a majority vote of the entire Commission.

8:02 PUBLIC HEARINGS

Prior to the adoption of these Rules and amendments hereto, a public hearing shall be held on such proposal. Notice of the public hearing shall be given by publication at least five (5) days prior to the date of such public hearing in a newspaper having a bona fide circulation in the City. Such notice shall be posted in the City Administration Building, Fire Department and Police Department of the City of Fayetteville, as well as on the City's website and all Civil Service employees of the City of Fayetteville must be notified by Human Resources by City email at least thirty (30) days prior to the meeting or hearing. Such Notice, as published and posted, shall state the date, time, place and purposes of such public hearing and shall state that copies of the Rules to be considered may be inspected at the office of the City Clerk during business hours, prior to the date of such hearing. Copies of the Rules to be considered shall also be available for review on the City's website.

8:03 DISSEMINATION OF RULES

After the Rules have been amended, a complete set of the amended Rules shall be made available to all members of the Commission, Mayor and the Chiefs of the Fire and Police Departments within thirty (30) days of this adoption.