



# City of Johnson City

## Civil Service Guidelines

Revised 2/01/2024  
Adopted 2/29/2024  
Amended 8/15/2024

City of Johnson City  
Civil Service Commission  
City Hall  
601 E. Main Street  
Johnson City, TN 37601

# Table of Contents

<b>Chapter 1 Introduction to the Civil Service Guidelines and Administration of the Guidelines</b>	1
1.1 DEVELOPMENT AND REVISION OF THE GUIDELINES	1
1.2 USE OF MASCULINE NOUN AND PRONOUN	1
1.3 DEFINITIONS	1-4
1.4 APPLICABILITY OF GUIDELINES	4
1.5 AVAILABILITY OF CIVIL SERVICE GUIDELINES	5
1.6 HUMAN RESOURCES POLICY MANUAL	5
1.7 AMENDING OR CHANGING GUIDELINES	5
1.8 PERSONNEL RULE AND POLICY INTERPRETATIONS	5
1.9 EFFECTIVE DATE AND COMPLIANCE	5
1.10 DEPARTMENTAL RULES	5
1.11 REVIEW BY THE CIVIL SERVICE COMMISSION	5
<b>Chapter 2 Exempted Positions</b>	6
2.1 LIST OF EXEMPTED POSITIONS	6
2.2 POSITIONS SUBJECT TO DEMOTION	6
<b>Chapter 3 Board Meetings and Rules</b>	7
3.1 BUSINESS MEETINGS	7
3.2 WORKSHOP SESSIONS	7
3.3 PUBLIC HEARINGS	7
3.4 AGENDA	7
3.5 CONDUCT OF BUSINESS	7
3.6 NOTICE	8
3.7 ELECTION OF CHAIRMAN	8
3.8 ELECTION OF VICE-CHAIRMAN	8
<b>Chapter 4 Confidentiality of Records</b>	9
<b>Chapter 5 Adoption or Amendment of Guidelines</b>	10
<b>Chapter 6 Preservation of Records</b>	11

<b>Chapter 7 Application Form</b>	<b>12</b>
7.1 REQUIRED FORMS AND DOCUMENTS	12
7.2 PENALTY FOR FALSE STATEMENTS	12
<b>Chapter 8 Eligibility to Apply for Civil Service Positions</b>	<b>13</b>
8.1 AGE REQUIREMENTS FOR UNIFORMED BODIES	13
8.2 MINIMUM QUALIFICATIONS	13
8.3 REQUIREMENT OF HIGH SCHOOL EDUCATION	13
8.4 REJECTION OF APPLICATION	13
8.5 REJECTION OF APPLICANT FOR CRIMINAL CONVICTION	13
<b>Chapter 9 New Hire Military Service &amp; Education Credit</b>	<b>14</b>
9.1 MILITARY SERVICE CREDIT	14
9.2 EDUCATION ACHIEVEMENT CREDIT	14-15
<b>Chapter 10 Examinations</b>	<b>16</b>
10.1 JOB-RELATED EXAMS	16
10.2 EXAMINATION PARTS	16-17
10.3 IDENTIFICATION NUMBER	17
10.4 CHEATING ON EXAM	17
10.5 APPLICANT IDENTIFICATION	17
10.6 EXAMINATION ASSISTANCE	17
10.7 DISABILITY POLICY	17
10.8 REPETITION OF SAME EXAM	17
10.9 WAITING PERIOD TO REPEAT EXAM	18
10.10 ORAL BOARD COMPOSITION	18-20
10.11 MINIMUM SCORES FOR CONSIDERATION	20
10.12 REQUIRED EXAMINATIONS	20
<b>Chapter 11 Notice of Examination Grades</b>	<b>21</b>
11.1 NOTIFICATION OF TEST RESULTS AND RIGHT OF REVIEW	21
<b>Chapter 12 Rejection of Applicants</b>	<b>22</b>
12.1 FAILURE TO MEET MINIMUM QUALIFICATIONS	22

12.2 FAIL TO APPEAR OR PASS SELECTION	22
12.3 FAIL TO SUBMIT OR FAIL TO COMPLETE TESTING/EXAMINATIONS	22
12.4 CRIMINAL CONVICTION	22
12.5 FALSE STATEMENT	22
12.6 PRIOR EMPLOYMENT	22
12.7 FAIL TO RESPOND	22
12.8 POLITICAL PRESSURE OR BRIBERY	22
12.9 EXAMINATION TAMPERING	23
12.10 FAILURE TO SUBMIT APPLICATION	23
12.11 LATER ARISING ISSUES	23
12.12 DISREGARD OF LAW	23
<b>Chapter 13 Eligibility Roster</b>	<b>24</b>
13.1 ESTABLISHMENT AND MAINTENANCE OF ELIGIBILITY ROSTER	24
13.2 ESTABLISHMENT OF ELGIBILITY ROSTER BY ELECTRONIC MEANS	24
13.3 AMENDMENT TO OR ABOLITION OF AN ELIGIBILITY ROSTER	24
13.4 PLACEMENT ON ELIGIBILITY ROSTER	24-25
<b>Chapter 14 Requisition of Certification</b>	<b>26</b>
14.1 REQUEST FOR APPLICANTS TO BE FORWARDED	26
14.2 RULE OF FIVE	26
14.3 JUSTIFICATION FOR SELECTION	26
14.4 ORDER OF ELIGIBILITY ROSTERS	26
14.5 SUPPLEMENTATION OF ORIGINAL REFERRALS	26
14.6 INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS	27
14.7 INTERVIEW	27
14.8 FAILURE TO COMPLETE PROMOTIONAL PROBATIONARY PERIOD DUE TO DISCIPLINARY ACTION	27
14.9 REMOVAL OF NAMES FROM ELIGIBILITY ROSTER	27-28
14.10 POSITIVE DRUG OR ALCOHOL TEST	28
14.11 NEPOTISM	28-29

14.12 REMOVAL FROM ELIGIBILITY ROSTER	29
14.13 RE-EMPLOYMENT AFTER LAYOFF	29
<b>Chapter 15 Initial Employment Probationary Period</b>	<b>30</b>
15.1 LENGTH OF INITIAL EMPLOYMENT PROBATIONARY PERIOD; EXTENSION OF SAID PERIOD	30
15.2 EVALUATION OF PROBATIONARY EMPLOYEES	30
15.3 INELIGIBILITY FOR APPEAL OF DISCIPLINARY ACTION	30
15.4 HIRE DATE	30
<b>Chapter 16 Promotions</b>	<b>31</b>
16.1 PROMOTIONS AND OPPORTUNITIES	31
16.2 PROMOTION POLICY	31-32
16.3 PROMOTIONAL EXAMINATION	32
16.4 TYPES OF PROMOTIONAL EXAMINATIONS	32-33
16.5 CONDITIONS FOR WAIVING MINIMUM YEARS OF SERVICE REQUIREMENT	33
16.6 PERFORMANCE AND EDUCATION ACHIEVEMENT CREDIT	33-34
16.7 ELIGIBILITY TO COMPETE IN PROMOTIONAL EXAMINATIONS	34-35
16.8 DETERMINATION OF NEED FOR PROMOTIONAL EXAMINATION	35
16.9 PROMOTIONAL EXAMINATION NOTIFICATION	35
16.10 APPLICATION	35
16.11 INVALID APPOINTMENTS	35
16.12 CLASSIFICATION ADVANCEMENT	36
16.13 PROMOTION WITHOUT EXAMINATION	36
16.14 PROMOTIONAL EXAMINATION COMPONENTS	37
<b>Chapter 17 Promotional Appointment Probationary Period</b>	<b>38</b>
17.1 GENERALLY	38
17.2 EVALUATION OF PERFORMANCE OF PROMOTIONAL SWORN EMPLOYEE	38
17.3 REJECTION DURING PROBATIONARY PERIOD	38
17.4 POSITION TENURE DATE	38
<b>Chapter 18 Civil Service Status Change</b>	<b>39</b>

18.1	GENERALLY	39
18.2	LAYOFF	39
18.3	LAYOFF DETERMINATION FOR SWORN EMPLOYEES	39
18.4	SENIORITY	39
18.5	RETENTION	39
18.6	RECALL	40
	<b>Chapter 19 Disciplinary Action</b>	<b>41</b>
19.1	PRE-DISCIPLINARY PROCEDURES	41
19.2	STATEMENT OF DISCIPLINARY ACTION	41-42
19.3	REQUEST FOR REVIEW OF DISCIPLINARY PROCEDURES	42
19.4	SELECTION OF HEARING DATE	43
19.5	NOTICE OF HEARING	43
19.6	CONTINUANCE	43-44
19.7	PRE-HEARING CONFERENCE	44
19.8	NON-HEARING DISPOSITION	44
19.9	SUBPOENAS	44-45
19.10	HEARINGS FOR REVIEW OF DISCIPLINARY ACTION	45-46
19.11	TRANSCRIPT OF PROCEEDINGS	47
19.12	NOTICE OF APPEAL OF THE BOARD'S DECISION	47-48
	<b>Chapter 20 Reprimands</b>	<b>49</b>
20.1	ORAL REPRIMAND	49
20.2	WRITTEN REPRIMAND	49
20.3	SUSPENSION OR DISCHARGE	49
20.4	APPEALS FROM REPRIMANDS	49
	<b>Chapter 21 Grievance Procedure</b>	<b>50</b>
21.1	APPLICATION	50
21.2	TIMING	50
21.3	ALTERNATIVE RESOLUTION	50-51
21.4	GRIEVANCE PROCEDURE	51-53

**CHAPTER 1**  
**Introduction to the Civil Service Guidelines**  
**and**  
**Administration of the Guidelines**

**Section 1.1 – DEVELOPMENT AND REVISION OF THE GUIDELINES**

These guidelines have been revised and reprinted several times since their initial printing. These revisions were made after careful study by the Department of Human Resources and the Legal Department. Input was provided by sworn employees, sworn employee representatives and the Johnson City Police Department and Johnson City Fire Department.

**Section 1.2 – USE OF MASCULINE NOUN AND PRONOUN**

In order to avoid the sometimes awkward use of he/she, him/her, his/her, when referring to sworn employees in general, the use of the masculine noun or pronoun in these guidelines shall be interpreted to include the feminine.

**Section 1.3 – DEFINITIONS**

**Section 1.3.1 – “Charter”** means the Charter of the City of Johnson City.

**Section 1.3.2 – “Board”** means the Civil Service Commission of the City of Johnson City.

**Section 1.3.3 – “Members”** means those persons holding office as a member of the Board of the City of Johnson City.

**Section 1.3.4 – “Secretary to Commissioners”** is the City of Johnson City Director of Human Resources and maintains all books and public records concerning the Board’s activities.

**Section 1.3.5 – “City”** means City of Johnson City.

**Section 1.3.6 – “JCPD”** means the Johnson City Police Department.

**Section 1.3.7 – “JCFD”** means the Johnson City Fire Department.

**Section 1.3.8 – “Department Head”** means the head of a department of the City who serves as the appointing authority for that department (e.g., Police Chief or Fire Chief). *The Department Head holds authority to appoint or recommend termination of sworn employees from the City.*

**Section 1.3.9 – “Applicant”** means any person who has filed an application for a civil service position within JCPD or JCFD, or any person who is in the process of applying for such position.

**Section 1.3.10 – “Eligible”** means an applicant who has successfully passed all qualifications for a position within JCPD or JCFD and who has been placed on the eligibility roster.

**Section 1.3.11 – “Eligibility Roster”** means a roster of names of persons who have passed civil service examination requirements for a position within JCPD or JCFD.

**Section 1.3.12 – “Minimum Qualifications”** means the minimum knowledge, skill, ability, experience, education, and physical requirements that determine the eligibility of an applicant for a position within JCPD or JCFD.

**Section 1.3.13 – “Civil Service Classifications”** means all sworn classifications within JCPD and JCFD as specified herein and approved by the Board.

**Section 1.3.14 – “Promotion Roster”** means a roster of eligible sworn employees kept of JCPD or JCFD sworn employees who have completed their initial one-year probationary period and have successfully passed requirements for a specific job classification and are placed on said roster as specified herein and approved by the Board.

**Section 1.3.15 – “Requisitioning of a Sworn Employee”** is the process of a department notifying the Secretary to Commissioners, in writing or email, of a vacancy in a position within JCPD or JCFD which needs to be filled.

**Section 1.3.16 – “Forwarding for Interview”** means the act of notifying or forwarding to the Secretary to Commissioners the names and applications of those applicants on the eligibility roster who are eligible for appointment to a position within JCPD or JCFD.

**Section 1.3.17 – “Selection of a Sworn Employee”** means the act by which a Department Head notifies the Board of the intention to hire an applicant who was previously forwarded for interview.

**Section 1.3.18 – “Appointment”** means the act of a Department Head of placing a person on the City payroll after certification by the Board.

**Section 1.3.19 – “Certification”** means confirmation, in writing, of employment by the Secretary to Commissioners to the sworn employee, and to the appropriate Department Head after said applicant has been accepted by JCPD or JCFD for hire and has met all the civil service requirements, (including all medical requirements) and is ready to begin working in a particular position.



**Section 1.3.20 – “High School Education”** means twelve grades of education, evidenced by a diploma from an accredited high school or in lieu thereof, satisfactory completion of a General Education Development (GED) or United States Armed Forces Institute equivalency test.

**Section 1.3.21 – “Test”** means written or oral examinations, performance examinations, or other methods as specified herein.

**Section 1.3.22 – “City Attorney”** means the head of legal department of the City or such other attorney as may be designated by the legal department to act on their behalf.

**Section 1.3.23 – “Seniority”** means length of service or employment in a position within JCPD or JCFD. Seniority shall be measured from the most recent date of employment or placement in a classification. In determining the seniority of a sworn employee in a particular position, for purposes of a reduction in force from that position, only the sworn employee's time in the position which the sworn employee holds at the time of the action shall be counted.

- (A) For purposes of a voluntary return to a lesser position and classification, seniority is to be calculated based on the total amount of time the sworn employee served in the position to which he is returning plus all time served with the City subsequent to the date when said sworn employee first left the position to which he is returning.
- (B) For purposes of a disciplinary action resulting in a return to a lesser position and classification, seniority is to be calculated from the time the sworn employee returns to the lesser position. The sworn employee will not receive credit for time served in the position to which he is returning nor time served with the City subsequent to the date when said sworn employee first left the position to which he is returning.
- (C) For the purposes of defining the seniority of a sworn employee who transfers from one position to another, seniority means the total amount of time served in the position in any section or department of the City.
- (D) For purposes of computing seniority in a position from which a sworn employee has been demoted and to which he is subsequently reinstated, if the sworn employee's demotion was voluntary or was not caused by poor work performance, which can be substantiated by the Department Head or is properly documented, the seniority in the position from which the sworn employee was demoted shall be cumulative from his first service in said position, providing the sworn employee had served the appropriate probationary period before the voluntary demotion became effective. However, if the demotion was for cause (i.e., a result of poor work performance, disciplinary action, etc.) the seniority shall be measured from the most recent date of employment or placement in the position.
- (E) Should the seniority of two or more sworn employees be equal, the Department Head shall select between the persons eligible based upon merit and fitness for employment. To this end, consideration shall be given to the quality of the service of these sworn

employees whose seniority is equal. The Department Head shall rank said sworn employees in the order of their quality of service with the criteria including, but not being limited to, attendance, quality of work, amount of work, dependability, attitude, aptitude, knowledge of the job, physical condition, and previous or pending disciplinary action. If, after consideration of quality of service, a tie among the sworn employees still exists, the preference shall be given to the sworn employee with the greatest overall seniority with the City.

**Section 1.3.24 – “Classification Specification”** means a formal written statement about the job class which defines the general character and scope of the duties and responsibilities of positions in the class, lists typical or illustrative examples of work for positions in the class, and states required minimum experience and training for positions in the class. Specifications are deemed to be descriptive and explanatory of the kind of work performed and not necessarily inclusive of all duties performed. The Secretary to Commissioners shall approve and maintain a master set of all class specifications, which shall indicate the date of adoption or the last revision of the specification for such class.

**Section 1.3.25 – “Demotion”** means the reassignment of a sworn employee from a higher to a lower class for just cause.

**Section 1.3.26 – “Position”** means a group of current duties and responsibilities, assigned or delegated by competent authority, requiring the full-time or part-time employment of one person. A position may be either occupied or vacant.

**Section 1.3.27 – “Probationary Sworn Employees”** means those sworn employees who have received initial appointment to a sworn position, but who have not yet satisfactorily completed one year of service in the initial position.

**Section 1.3.28 – “Sworn Employees”** mean positions in the service of JCPD or JCFD under civil service.

**Section 1.3.29 – “Discharge”** means separation from the City’s service for cause.

**Section 1.3.30 – “Examination”** means the process of testing the fitness and qualifications of applicants for a specific job class.

**Section 1.3.31 – “Competence”** is any motive, attitude, skill, knowledge, behavior or other personal characteristic that is essential to perform a job or differentiates superior from average performance.

**Section 1.3.32 – “Separation”** means the leaving employment with the City including but not limited to, resignation, discharge, and retirement.

#### **Section 1.4 - APPLICABILITY OF GUIDELINES**

These guidelines shall apply to sworn employees of JCPD and JCFD.

### **Section 1.5 - AVAILABILITY OF CIVIL SERVICE GUIDELINES**

A copy of these guidelines, either digital or hard-copy, will be given to all sworn JCPD and JCFD sworn employees and to all new hires at the beginning of their probationary period. Each sworn employee is to sign a statement that he has received the copy. An up-to-date copy of these guidelines will be maintained in JCPD and JCFD and will be made available to all sworn employees on request. Any changes in the guidelines will be posted on the department bulletin board or other notification procedures

### **Section 1.6 – HUMAN RESOURCES POLICY MANUAL**

A policy is a statement that clarifies a rule or defines a practice/definition. The Human Resources Department provides and maintains all HR policies referenced by the guidelines and/or approved by the Board. Copies of HR policies are available on the City intranet and available for print by request.

### **Section 1.7 – AMENDING OR CHANGING GUIDELINES**

The Secretary to Commissioners will consult with JCPD and JCFD representative groups before recommending changes of these guidelines to the Board. Anyone may recommend changes to the Secretary to Commissioners. The Board is responsible for approving or disapproving any recommended changes. A public hearing must be conducted prior to any changes being approved.

### **Section 1.8 – PERSONNEL RULE AND POLICY INTERPRETATIONS**

The Secretary to Commissioners is responsible for interpreting these guidelines and shall write interpretations when clarification is needed. These interpretations are to be followed in applying the guidelines. Department Heads and sworn employees may submit written requests for interpretations to the Secretary to Commissioners. The Legal Department may assist the Secretary to Commissioners with interpreting these guidelines as needed.

### **Section 1.9 – EFFECTIVE DATE AND COMPLIANCE**

The Board shall establish the effective date of any rule they approve. On that date the previous rule is superseded. These guidelines shall apply to all sworn employees under the jurisdiction of the Board. It is the responsibility of each Department Head and each sworn employee to carry out these guidelines and policies.

### **Section 1.10 – DEPARTMENTAL RULES**

Department heads shall implement additional rules to govern their departments, specific rules which would apply to their departments only or are not covered in these guidelines. These rules must not conflict with these guidelines.

### **Section 1.11 – REVIEW BY THE CIVIL SERVICE COMMISSION**

It shall be the authority of the Board to review or modify any action taken by the Secretary to Commissioners.

## **CHAPTER 2**

### **Exempted Positions**

#### **Section 2.1 – LIST OF EXEMPTED POSITIONS**

The following positions are exempted from civil service:

- (A) Police Chief
- (B) Fire Chief
- (C) Deputy Police Chief
- (D) Deputy Fire Chief
- (E) Fire Marshal

#### **Section 2.2 – POSITIONS SUBJECT TO DEMOTION**

The following positions are exempted from civil service concerning demotion:

- (A) Police Major
- (B) Assistant Fire Chief

## CHAPTER 3

### Board Meetings and Rules

#### **Section 3.1 – BUSINESS MEETINGS**

The Board shall conduct regular business meetings on the third Wednesday of every fourth month at 9:00 a.m., or at such other dates and times as the Board may designate. The Board shall endeavor to schedule meetings on a regular basis to facilitate the notice and agenda provisions and other procedures set forth herein. In the event no business is presented for placement on the agenda, the meeting may be cancelled by the Chairman. Business meetings may also be called by the Chairman or by a majority of the Board. The purpose of the business meeting is to deliberate on and conduct whatever business that may come before the Board.

#### **Section 3.2 – WORKSHOP SESSIONS**

The Board may conduct workshop sessions on the third Tuesday of every fourth month at 9:00 a.m., or at such other dates and times as the Board may designate. The purpose of the workshop session is not to conduct business or take official action, but instead to review items on the upcoming agenda, receive staff or other recommendations, and the like. As such, public input or comment shall not be required, but the workshop sessions shall be open to the public consistent with the provisions of Tennessee Code Annotated § 8-44-101, et seq.

#### **Section 3.3 – PUBLIC HEARINGS**

At such time as may be necessary to receive public comment on the adoption, amendment, or revocation of guidelines, or on such other matters as may be required or desired, the Board shall schedule and thereafter hold a public hearing. The purpose of the public hearing is to receive public comment only. No business may be conducted at a public hearing.

#### **Section 3.4 – AGENDA**

Requests to place a matter on the agenda of a business meeting shall be in writing and shall be delivered to the Secretary to Commissioners, who shall prepare the agenda.

The deadline for placing a matter on the agenda of a regular business meeting shall be noon seven (7) calendar days prior to the day of the regular business meeting, unless a majority of the Board waives such requirement and allows a matter to be placed on the agenda at a later time. The deadline for placing a matter on the agenda of any other business meeting shall be forty-eight (48) hours prior to the meeting, unless a majority of the Board waives such requirement and allows a matter to be placed on the agenda at a later time.

Once an agenda is established it shall be disseminated to all Board members and to those other persons identified in Section 3.6, as soon as practicable.

#### **Section 3.5 – CONDUCT OF BUSINESS**

Three members of the Board shall constitute a quorum, and no official action of the Board shall be taken except when the Board is in a business meeting with a quorum present.

The Board shall conduct its business in accordance with Robert's Rules of Order, unless otherwise specified or waived by the Board.

The Secretary to Commissioners shall act as the secretary of the Board at all business meetings and public hearings, and shall be responsible for keeping the minutes, recording all official action, and recording all votes except when action is taken by unanimous consent. The Secretary to Commissioners is a non-voting participant in Board meetings.

The order of business at business meetings shall be as follows, except where otherwise specified or waived by the Board:

- (A) Roll call, or recognition of quorum.
- (B) Consideration of previous minutes.
- (C) Special orders of business.
- (D) Unfinished business.
- (E) New business.

A concurrence of the majority of members present shall be required for the Board to take action. All members, including the Chairman, shall be entitled to vote on all actions. Voting shall be by aye, nay, or abstention, and shall be so recorded for each member present and voting.

### **Section 3.6 – NOTICE**

As soon as practicable after the Board establishes a schedule of regular business meetings, the Secretary to Commissioners shall give written notice of same to all Board members, and shall include in said notice the deadline for placing matters on the agenda for each meeting. The Secretary to Commissioners shall also disseminate this same information to the Mayor, JCPD and JCFD, parties requesting notice, and other interested parties.

Notice of public hearings shall be given to the same persons identified in the foregoing paragraph.

In the case of business meetings other than regular business meetings, the Secretary to Commissioners shall give notice to the Board and to those other persons set forth previously as soon as practicable and in a manner and method as may be practicable under the circumstances.

### **Section 3.7 – ELECTION OF CHAIRMAN**

The Board shall elect a Chairman from its members in April of each year. The Chairman shall serve for a term of one year or until his successor is duly elected and qualified. The Chairman shall preside at all meetings of the Board and act as spokesperson for the Board.

### **Section 3.8 – ELECTION OF VICE-CHAIRMAN**

The Board shall also elect a Vice-Chairman from its remaining members in April of each year. The Vice-Chairman shall serve for a term of one year or until his successor is duly elected and qualified. The Vice-Chairman shall preside at meetings of the Board in the Chairman's absence.

## CHAPTER 4

### Confidentiality of Records

#### Section 4.1 –

The following documents or records shall be confidential to the fullest extent of local, state, and federal law and access to these shall be only upon approval by the Secretary to Commissioners:

- (A) Civil service exams;
- (B) Examination materials or documents that contain answers to test items;
- (C) Medical information;
- (D) Reports of psychological or polygraph examinations;
- (E) Sexual harassment investigations and records;
- (F) Alcohol/drug test results;
- (G) Disability accommodation records;
- (H) Statements of Disciplinary Action.

An individual who has taken an exam shall have a right to review the results of said exam within ten (10) business days from the date of the notice of the test score.

For purposes of this chapter, confidential records shall be open only to members of the Board; individuals assigned, requested, or retained to assist the Board in any proper function of the Board; sworn employees or representatives of the Legal Department; and Department Heads.

Nothing in this part is intended, nor should be understood, to obviate the required disclosure of non-exempt public records pursuant to the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-501, et seq.

## **CHAPTER 5**

### **Adoption or Amendment of Guidelines**

#### **Section 5.1 –**

No amendment to these guidelines shall be made by the Board nor shall any rule be repealed or any new rule adopted until a Public Hearing has been held. Any member desiring to amend or repeal these guidelines or adopt a new rule shall reduce amendment or repealing motion or new rule to writing, and the same shall be considered at a Public Hearing. These guidelines may be adopted by majority action of a quorum present of the Board.



## **CHAPTER 6**

### **Preservation of Records**

#### **Section 6.1 –**

All records of the Board shall be retained in accordance with record retention guidelines established through the Municipal Technical Advisory Service (MTAS) at the University of Tennessee and all applicable state and federal law.

#### **Section 6.2 –**

In order to insure the protection of all applicant and sworn employee personnel records, the Secretary to Commissioners shall maintain all records necessary to establish a complete personnel history on each sworn employee. Each sworn employee's application, authorizations for pay increases, promotions, disciplinary actions of record, performance evaluation forms, and other matters of record that establish this history shall be maintained by this office as the "official" personnel file of the sworn employee. All sworn employees are required to immediately notify their department payroll clerk, who shall initiate the proper paperwork, upon any change in their address, phone number, or other change that affects their personnel records.

## CHAPTER 7

### Application Form

#### **Section 7.1 – REQUIRED FORMS AND DOCUMENTS**

Applicants shall be required to submit their applications on forms provided for that purpose by the Board. Each applicant must submit a copy of his birth certificate or government issued identification and high school diploma or equivalent. A notarized affidavit on school stationery signed by the principal may be submitted if the high school diploma is destroyed or lost. All documents listed in the posting announcement for each job vacancy must be submitted by listed deadlines, if any, in order for the application to be deemed complete.

**Section 7.1.1** – In addition to the above required documents, applicants for JCPD must also submit the following: proof of United States citizenship, valid driver license, social security card, and proof of P.O.S.T. certification (if applicable).

#### **Section 7.2 – PENALTY FOR FALSE STATEMENTS**

All blanks on the application form must be completed. Any applicant for a position who knowingly makes any false statement in his application shall forfeit his right to be appointed to a position; and if he has been selected for or given employment, he shall forfeit such employment and shall not within three (3) years thereafter be eligible for employment in any civil service position with the City or be entitled to take any civil service test unless otherwise determined by the Board. The Board shall summarily reject any applicant upon discovery of same.

## CHAPTER 8

### Eligibility to Apply for Civil Service Positions

#### **Section 8.1 – AGE REQUIREMENTS FOR UNIFORMED BODIES**

All applicants for the classification of Police Officer Recruit must be at least twenty-one (21) years of age at time of appointment. All applicants for the classification of Firefighter Recruit must be at least eighteen (18) years of age at time of assessment.

#### **Section 8.2 – MINIMUM QUALIFICATIONS**

All applicants must possess the minimum qualifications specified for each position by the deadline to apply; however documentation of such qualifications may be submitted at a later date if specified on the posting announcement or other notice to the applicants.

#### **Section 8.3 – REQUIREMENT OF HIGH SCHOOL EDUCATION**

No person shall be eligible to apply for a position with the uniformed bodies who does not submit evidence to the Board with his application that he has an accredited high school diploma, high school equivalency diploma, or a certificate showing a passing grade was achieved on the General Educational Development or United States Armed Forces Institute tests.

#### **Section 8.4 – REJECTION OF APPLICATION**

Where the Board has rejected an applicant because of any particular disqualification, such applicant shall not be allowed to file a subsequent application for the same classification for which the same disqualification might apply; and the Secretary to Commissioners shall summarily reject such application upon its being tendered for filing. Any applicant whose application is summarily rejected in this manner by the Secretary to Commissioners may file a written protest within five (5) days of said rejection with the Secretary to Commissioners, stating in full any facts which would tend to overcome the reason for his previous disqualification. The Secretary to Commissioners is the final review authority for any written protest.

#### **Section 8.5 – REJECTION OF APPLICANT FOR CRIMINAL CONVICTION**

When the Board determines that an applicant has a disqualifying criminal conviction, the Board shall notify the Secretary to Commissioners prior to formal rejection. The Secretary to Commissioners shall then send the applicant a pre-adverse action letter to inform the applicant that the Board discovered questionable information concerning the applicant. The applicant will then have five (5) business days to rebut the information provided in the pre-adverse action letter. If the applicant submits rebuttal information, the Secretary to Commissioners is the final review authority for any written protest. If the applicant does not submit rebuttal information or the Secretary to Commissioners is not satisfied with the rebuttal information provided, the Board may reject the applicant and the Secretary to Commissioners shall send the applicant an adverse action notice.

## CHAPTER 9

### New-Hire Military Service and Education Credit

#### **Section 9.1 – MILITARY SERVICE CREDIT**

Any applicant seeking military service credit must file a copy of his DD-214 discharge papers or his certificate of satisfactory service. Any widow desiring to claim military service credit shall file with the Board a letter from the Veteran's Administration of the United States of the Department of Defense establishing that his spouse died in the line of duty.

##### **Section 9.1.1 – ACTIVE DUTY AND RESERVE COMPONENTS**

Three (3) points shall be added to the passing grade of each candidate on an open-competitive examination who are actively serving at the time of application either in active duty or reserve status, or separated honorably (or under honorable conditions) from the Armed Services. In no case shall added points exceed ten (10) percent of the total points available.

##### **Section 9.1.2 – RETIRED SERVICE MEMBERS**

Five (5) points shall be added to the passing grade of each candidate on an open-competitive examination who is separated honorably (or under honorable conditions) from the Armed Services and who have retired as a result of length of service, regardless of the period of their service. In no case shall added points exceed ten (10) percent of the total points available.

##### **Section 9.1.3 – LIMITATIONS**

(A) Proof of military service shall be furnished to the Secretary to Commissioners at the time of filing for an examination.

(B) All applicants under this Rule must meet all medical, physical and other requirements of the position for which they apply.

#### **Section 9.2 – EDUCATION ACHIEVEMENT CREDIT**

Each applicant eligible for promotion, may receive credits for education, seniority, and/or certifications in accordance with the below schedule:

##### **Section 9.2.1 – JCPD**

###### **(A) Education**

- (1) Associate Degree – 1 point
- (2) Bachelor's Degree – 3 points
- (3) Master's Degree – 5 points

##### **Section 9.2.2 - JCFD**

###### **(A) Education**

- (1) Associate Degree – 1 point

(2) Bachelor's Degree – 3 points

(3) Master's Degree – 5 points

*In order to receive education achievement credit, the new-hire applicant must provide a copy of their diploma or equivalent. The award of education achievement credit points for a new-hire applicant shall not obligate Department Heads to award the same education achievement credit points in a future promotional examination process in which the new-hire applicant is a participant.*

## **CHAPTER 10**

### **Examinations**

#### **Section 10.1 – JOB-RELATED EXAMS**

All examinations shall be job related, in that they shall relate directly to those matters which will fairly test the relative capacity of an applicant to discharge the duties of a position with JCPD or JCFD to which appointment is sought. Such examination shall also be consistent with the Uniform Guidelines on Employee Selection Procedures which were adopted by the EEOC, U.S. Civil Service Commission, and U.S. Departments of Labor and Justice.

#### **Section 10.2 – EXAMINATION PARTS**

The examination shall consist of one or more of the following parts:

##### **Section 10.2.1 – Written Test**

This part, when required, shall include a written demonstration designated to show the degree of knowledge, skills, and abilities which are required to successfully perform the duties of the classification being tested.

##### **Section 10.2.2 – Oral Interviews**

This part, when required, shall include a personal interview for ability to deal with others, to meet the public, or other personal qualifications to be determined. An oral test may also be used in examinations where a written test is either unnecessary or impractical to give.

##### **Section 10.2.3 – Performance Test**

This part, when required, shall include such tests of performance or trait as will determine the ability and manual skill of competitors to perform the work involved.

##### **Section 10.2.4 – Physical Test**

This examination may consist of tests of bodily condition, physical fitness, skill, and any other test deemed appropriate.

##### **Section 10.2.5 – Psychological Assessment**

This part, when required, shall include any test designed to evaluate whether an applicant can meet the requirements that accompany the sworn position.

##### **Section 10.2.6 – Training and Experience Evaluation**

This part, when required, shall be an evaluation of the training and experience of the applicant as indicated by the application, training and experience questionnaire, oral interview, or any other appropriate source. This information is subject to verification by the Board.

##### **Section 10.2.7 – Assessment Center**

This part, when required, shall consist of the structured evaluation of the relevant skill, knowledge and abilities of people by means of situational testing.

### **Section 10.2.8 – Other**

Any type of examination, other than those listed above, as might be determined appropriate by the Board, including but not limited to work sample performance, seniority, military service, or education.

### **Section 10.3 – IDENTIFICATION NUMBER**

The identification of all persons taking a competitive written test shall be concealed from the examiners by use of an identification number which shall be used on all examination papers and the candidate's application form when he presents himself for examination. This number shall be used from the beginning of the examinations until the papers have all been rated. *Entry level applicants shall use the last four digits of their social security number and promotional applicants shall use their City payroll identification number.*

### **Section 10.4 – CHEATING ON EXAM**

Any applicant cheating or assisting another applicant while taking any examination shall be declared summarily disqualified and ineligible to take a future civil service examinations.

### **Section 10.5 – APPLICANT IDENTIFICATION**

The Secretary to Commissioners of the Board or a person designated by the Secretary to Commissioners shall be present at all written examinations, and shall require that all applicants write their signature on the admission slip in the presence of the monitor. Each applicant taking an examination is required to provide government-issued identification, such as a driver's license, etc., at the time of examination for identification purposes.

### **Section 10.6 – EXAMINATION ASSISTANCE**

No applicant shall be permitted to take an examination with someone else writing for him. The only exception is an unusual circumstance where the Secretary to Commissioners may authorize assistance from the Board.

### **Section 10.7 – DISABILITY POLICY**

The Board endorses the mandate of the Americans with Disabilities Act of 1990 (ADA) to remove barriers, which prevent qualified individuals with disabilities from enjoying the same employment opportunities that are available to persons without disabilities. Reasonable accommodations in the work place shall be provided for qualified persons with disabilities unless such accommodations would cause an undue hardship in accordance with state and federal law. Reasonable accommodations shall be provided to qualified entry-level or promotional applicants, who comply with administrative procedures for requesting an accommodation. In the event such a request involves testing considerations, the accommodation request shall be submitted to the Secretary to Commissioners of the Board. The confidentiality of the accommodation request shall be maintained to the extent allowable in accordance with federal law.

### **Section 10.8 – REPETITION OF SAME EXAM**

If an applicant takes the same civil service examination more than once, the most recent test grade will replace the first test grade, regardless of whether it is higher or lower than the first.

## **Section 10.9 – WAITING PERIOD TO REPEAT EXAM**

An applicant who has competed in an examination may not repeat that examination or take an examination for the same classification within six (6) months from the date of original examination, unless an alternate test is given and/or the Board waives this rule when sufficient reasons warrant such a change. This provision shall not apply to JCPD or JCFD initial assessments.

## **Section 10.10 – ORAL BOARD COMPOSITION**

### **Section 10.10.1 – JCPD**

The Board may, from time to time, determine that applicants for certain sworn positions shall have an oral board as a part of, or in lieu of other selection devices, for new hire selection with JCPD or a promotion within JCPD. This interview shall be conducted by a panel of not less than six (6) persons for new hires, and not less than four (4) for promotions, deemed to be knowledgeable in the position for which the examination is being given. Panel members (“assessors”) shall be individuals from JCPD, other similarly sized police departments, and/or internal assessors from other City departments.

New hire panels shall be, as often as possible, comprised of the following:

- (A) Officer/Investigator
- (B) Sergeant
- (C) Lieutenant
- (D) Captain
- (E) Major
- (F) Chief/Deputy Chief

Each assessor of a promotional panel must be of equal or greater rank to the rank for which the Promotional panels shall be, as often as possible, comprised of the following:

- (A) Sergeant/Lieutenant/Captain/Major
- (B) Chief/Deputy Chief

Each new hire and/or promotion assessor will complete a score sheet for every applicant participating in the interview process. These rating assessors shall rate the applicants on job-related criteria and a score for the oral interview shall be awarded by averaging the ratings of the assessors. No person shall sit on an oral board that is to interview an applicant who is related to that person within the second degree, either by affinity or blood relation. *See* HR Policy 155. A member of the Board shall be present during all oral board examinations to insure that no assessor is unduly influenced by the non-rating assessor, if any, and that all applicants are examined in a consistent and equitable manner.

### **Section 10.10.2 – JCFD**

The Board may, from time to time, determine that applicants for certain sworn positions shall have an oral board as a part of, or in lieu of other selection devices, for new hire selection with JCFD or a promotion within JCFD.

New hire panels shall be comprised of five (5) lieutenants. The five (5) lieutenants are appointed for a period of two (2) years, and may be appointed for an additional two (2)



years for a maximum of four (4) years. Lieutenants who have served for a period of four (4) years may be re-eligible to serve as a new-hire assessor after an absence of two (2) years.

The Driver/Engineer examination process is broken down into two components – the practical exercise and a written examination. The examination process shall be overseen by a lieutenant appointed the Fire Chief. The lieutenant shall coordinate the examination process with the District Chief of Training, Assistant Chief of Administration, and the Assistant Chief of Operations. The Assistant Chief of Administration is responsible for maintaining the confidentiality of the examination process.

- (A) The practical exercise assessors shall be comprised of lieutenants determined on an ad-hoc basis. Two (2) to three (3) lieutenants serving as assessors shall be placed at each station and maintain individual score sheets for each candidate. The individual score sheets shall be used to determine a consensus score for each candidate which shall serve as the score for the candidate at a particular station. One lieutenant at each station shall be designated as the “lead” who shall provide directions to each candidate and may answer candidate questions about expectations or processes. The lead shall not answer questions in a manner that will give one candidate an advantage over another.
- (B) The lieutenant overseeing the examination process shall administer the written examination. The written examination is comprised of general knowledge created by the JCFD to test knowledge of each candidate as to apparatus operations, NFPA standards, JCFD and City policy, organizational skills, decision making, and map/geography skills.

The assessment panel for Lieutenant shall be composed of three (3) assessors from outside JCFD. The assessors must serve in a rank that directly, or indirectly, supervises the company officer level in each of their respective organizations. The determination as to an assessor’s supervisory responsibility shall be determined based upon the organizational hierarchy of the outside department. The Assistant Chief of Administration serves as the secretary for this ad-hoc panel. The Assistant Chief of Administration shall coordinate the examination process to include organizing and scheduling the assessment center, developing scenarios, coordinating with outside assessors, and directing each candidate through the assessment. The examination process shall evaluate the interpersonal skills of applicant with other JCFD personnel, peer to peer interactions, evaluation of citizen concerns/complaint, and applicant operations skills at an emergency scene. Each skill has five (5) areas of assessment with a point scale of one (1) to four (4). The assessors must achieve consensus and only the consensus score is recorded.

The assessment panel for District Chief shall be composed of three (3) assessors from outside JCFD. The assessors must serve in a rank that directly, or indirectly, supervises the company officer level in each of their respective organizations. The determination as to an assessor’s supervisory responsibility shall be determined based upon the organizational hierarchy of the outside fire department. MTAS shall manage the assessment process for District Chief. The Administrative Assistant Chief serves as the point of contact for MTAS and assists in organizing the evaluators. The examination process shall evaluate the interpersonal skills of applicant with other JCFD personnel, peer

to peer interactions, evaluation of citizen concerns/complaint, and applicant operations skills at an emergency scene. Each skill has five (5) areas of assessment with a point scale of one (1) to four (4). The assessors must achieve consensus and only the consensus score is recorded.

The assessment panel for the rank of Assistant Chief and Deputy Chief shall be comprised of assessors from outside JCFD as well as internal assessors from other City departments, excluding JCFD, on an ad hoc basis. Outside assessors shall be Fire Chiefs, or the equivalent, from other fire departments. The determination as to an assessor's supervisory responsibility shall be determined based upon the organizational hierarchy of the outside fire department. The Assistant Chief rank shall be subject to a non-scored interview with the Fire Chief and Deputy Chief. The Deputy Chief shall be subject to a non-scored interview with the Fire Chief and an internal assessor from another City department, excluding JCFD, chosen at the Fire Chief's discretion.

**Section 10.11 – MINIMUM SCORES FOR CONSIDERATION**

Posting announcements shall include minimum scoring standards for each of the above examination standards selected for purposes of assessment and being placed on the eligibility roster. Any examination standard that is not considered pass/fail shall be rounded to the nearest whole number. The initial scoring shall not include education, seniority, or certification credits. In accordance with standard procedures, all scores shall be rounded to the nearest tenth.

**Section 10.12 – REQUIRED EXAMINATIONS**

All applicants, before being employed in a civil service position, shall take the required physical examination and/or other required examination unless otherwise stated in these guidelines.

## **CHAPTER 11**

### **Notice of Examination Grades**

#### **Section 11.1 – NOTIFICATION OF TEST RESULTS AND RIGHT OF REVIEW**

As soon as the score of an examination has been calculated and after the eligibility roster is certified by the Board, each applicant shall be notified in writing or email of his test score. The marking of each applicant's answer sheet shall be open to his own inspection in the Secretary to Commissioners Office for ten (10) business days following the date of the notification to the applicant of his test score. Applicants are not authorized to review documents containing examination questions.

## CHAPTER 12

### Rejection of Applicants

An applicant for a position within JCPD or JCFD may be rejected for the following:

#### **Section 12.1 – FAILURE TO MEET MINIMUM QUALIFICATIONS**

The applicant fails to meet the minimum qualifications of the position or classification as provided for by general law, ordinances, Charter, these guidelines, those guidelines established in the job analysis, or physical requirements of the position.

#### **Section 12.2 – FAIL TO APPEAR OR PASS SELECTION**

The applicant fails to appear for or pass any part of the selection procedure after applying, or re-applying, for a position.

#### **Section 12.3 – FAIL TO SUBMIT OR FAIL TO COMPLETE TESTING/EXAMINATIONS**

The applicant fails to submit or does not successfully complete a requirement including, but not limited to, a drug and alcohol test, medical examination, polygraph examination, psychological examination, or background evaluation.

#### **Section 12.4 – CRIMINAL CONVICTION**

The applicant has been convicted of a violation of law involving a matter which may be related to the job for which he is applying, including those concerning moral turpitude. *In the event the removal is the result of a criminal conviction, the Board shall follow the procedure outlined in Section 8.5, above, prior to formal rejection.*

#### **Section 12.5 – FALSE STATEMENT**

The applicant has made a false statement in his application with regard to any material fact or has knowingly failed to disclose information called for in his application.

#### **Section 12.6 – PRIOR EMPLOYMENT**

The application was previously removed for justifiable cause from other employment with the City.

#### **Section 12.7 – FAIL TO RESPOND**

The applicant did not respond to communications or notice from the City concerning his application for employment within five (5) business days, or has relocated or changed a telephone number and failed to provide the City of a new address or new telephone number preventing further contact.

#### **Section 12.8 – POLITICAL PRESSURE OR BRIBERY**

The applicant used, or attempted to use, political pressure or bribery to secure an advantage in his examination or appointment.

**Section 12.9 – EXAMINATION TAMPERING**

The applicant either directly or indirectly obtained, attempted to obtain, or received information regarding examinations to which, as an applicant, he would not be entitled.

**Section 12.10 – FAILURE TO SUBMIT APPLICATION**

The applicant failed to submit the application correctly or within the prescribed time limit.

**Section 12.11 – LATER ARISING ISSUES**

Subsequent to an applicant's placement on an eligibility roster, a reason developed or was discovered by the Board including, but not limited to, errors disclosed in computing the score, personal activity in violation of these guidelines, or any other similar reason. Such person shall be notified and given an opportunity to be heard. If such person fails to appear before the Board, or upon being heard, fails to satisfy the Board, his name shall be removed from the applicable eligibility roster. *In the event the removal is the result of a criminal conviction, the Board shall follow the procedure outlined in Section 8.5, above, prior to formal rejection.*

**Section 12.12 – DISREGARD OF LAW**

The Board may remove an applicant for a record of disrespect for the requirements and processes of law, including the use of illicit drugs, repeated traffic offenses or disregard of summonses for traffic offenses, or a record of misconduct which is detrimental to the proper performance of the job for which he is applying regardless of criminal conviction or charge.

## CHAPTER 13

### Eligibility Roster

#### **Section 13.1 – ESTABLISHMENT AND MAINTENANCE OF ELIGIBILITY ROSTER**

The Board shall establish an eligibility roster for each new hire or promotional position after the completion of the examination process. Applicants placed on the eligibility roster shall remain on the eligibility roster without necessity for additional testing for a period of one-hundred and eighty (180) days from and after the establishment of the eligibility roster unless otherwise excepted by these guidelines or by a majority vote of the Board. The Board may grant, at the request of a Department Head, a ninety (90) day extension for the eligibility roster to remain active. Department Heads may request a ninety (90) day extension no more than two (2) times for a total extension of one-hundred and eighty (180) days.

#### **Section 13.2 – ESTABLISHMENT OF ELGIBILITY ROSTER BY ELECTRONIC MEANS**

The Board may establish, certify, or abolish an eligibility roster, using electronic means, i.e. an internet forum and/or electronic mail.

#### **Section 13.3 – AMENDMENT TO OR ABOLITION OF AN ELIGIBILITY ROSTER**

In addition to other provision of these guidelines concerning the removal of applicants from an eligibility roster, the Board has the power in its discretion to amend any eligibility roster where it appears that an error was made or a violation of these guidelines or the Charter has occurred.

The Board may abolish any eligibility roster or remove persons from a list under exceptional circumstances, including, but not limited to instances or activities that the Board deems in violation of the provisions of these guidelines or of merit system principles.

After selection of an applicant(s) for appointment(s), the Board may abolish the eligibility roster for the respective sworn position upon request by the Department Head for JCPD or JCFD as applicable.

After the completion of a new examination process, the eligibility roster derived from a previous examination process shall be abolished as a matter of course upon certification of the new eligibility roster.

If the number of applicants on the eligibility roster falls to a number that is no longer able to satisfy the Rule of 5, the Department Head, in his discretion, may abolish the eligibility roster.

The Board may also cancel an eligibility roster at such time as the roster becomes unsatisfactory or undesirable because of changes in the qualifications standards and the selection procedure, or for such other reasons as may be in the interest of good personnel administration. In the event that an eligibility roster has been cancelled, the affected applicants shall be notified and provided the opportunity to reapply and to participate in the new selection procedure.

#### **Section 13.4 – PLACEMENT ON ELIGIBILITY ROSTER**

After each examination for a position, a new eligibility roster shall be established for that position by placing the names of eligible applicants in the order of grade achieved during the selection process. Because selection matters are discretionary in nature, successful test results and the

meeting of all eligibility requirements do not in any way obligate the selection of an applicant. "Eligibility for selection" and "actual selection" are separate and distinct matters.

## CHAPTER 14

### Requisition of Certification

#### **Section 14.1 – REQUEST FOR APPLICANTS TO BE FORWARDED**

Whenever a vacancy is to be filled, the Department Head shall submit a requisition to the Human Resources department. The requisition shall be on JCPD or JCFD letterhead and specify the position, the title, the requested compensation or pay step, the work schedule, the preferred starting date, and EEO information if applicable. Upon receipt of the requisition form, the Secretary to Commissioners shall post the position for a minimum of ten (10) days.

#### **Section 14.2 – RULE OF FIVE**

Upon receipt of a properly executed requisition form in compliance with Section 14.1 of these guidelines, the Secretary to Commissioners shall forward to the Department Head the eligibility roster ranked in order of the highest standing for the subject position. As a candidate is either selected, withdraws from consideration, or is disqualified because of failure to meet the minimum requirements for the position, the next highest candidate shall become eligible. *See* Charter, Section 161, para. 2.

#### **Section 14.3 – JUSTIFICATION FOR SELECTION**

All applicants ranking higher on the referral than the applicant selected must be interviewed by the Department Head, or his designee. Because hiring decisions are at the discretion of the Department Head, rank order on the referral does not in any way guarantee that an individual will be hired. Ranking on the referral only means that all individuals above the individual selected are guaranteed an interview, but not that such individuals have any preference in the selection process. In the promotional process, if there are any applicants above the applicant selected, detailed justifications for selection of the applicant selected must be given to the Secretary to Commissioners, except as otherwise provided for in these guidelines. Upon receipt of the justification for selection, the Secretary to Commissioners may request additional information and/or justification should he deem said information necessary to access compliance with the spirit and purposes of these guidelines and regulations prior to processing the selection.

#### **Section 14.4 – ORDER OF ELIGIBILITY ROSTERS**

The eligibility roster forwarded shall be the highest ranking eligible applicants listed in descending order with the highest scoring applicant first.

#### **Section 14.5 – SUPPLEMENTATION OF ORIGINAL REFERRALS**

On notification from an Department Head that one or more eligible applicants have declined appointment, have failed to respond to a notice properly sent, have indicated they are no longer interested, have not reported for a scheduled interview, or where the Department Head has rejected the eligible applicant(s) and provided justification satisfactory to the Board, the Board shall supplement the original referrals with the addition of the name or names of the eligible applicant(s) next in order of standing on the list sufficient to provide the Department Head with the appropriate number of applicants from which to make a selection.



**Section 14.6 – INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS**

If there are too few eligible applicants to satisfy the Rule of 5, the Department Head may make the appointment from the names referred. If the Department Head does not wish to make the appointment from the names referred, the requisition may remain open until additional applicants are tested and placed on the eligibility roster for that classification unless cancelled by the Board.

**Section 14.7 – INTERVIEW**

An interview shall be conducted of referred eligible applicants using questions that seek information relevant to the position. In compliance with Title VII of the Civil Rights Act of 1964 and Tennessee Human Rights Act, interviewers shall not ask questions about political affiliation, race, religion, gender, age, disability, sexual orientation, or national origin/ancestry. , and shall avoid questions about the applicant’s spouse, child care plans and other matters not related to the job.

**Section 14.8 – FAILURE TO COMPLETE PROMOTIONAL PROBATIONARY PERIOD DUE TO DISCIPLINARY ACTION**

After receiving appointment to a position, if a sworn employee fails to complete the probationary period for a promotional position due to a disciplinary action, and is consequently demoted, the sworn employee shall maintain the rights and privileges of taking future promotion examinations unless otherwise prohibited by JCPD or JCFD internal policies.

**Section 14.9 – REMOVAL OF NAMES FROM ELIGIBILITY ROSTER**

Names of eligible applicants may be removed from an eligibility roster as a result of any of the following:

**Section 14.9.1** – Refusal of a permanent, full-time appointment with regular working hours within JCPD or JCFD.

**Section 14.9.2** – Indication that he is no longer interested in employment with the City, JCPD, or JCFD.

**Section 14.9.3** – Failure to respond within the time specified in a notice of an inquiry by the appropriate authority unless satisfactory evidence is furnished justifying such failure to respond.

**Section 14.9.4** – Failure to report to a required medical, polygraph, or psychological examination, etc.

**Section 14.9.5** – Failure to report to an interview.

**Section 14.9.6** – Expiration of term of eligibility roster.

**Section 14.9.7** – Notice by postal service sworn employees that the eligible applicant cannot be located at his last known address.

**Section 14.9.8** – Death of eligible applicant.

**Section 14.9.9** – The separation from the service of the City of an eligible applicant whose name is on a promotional list.

**Section 14.9.10** – Negative reference from a previous employer (eligible applicant(s) will be notified and given an opportunity to respond).

**Section 14.9.11** – Review of eligibility of any applicant who is found to lack any of the qualifications prescribed as reasonable requirements for admission to the test for the position for which he has applied, or who is physically unfit to perform effectively the duties of the position for which said applicant is applying, or who is addicted to the habitual use of drugs or intoxicating liquors to excess, or who has been adjudged guilty of a crime which, if repeated, might constitute a serious risk to the City in the position for which application has been made, or who has made false statements of any material fact, or has practiced or attempted to practice deception or fraud in his application, or in his tests, or otherwise, in securing eligibility for appointment or attempting to do so.

**Section 14.10 – POSITIVE DRUG OR ALCOHOL TEST**

A confirmed positive drug test for illegal use of narcotics or use of illicit narcotics will result in disqualification of applicants and removal from the eligibility roster as follows:

- (A) Entry-level applicants shall be ineligible for employment with JCPD or JCFD from the date of the drug test and shall be removed from the eligibility roster. *See generally* City Policy HR-166.
- (B) Promotional applicants shall be ineligible for promotion to another position and removed from the eligibility roster in the promotional position for which he was being processed. In accordance with City Policy HR-166, Section XV the promotional applicant will be removed from their current position and the Department Head shall recommend discharge of the promotional applicant to the City Manager. (JCPD or JCFD may also take appropriate additional action in accordance with their respective disciplinary procedures).
- (C) Any entry-level or promotional applicant who refuses to submit to a drug screen, refuses to sign a consent form, or fails to report for a drug test is considered the equivalent of receiving a confirmed positive result. Said applicant shall also be removed from the eligibility roster in a manner consistent with this section. A promotional applicant shall be removed from his current position and subject to disciplinary action up to and including discharge. *See* City Policy HR-166, Section XII.
- (D) Intentional tampering with the drug testing process by an applicant is considered deception or fraud in the securing of appointment or promotion and is just cause to withdraw the offer of employment and to disqualify the applicant in a manner consistent with this section. A diluted drug test will also necessitate a second drug test in accordance with City Policy HR-166, Section XIX.

**Section 14.11 – NEPOTISM**

No sworn employee elected or appointed by the Board, or any Department Head or administrative officer shall be related to any of said members of the Board, or any Department Head or administrative officer controlling or having a vote or voice in the election or appointment of said

sworn employee within the second degree, either by affinity or blood relation. *Cf.* City Policy HR-155 (Nepotism).

**Section 14.12 – REMOVAL FROM ELIGIBILITY ROSTER**

Upon the removal of any eligible applicant from the eligibility roster, except with proper expiration or termination of the eligibility roster, such applicant shall be immediately notified in writing, sent to the address on his application. Upon receipt of notification, the applicant shall have ten (10) calendar days to request reinstatement in writing. The Board shall evaluate reasons provided for reinstatement and thereafter decide whether reinstatement is appropriate. *In the event the removal is the result of a criminal conviction, the Board shall follow the procedure outlined in Section 8.5, above, prior to formal rejection.*

**Section 14.13 – RE-EMPLOYMENT AFTER LAYOFF**

Re-employment lists shall consist of names of persons who were laid-off in accordance with Section 18.2, below, and who, at the time of their separation, had attained permanent Civil Service status during their most recent employment with the City. The order in which these names shall be ranked on the re-employment list shall be in accordance with their seniority.

## CHAPTER 15

### Initial Employment Probationary Period

#### **Section 15.1 – LENGTH OF INITIAL EMPLOYMENT PROBATIONARY PERIOD; EXTENSION OF SAID PERIOD**

All personnel receiving an initial appointment to a sworn position shall be required to complete satisfactorily a one-year probationary period prior to receiving a permanent appointment. The Department Head for JCPD or JCFD may extend the probationary period of a sworn employee in a sworn position for a period of up to an additional six (6) months. Requests for a probationary period extension must be made in writing or email to the Secretary to Commissioners prior to the sworn employee's completion of the initial probationary period.

#### **Section 15.2 – EVALUATION OF PROBATIONARY EMPLOYEES**

The probationary period is an adjustment and trial period for the probationary sworn employee during which the sworn employee's attitude, work performance, job compatibility, and other criteria related to the position, will be observed and examined by his supervisor(s). A job related performance evaluation form should be completed by the immediate supervisor on every probationary sworn employee every three (3) months during the probationary period. The immediate supervisor should review the evaluation with the sworn employee. After review of it with the sworn employee, the immediate supervisor should submit the completed performance evaluation form to the Department Head for his review and approval. The immediate supervisor may submit to the Department Head his recommendation to dismiss a probationary sworn employee, along with appropriate documentation, any time prior to the expiration of the probationary period if, in his judgment, such action is warranted. Should the Department Head choose to dismiss the probationary sworn employee, he shall forward a Statement of Disciplinary Action (Probationary Sworn Employee) to the Secretary to Commissioners prior to the end of the sworn employee's probationary period.

#### **Section 15.3 – INELIGIBILITY FOR APPEAL OF DISCIPLINARY ACTION**

##### **Section 15.3.1 – New-Hire Sworn Employees**

Probationary new-hire sworn employees are eligible for employment benefits; however, if terminated or suspended during the probationary period, probationary sworn employees are not afforded the right to appeal under these guidelines. *See* Charter, Section 166.

##### **Section 15.3.2 – Promotional Sworn Employees**

A promoted sworn employee may be returned to his former rank at any point during the probationary period and is not afforded the right to appeal under these guidelines. *See* Charter, Section 166.

#### **Section 15.4 – HIRE DATE**

The hire date for seniority purposes for any sworn employee who is appointed to a full-time permanent position, after completing the probationary period, shall be the day the sworn employee began his employment as a probationary appointee.

## CHAPTER 16

### Promotions

#### **Section 16.1 – PROMOTIONS AND OPPORTUNITIES**

It is the policy of the City, in accordance with City Policy HR-180 (EEO – Affirmative Action), to develop and promote qualified sworn employees based on their ability and job performance. Sworn employees are encouraged to take advantage of these opportunities by qualifying themselves for advancement through further education and study, by successfully completing the appropriate examination and attaining a place on the appropriate promotional eligibility roster, and by a high level of job performance, service, and interest.

#### **Section 16.2 – PROMOTION POLICY**

In accordance with Sections 161 – 163 of the Charter, promotion shall be based on merit as determined through competitive evaluation defined in these guidelines. Sworn employees cannot achieve promotion unless promoted in accordance with these guidelines. Service in a position is not sufficient to achieve promotion to the same position. Assignment to a position, without express promotion, is not equivalent to a promotion even if the position is typically held by a person of higher rank or pay. Also, the mere performance of duties by a sworn employee usually reserved for a promotional position does not entitle the sworn employee to compensation other than that provided by his official position. The sworn employee, though, may be entitled to a temporary increase of pay commensurate with the promotional position while serving in an interim and/or acting status.

##### **Section 16.2.1 – Consideration of Promotional Applicants**

Vacancies for sworn positions shall be filled by the internal promotion of sworn employees within JCPD or JCFD with the exception of those positions holding the lowest respective ranks for each department.

##### **Section 16.2.2 – Length of Placement on Promotional Roster**

Promotional applicants for all sworn positions in the uniformed bodies above the rank of Trainee who takes any civil service examination and passes all requirements shall be placed on the eligibility roster for a period of one-hundred and eighty (180) days or such other time as the Board may determine. The Board may grant, at the request of a Department Head, a ninety (90) day extension for the eligibility roster to remain active. Department Heads may request a ninety (90) day extension no more than two (2) times for a total extension of one-hundred and eighty (180) days. A promotional roster may be abolished in accordance with Section 13.3.

##### **Section 16.2.3 – Increase in Duties**

Promotions involving a salary increase, in every case, must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of effecting an increase in compensation.

### **Section 16.2.4 – Selection Procedure**

The Department Head shall determine the method of selection and shall use one or more of the selection procedures and the certification process when filling a vacancy by promotion as described in these guidelines.

### **Section 16.3 – PROMOTIONAL EXAMINATION**

The term "promotional examination" is an examination process to determine the relative standing of promotional candidates for sworn positions within JCPD or JCFD.

### **Section 16.4 – TYPES OF PROMOTIONAL EXAMINATIONS**

Promotional examinations shall consist of testing related to the position.

#### **Section 16.4.1 – JCPD Minimum Years of Service for Promotion**

##### **(A) Sergeant –**

Shall have been a Police Officer with the City for three (3) years prior to taking the promotional examination, unless waived by the Board. *The three (3) year time period begins to run following successful completion of the new-appointment probationary period.*

##### **(B) Lieutenant –**

Shall have been a Police Sergeant with the City for three (3) years prior to taking promotional examination, unless waived by the Board.

##### **(C) Captain –**

Shall have been a Police Lieutenant with the City for three (3) years prior to taking promotional examination, unless waived by the Board.

##### **(D) Major –**

Shall have been a Captain with the City for three (3) years prior to taking promotional examination, unless waived by the Board.

#### **Section 16.4.2 – JCFD Minimum Years of Service for Promotion**

##### **(A) Driver/Engineer –**

Shall have three (3) years of service with the City as a Firefighter and certified by the State of Tennessee as a Pumper Driver/Operator or a Fire Apparatus Operator, unless waived by the Board. The three (3) year time period begins to run following successful completion of the new-appointment probationary period.

##### **(B) Lieutenant/Fire Prevention Officer –**

Shall have eight (8) years of Fire service with the City (five (5) of those years shall be in suppression and at least one (1) year shall have been as a Driver/Engineer). The applicant must also be certified by the State of Tennessee in Fire Officer I. Upon promotion, applicants must also complete the following post-promotional certifications: State of Tennessee Fire Officer II (within 12 months of promotion); State

of Tennessee Fire Inspector I (within 18 months of promotion); and CPSE Fire Officer Designation (within 24 months of promotion).

**(C) District Chief –**

Shall have ten (10) years of Fire service with the City (seven (7) of those years shall be in suppression and at least two (2) years as a Lieutenant/Fire Prevention Officer). The applicant must have all pre- and post-promotional certifications required of Lieutenant/Fire Prevention Officer.

**Section 16.5 – CONDITIONS FOR WAIVING MINIMUM YEARS OF SERVICE REQUIREMENT**

For promotional positions, if no one applies for such a position, if no one passes all the requirements for such a position, or if no one accepts the promotional position, the Department Head with approval of the City Manager, may waive minimum requirements to allow the next preceding rank to apply for said position.

**Section 16.6 – PERFORMANCE AND EDUCATION ACHIEVEMENT CREDIT**

Each applicant eligible for promotion, may receive credits for education, seniority, and/or certifications in accordance with the below schedule:

**Section 16.6.1 – JCPD**

**(B) Education**

- (4) Associate Degree – 1 point
- (5) Bachelor’s Degree – 3 points
- (6) Master’s Degree – 5 points

**Section 16.6.2 - JCFD**

**(B) Education**

- (4) Associate Degree – 1 point
- (5) Bachelor’s Degree – 3 points
- (6) Master’s Degree – 5 points

*In order to receive education credit, the promotional applicant must provide an explanation, in essay form, of how their education relates to the promotional position. The Department Head and Secretary to Commissioners shall confer on a case-by-case basis to determine whether to award education credit.*

**(C) Seniority**

- (1) ½ point for every five (5) years of service up to a maximum of three (3) points

**(C) Certifications**

- (1) State of Tennessee Pumper Driver/Operator and State of Tennessee Aerial Operator or State of Tennessee Fire Apparatus Operator-- 1 point

- (2) Fire Inspector—1 point
- (3) Incident Safety Officer—1 point
- (4) Fire Officer I—1 point
- (5) Fire Officer II—1 point
- (6) Fire Officer III—1 point
- (7) Fire Officer IV—1 point
- (8) Current CPSE Fire Officer Designation—1 point
- (9) Managing Fire Officer (NFA) – 2 points
- (10) Executive Fire Officer (NFA) – 2 points

(D) Maximum Cumulative Achievement Credit Points JCFD

- (1) Seniority—Maximum of 3 Points
- (2) Education—Maximum of 5 Points
- (3) Certification—Maximum will vary based on required certifications of job posting

**Section 16.7 – ELIGIBILITY TO COMPETE IN PROMOTIONAL EXAMINATIONS**

Promotional examinations shall be open only to sworn employees of JCPD and JCFD who have served in a specified class/classes for such period as shall be prescribed by this chapter. No sworn employee shall be eligible to compete in a promotional examination without having satisfactorily completed the probationary period and met the acceptable work standards for the present position during the period as provided in these guidelines. The completion of the required period for eligibility for a promotional examination may be waived in exceptional cases by the Board when it is shown to be for the good of the City.

**Section 16.7.1 – Limitations**

- (A) Promotional examination candidates will be eligible to register for, and participate in, only one promotional examination during any one testing period, unless waived by the Board.
- (B) Sworn employees of JCPD and JCFD shall be deemed eligible for a promotional examination only if his overall performance evaluation rating for the immediately preceding three (3) years is “Satisfactory” and above.

**Section 16.7.2 – Waiver**



Under Chapters 15 and 16 of these Guidelines positions of rank in the JCPD and/or JCFD must have served in their current position for the requisite number of years unless waived by the Board. Service requirements for promotion may be waived by the Board under the following conditions:

- (A) The candidate asking for a waiver to take a promotional examination is within ninety (90) calendar days of eligibility for a promotional position as of the date of the examination.
- (B) When no one applies for the position; no one passes all of the requirements for the position; or no-one accepts the position.
- (C) There are less than five candidates but more than one candidate that is eligible for the promotional examination.
- (D) When it has been determined by the Civil Service Commission to be in the best interest of the JCPD and/or JCFD promotional process.

The respective Department Heads for JCPD and/or JCFD shall provide justification for waiving eligibility requirements as provided in these guidelines.

#### **Section 16.8 – DETERMINATION OF NEED FOR PROMOTIONAL EXAMINATION**

The Board, or its designee, in consultation with the Department Head for JCPD and JCFD shall analyze all vacancies to determine whether a competitive open examination is necessary and to insure that the contents therein address all the qualifications for the vacancy as written in these guidelines and the Charter.

#### **Section 16.9 – PROMOTIONAL EXAMINATION NOTIFICATION**

Whenever the Board orders a promotional examination to be held, notice of such examination shall be published and posted in JCPD and/or JCFD. It shall be the duty of the Department Head in each department employed to ensure that each eligible candidate is notified of the examination or has access to such notice.

#### **Section 16.10 – APPLICATION**

The Board shall require that each eligible candidate desiring to compete for promotion fill out application blanks as prescribed and present his application to the Secretary to Commissioners on or before any specified date.

#### **Section 16.11 – INVALID APPOINTMENTS**

No person may be appointed to a civil service position without satisfying all requirements of the Charter, and of the guidelines promulgated pursuant thereto, relating to such appointments. The appointment or employment of any individual in violation of the Charter or the guidelines promulgated pursuant to the Charter shall be invalid from its inception, and said individual shall have no right to hold, or continue to hold, or to receive compensation while holding, any position to which he was not appointed in accordance with the Charter or guidelines adopted pursuant thereto.

## **Section 16.12 – CLASSIFICATION ADVANCEMENT**

Following the initial entry into the classification of Police Trainees with JCPD or Firefighter Trainees with JCFD, who successfully complete the academy trainings for the respective positions will move into the Police Officer and/or Firefighter classification.

The term "minimum requirements" which is used throughout this promotional plan is intended to include any requirements listed in these guidelines plus any requirements listed in the respective classification specifications or posting announcements.

### **Section 16.12.1 – JCPD**

- (A) All Police Officers who have met the minimum requirements for the vacant position will be eligible to compete for Sergeant.
- (B) All Sergeants who have met the minimum requirements for the vacant position will be eligible to compete for Lieutenant.
- (C) All Lieutenants who have met the minimum requirements for the vacant position will be eligible to compete for Captain.
- (D) All Captains who have met the minimum requirements for the vacant position will be eligible to compete for Major.

### **Section 16.12.2 – JCFD**

- (A) All Firefighters who have met the minimum requirements for the vacant position will be eligible to compete for Driver/Engineer.
- (B) All Driver/Engineers who have met the minimum requirements for the vacant position will be eligible to compete for Lieutenant.
- (C) All Lieutenants/Fire Prevention Officers who have met the minimum requirements for the vacant position will be eligible to compete for District Chief.
- (D) All District Chiefs meeting the minimum requirements for the vacant position will be eligible to compete for Assistant Fire Chief.

## **Section 16.13 – PROMOTION WITHOUT EXAMINATION**

Whenever it is found that the number of persons qualified to compete in a promotional examination is equal to or more than one (1) but not more than five (5), the Secretary to Commissioners may authorize promotion with approval from the City Manager. The names of the candidates qualified to compete may be referred for promotion to the Department Head for JCPD or JCFD without further examination. The Department Head shall determine the assessment process as appropriate. Such eligibility is conditional for the current vacancy only; and when the current vacancy is filled, all remaining applicants who achieved eligibility pursuant to this rule shall be removed from the eligibility roster.

**Section 16.14 – PROMOTIONAL EXAMINATION COMPONENTS**

Successful completion of each component of the selection procedure shall be required as specified in the vacancy announcement. The selection procedure shall consist of one or more of the following parts as more fully described in Section 10.2 of these guidelines:

- |  |                             |
|--|-----------------------------|
| (A) Written test                       | (G) Assessment center       |
| (B) Oral interview                     | (H) Performance appraisal   |
| (C) Performance test                   | (I) In-service training     |
| (D) Physical test                      | (J) Elective training       |
| (E) Psychological assessment           | (K) Educational achievement |
| (F) Training and experience evaluation |                             |

## CHAPTER 17

### Promotional Appointment Probationary Period

#### **Section 17.1 – GENERALLY**

All personnel receiving promotion to a sworn position shall be required to complete satisfactorily a one (1) year probationary period prior to receiving a regular appointment in the promotional position. This one (1) year probationary period is credited toward the three (3) year tenure rule in Section 17.4.1 of these guidelines.

#### **Section 17.2 – EVALUATION OF PERFORMANCE OF PROMOTIONAL SWORN EMPLOYEE**

The probationary period is an adjustment and trial period for the probationary sworn employee during which time the sworn employee's attitude, work performance, job compatibility, and other job-related criteria will be observed and examined by his immediate supervisor(s). A minimum of two (2) job-related performance evaluation forms shall be completed by the immediate supervisor on every promoted probationary sworn employee at six (6) and twelve (12) months. The supervisor is to review this evaluation with the sworn employee and then transmit it to the Department Head for review and approval. The immediate supervisor shall submit to the Department Head a recommendation to retain or reject the sworn employee. The Department Head shall then submit the evaluation form and his statement of acceptance or rejection of the sworn employee to the Secretary to Commissioners.

(In those cases where the Department Head is also the immediate supervisor, the evaluation form shall be filled out by the Department Head and submitted with the statement of acceptance or rejection directly to the Secretary to Commissioners).

#### **Section 17.3 – REJECTION DURING PROBATIONARY PERIOD**

A sworn employee rejected during the probationary period from a position to which he has been promoted shall be reinstated to a position in the classification from which he has been promoted, provided one is available, unless he is discharged as provided in Chapter 19 of these guidelines.

#### **Section 17.4 – POSITION TENURE DATE**

The position tenure date for seniority purposes shall be the effective date that said sworn employee began in his promotional position as a probationary appointee in that position.

## CHAPTER 18

### Civil Service Status Change

#### **Section 18.1 – GENERALLY**

Whenever a sworn employee under Civil Service has in any way severed his connection with the City by resigning, being laid-off, or discharged from employment in the City, he loses his Civil Service status and all rights and privileges thereunder. To regain employment with the City under Civil Service, he shall be required to stand a Civil Service examination just the same as any other applicant and is subject to the same qualifications as required for new applicants.

#### **Section 18.1.1 – Withdrawal of Resignation**

When a sworn employee desires to withdraw a tendered resignation, said sworn employee shall have the right to withdraw said resignation up until one week prior to the end of his last day actually worked, with the approval of the Department Head and Secretary to Commissioners.

#### **Section 18.2 – LAYOFF**

Layoff is the termination of employment of a sworn employee when, for any valid reason, it may be necessary to abolish one or more positions or reduce the number of sworn employees in the City service. Layoff does not reflect discredit upon the service of the sworn employee.

#### **Section 18.3 – LAYOFF DETERMINATION FOR SWORN EMPLOYEES**

Layoffs or reductions in force of a classification shall be executed on the basis of reverse seniority, with those persons having the least seniority in the classification being laid off first. This procedure shall continue until the reduction reaches a satisfactory level. When a layoff is necessary, each Department Head shall provide a list to the Secretary to Commissioners in the following order:

- (A) Probationary sworn employees in inverse order of appointment; and
- (B) Sworn employees.

#### **Section 18.4 – SENIORITY**

The City does not practice a strict system of seniority. However, seniority may be considered during a period in which layoff is required along with other criteria deemed appropriate by the Secretary to Commissioners and the City Manager to include special skills or abilities. *See generally* City Policy HR-152 (Lay-off).

#### **Section 18.5 – RETENTION**

Department Heads may request the retention of sworn employees by providing the Secretary to Commissioners and City Manager with a detailed written statement as to the skills and abilities of the sworn employee and reasons why the sworn employee is essential to JCPD or JCFD, as applicable. The City Manager is the final approval authority any retention request of a Department Head. *See generally* City Policy HR-152 (Lay-off).

**Section 18.6 – RECALL**

The Secretary to Commissioners shall develop a recall list of those sworn employees who were laid off. The recall list shall be maintained in inverse order of the layoff. The City, though, may recall sworn employees in any order to suit the needs of the City. The appearance of a sworn employee on a recall list does not confer to laid-off sworn employees any rights under these guidelines nor a guarantee of re-employment. *See generally* City Policy HR-152 (Lay-off).

## **CHAPTER 19**

### **Disciplinary Action**

The purpose of this chapter is to establish a uniform system of discipline for JCPD and JCFD and to specify proper procedures to use in the application of discipline.

#### **Section 19.1 – PRE-DISCIPLINARY PROCEDURES**

Whenever the suspension, demotion, or termination of a sworn employee who can be discharged only for cause pursuant to the provisions of Section 157 of the Charter is contemplated, before said action is taken and prior to any other procedures set out in this chapter, the sworn employee shall be given written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story, either orally or in writing.

#### **Section 19.2 – STATEMENT OF DISCIPLINARY ACTION**

##### **Section 19.2.1 –**

A Statement of Disciplinary Action shall be served on the sworn employee either before or at the time of the disciplinary action contemplated pursuant to Section 157 of the Charter. This document shall state the nature of the disciplinary action being taken against the sworn employee.

##### **Section 19.2.2 –**

The Statement of Disciplinary Action may be in any form, but attached to the statement, on a separate sheet, shall be a form providing for the signature of the sworn employee, designating his receipt of the Statement of Disciplinary Action, and also a form for the signature of the individual who serves the statement, stating the date of service. These forms are available with the Secretary to Commissioners.

##### **Section 19.2.3 –**

The Statement of Disciplinary Action shall include a brief statement of the reasons justifying the disciplinary action taken.

##### **Section 19.2.4 –**

The Statement of Disciplinary Action shall include a notice of the sworn employee's right to seek a review by the Board of the disciplinary action taken. This notice shall also include information as to the procedure to follow to obtain such a review.

##### **Section 19.2.5 –**

The Statement of Disciplinary Action shall also notify the sworn employee of his rights to be represented by counsel or another representative.

##### **Section 19.2.6 –**

The Statement of Disciplinary Action shall be signed by the Department Head initiating the action and a copy of the original shall be forwarded to the Secretary to Commissioners to be placed in the sworn employee's official file.

**Section 19.2.7 –**

An oral or written reprimand given to a sworn employee or placed in the sworn employee's file shall not be construed to be a disciplinary action which is subject to the review process as set out in this chapter or in the Grievance Procedure as set out Chapter 21 of these guidelines; as long as said oral or written reprimand does not suspend, demote, discharge, or reduce the salary of the sworn employee. The sworn employee has the right to offer a written response to be attached to the reprimand in his file.

**Section 19.3 – REQUEST FOR REVIEW OF DISCIPLINARY PROCEDURES**

**Section 19.3.1 –**

If the sworn employee desires a review of the disciplinary action he shall file a signed, written request for a review of that disciplinary action with the Secretary to Commissioners within ten (10) days after receiving the Statement of Disciplinary Action. Upon request by the affected sworn employee, the Secretary to Commissioners shall assist him with the writing of the request for review.

**Section 19.3.2 –**

Upon receipt of the request, the Secretary to Commissioners shall send a copy of the same to the Department Head and to the City Attorney. Also upon receipt, the Secretary to Commissioners shall open a file with the Statement of Disciplinary Action and the Request for Review.

**Section 19.3.3 –**

The Request for Review of Disciplinary Action shall set forth with reasonable particularity (1) the grounds for attacking, objecting to, or challenging the validity of the disciplinary action; (2) whether the sworn employee is contesting the entire scope of the disciplinary action or only a designated part thereof; and (3) the particular relief demanded or requested.

**Section 19.3.4 –**

The Request for Review will not be considered to have been filed until actually received by the Secretary to Commissioners. Upon receipt, the Secretary to Commissioners shall determine whether the requester is a sworn employee prior to any additional action.

**Section 19.3.5 –**

The Department Head may, if he so desires, file a reply to the Request for Review, but such reply must be filed no less than three (3) days before that date set for the hearing.

**Section 19.3.6 –**

If such a reply is filed, the Secretary to Commissioners shall forward a copy of the same to the sworn employee's attorney or representative, or if the sworn employee has no such attorney or representative, to the sworn employee himself.



## **Section 19.4 – SELECTION OF HEARING DATE**

### **Section 19.4.1 –**

Upon receipt of the Request for Review of Disciplinary Action, the Secretary to Commissioners shall coordinate with the City Attorney and the sworn employee's attorney or representative, if known to set the time for the hearing on the Review of Disciplinary Action. The hearing shall be set within ten (10) calendar days of the receipt of the Request for Review.

### **Section 19.4.2 –**

The Secretary to Commissioners shall forward a copy of all filed documents to the Board prior to the hearing. The originals of the documents and record shall be retained in the office of the Secretary to Commissioners when not requested by the Board or Court.

## **Section 19.5 – NOTICE OF HEARING**

Upon the selection of a date for the review hearing, it shall be the responsibility of the Secretary to Commissioners to forward a "Written Notice of Hearing" to all parties. This notice shall contain the time, date, and location of said hearing. The notice shall also contain notification to the sworn employee of his right to be represented by counsel or another representative. The notice shall also inform the sworn employee of his right to a continuance if it is desired. The procedure for obtaining a continuance shall also be noted.

## **Section 19.6 – CONTINUANCE**

### **Section 19.6.1 –**

To be granted, any continuance must be at the sworn employee's request or must have his consent. Any continuance granted shall in no way postpone or have any other effect upon the effective date of the disciplinary action instituted by the Department Head.

### **Section 19.6.2 –**

The sworn employee shall be entitled to one continuance as of right, said continuance being for a maximum for forty-five (45) days from the original date of the hearing. Any other continuance requested by the sworn employee, as well as the length of the same, must be for good cause shown and shall be granted or denied at the discretion of the Board. The sworn employee must request his continuance as of right no later than five (5) working days before the date set for the hearing. If the sworn employee fails to make a timely request, the Board shall have the sole discretion as to whether the request is granted.

### **Section 19.6.3 –**

The City is entitled to one continuance for a maximum of forty-five (45) days from the original date of the hearing but only after receiving the sworn employee's consent. The Board shall grant the continuance if the sworn employee consented to the City's request. Any additional continuance must be for good cause shown and must receive the consent of the sworn employee and the approval, at his discretion, of the Board.

**Section 19.6.4 –**

A request for a continuance as of right must be submitted to the Board no later than five (5) working days prior to the date set for the hearing. The Board will have the sole discretion as to whether a request not filed in a timely manner is granted. The order granting or denying any continuance must be in writing and signed by the sworn employee, or the attorneys or representative of the sworn employee, if any, and the City Attorney. The Board's signature is required, and it is the responsibility of the attorney seeking the continuance to have the order in the office of the Secretary to Commissioners within two (2) working days from the date the order was signed by the Board.

**Section 19.7 – PRE-HEARING CONFERENCE**

**Section 19.7.1 –**

The Board may require, or upon motion of one of the parties, may direct, the parties and/or the attorneys of the parties to appear before the board for a conference not less than three (3) days before the date of the hearing.

**Section 19.7.2 –**

The purpose of the Pre-Hearing Conference will be to consider the simplification of the issues, the necessity or desirability of amendments to the pleadings, the possibility of obtaining admissions of facts and of documents which will avoid unnecessary proof, and such other matters as may aid in the disposition of the action.

**Section 19.7.3 –**

The Board shall make an order which recites the action taken at the conference and limits the issues for him to those not disposed of at the Pre-Hearing Conference.

**Section 19.8 – NON-HEARING DISPOSITION**

Disposition of requests for review may be obtained without a hearing by means of stipulation of the parties, agreed settlements, consent orders, and default. Any extra-hearing settlement or a request for review shall be reduced to writing and presented to the Board for signature. Said action is conclusive upon the Board, who shall sign the document as a matter of course.

**Section 19.9 – SUBPOENAS**

**Section 19.9.1 –**

At least ten (10) working days prior to the date of the hearing, all parties shall provide the Secretary to Commissioners with a list of the individuals they wish to have subpoenaed to appear in the hearing. If this list is provided to the Secretary to Commissioners less than five (5) working days prior to the date of the hearing, the Secretary to Commissioners has the discretion as to whether or not the subpoenas will be issued. Subpoenas requested after the deadline, if issued, must be honored by the individuals named; but the party requesting said subpoena cannot rely upon the failure of a witness being untimely subpoenaed to appear as grounds for a continuance.

**Section 19.9.2 –**

The list specified in subsection 20.9.1 must be typed and must include the name, address, and phone number (both business and home, if possible) of the individuals to be subpoenaed. If a subpoena *duces tecum* is requested, the nature of the documents or information sought by the party requesting the subpoena *duces tecum* must also be set out on the subpoena request list.

**Section 19.9.3 –**

The subpoenas may be served by a Police Officer of the City or by any officer authorized to serve subpoenas from a State Court.

**Section 19.10 – HEARINGS FOR REVIEW OF DISCIPLINARY ACTION**

**Section 19.10.1 –**

No disciplinary action shall ever be reversed or in any other way modified due to the form of the Statement of Disciplinary Action or of any other of the pleadings.

**Section 19.10.2 –**

No charge contained in the Statement of Disciplinary Action or any amendment thereto shall ever be dismissed for insufficiency, vagueness, or other shortcoming as to form, but if after the hearing provided for, the sworn employee who has been disciplined submits himself to examination, and after such sworn employee has testified, he shall make affidavit: (1) that he was misled to his detriment by the insufficiency, vagueness, or other alleged shortcoming of the charge or charges, and (2) that he believes that he can obtain sufficient testimony to cause a dismissal of the charge or reversal or modification of the disciplinary action which has been taken, the evidence so taken shall become the charge and such sworn employee shall be granted fifteen (15) days in which to obtain such testimony in his behalf.

**Section 19.10.3 –**

The strict rules of evidence shall not apply. The Board shall determine the evidence to be received.

**Section 19.10.4 –**

The Board may employ the services of a Hearing Officer to assist with the hearing. The Hearing Officer shall rule on questions of admissibility of evidence, swear witnesses, advise the Board as to the law of the case, and ensure that the proceedings are carried out in accordance with these guidelines and the Charter, as well as other applicable laws and ordinances. The Hearing Officer shall also act as Chairman, and the Chairman of the commission, if present, shall participate and vote as any other member of the commission. The Hearing Officer shall not take part in the determination of a question of fact or have a vote in deciding a case. The Hearing Officer, upon his own motion or timely motion of a commissioner or party, may decide any procedural question of law. *See* Charter, Section 160.

**Section 19.10.5 –**

The Board may take judicial notice of any cognizable fact or facts.

**Section 19.10.6 –**

The Board may admit any probative evidence that tends to prove or disprove a material fact.

**Section 19.10.7 –**

The disciplinary authority shall bear the burden of establishing just cause for the disciplinary action taken by a preponderance of the evidence submitted to the Board.

**Section 19.10.8 –**

The final decision of the Board shall be reduced to writing and entered into the record within ten (10) days from the date of the conclusion of the hearing. The Board shall forward the written decision, along with the record (if in his possession), to the Secretary to Commissioners.

**Section 19.10.9 –**

The written decision of the Board shall include a recitation of the charges and/or specifications against the sworn employee, the Board's findings of fact, the Board's conclusions of law, and the reasons for the decision which the Board has reached.

**Section 19.10.10 –**

It shall be the responsibility of the Secretary to Commissioners, upon receipt of the Board's written decision, to file the original of that decision with the record of the hearing and to forward a copy of the decision to all parties and other interested representatives of the City administration. By means of a cover letter or other notice attached to the sworn employee's copy of the decision, the Secretary to Commissioners shall notify the sworn employee of his right to appeal the decision of the Board by the sworn employee filing a petition for review in Chancery Court within sixty (60) days after the Order is entered.

**Section 19.10.11 –**

Pursuant to Tennessee Code Annotated § 27-9-114, contested case hearings by Civil Service Boards of a municipality which affect the employment status of a Civil Service sworn employee are to be conducted in conformity with contested case procedures under Tennessee Code Annotated § 4-5-301, et seq., from and after January 1, 1989. Therefore, for any disciplinary action pending or instituted on or after January 1, 1989, such procedures shall apply to all hearings and/or pre-hearing conferences before the Board held under this chapter and to the extent any of the guidelines or procedures set forth herein conflict with the provisions of Tennessee Code Annotated § 4-5-301, et seq., the provisions of Tennessee Code Annotated § 4-5-301, et seq., shall control.

## **Section 19.11 – TRANSCRIPT OF PROCEEDINGS**

### **Section 19.11.1 –**

All tape recordings of the hearing made either by representatives of the Board or by a Court Reporter retained for that purpose shall be labeled, sealed, and placed in the custody of the Secretary to Commissioners of the Board or retained by the Court Reporter, unless and until said recordings are actually transcribed. The tape recordings shall be retained by the Secretary to Commissioners or the Court Reporter until all rights to an appeal of the Board's decision are exhausted. A copy of any transcript prepared shall be retained permanently by the Secretary to Commissioners.

### **Section 19.11.2 –**

The Secretary to Commissioners shall not be required to obtain a transcript of any proceeding until he has received a copy of a Petition for Review filed in the Chancery Court for Washington County, Tennessee, or other appropriate court or until he receives a written request for a transcript to be prepared in a non-appeal situation.

### **Section 19.11.3 –**

Upon receipt of a copy of a Petition for Review or of a written request (in a non-appeal situation) as specified in Section 20.11.2, it shall be the responsibility of the Secretary to Commissioners to have prepared a transcript of the proceedings. If the transcript is being prepared pursuant to an appeal, the Secretary to Commissioners shall send the original or a certified copy of the entire record of the proceeding under review to the reviewing court within forty-five (45) days of the receipt of the Petition for Review; unless a longer period of time is granted by that court. If the transcript is being prepared in a non-appeal situation, the Secretary to Commissioners shall forward the transcript to the requesting party as soon as reasonably possible.

### **Section 19.11.4 –**

It shall be the responsibility of the party appealing the Board's decision to pay for the preparation of the transcript. If the other party wishes a copy of the transcript, the only expense to that party shall be the reasonable expense of photocopying the transcript.

### **Section 19.11.5 –**

If the preparation of the transcript has been requested in a non-appeal situation by an individual who is not a representative of the City, that individual shall bear the total expense of the preparation of the transcript. The Board or any representative of the City of Johnson City shall have the right, at its own expense, to make a copy of any transcript so prepared.

## **Section 19.12 – NOTICE OF APPEAL OF THE BOARD'S DECISION**

### **Section 19.12.1 –**

A person who is aggrieved by a final decision of the Board is entitled to judicial review pursuant to Tennessee Code Annotated § 27-9-114 and Tennessee Code Annotated § 4-5-301, et seq. In the event an aggrieved person to a disciplinary action appeals the decision of the Board, that person must file a Petition for Review in the Chancery Court for

Washington County, Tennessee, within sixty (60) days after the entry of said decision or in such other court as may be provided or required under the applicable statutory provisions. Said appeal shall be governed in all respects by the provisions of Tennessee Code Annotated § 27-9-114 and Tennessee Code Annotated § 4-5-301, et seq. To the extent these guidelines conflict in any part with said statutory provisions, the statutory provisions shall control.

**Section 19.12.2 –**

An aggrieved person who appeals the decision of the Board shall have the responsibility of insuring that a copy of his Petition for Review of the appeal, in writing, is served upon the Secretary to Commissioners of the Board either before or simultaneously with the filing of the appeal with the appropriate court. Upon receipt of said Petition, the Secretary to Commissioners shall prepare the transcript of the hearing as provided for in this chapter.

## CHAPTER 20

### Reprimands

A reprimand is an oral or written notice of policy violation, mistakes, inefficiency or other factors which adversely influence sworn employee's ability to carry out his duties and responsibilities efficiently. Any supervisor may reprimand a subordinate at any time for just cause.

#### **Section 20.1 – ORAL REPRIMAND**

Oral reprimands will be considered the normal means of correcting the actions of a subordinate. Such reprimands will not affect sworn employee's privileges. Supervisors shall document oral reprimands and provide the same to the Secretary to Commissioners.

#### **Section 20.2 – WRITTEN REPRIMAND**

Written reprimands will be reserved for repeated offenses or those of a serious nature. When reduced to writing, they are required to be shown to the subordinate, who will acknowledge receipt of same by signature. The subordinate, if he feels the written reprimand to be unjust, will so state in writing, giving his reasons. The originals of the written reprimand, together with the sworn employee's acknowledgment and reply thereto, if any, will be forwarded to the Secretary to Commissioners for inclusion in the individual's personnel file.

#### **Section 20.3 – SUSPENSION OR DISCHARGE**

Any member of JCPD or JCFD against whom any of the following charges are sustained shall be subject to suspension or discharge in accordance with the respective policies and procedures of the City, JCPD, or JCFD. *See* City Policy HR-144.

#### **Section 20.4 – APPEALS FROM REPRIMANDS**

Written reprimands that suspend, demote, or discharge an employee may be appealed through the Grievance Procedure as described in Chapter 21 of these guidelines provided such appeal is instituted within the (10) calendar days of the date of receipt or written reprimand.

## **CHAPTER 21**

### **Grievance Procedure**

#### **SECTION 21.1 – APPLICATION**

This rule applies only to those sworn employees of the City who have completed their initial probationary period in JCPD or JCFD.

This rule shall not apply in cases where it has been specifically exempted as in Section 19.2.7 and Section 20.7. In addition, and in order to preserve the security of the Board's testing procedures, the usual procedures of this chapter shall not apply to complaints or grievances regarding civil service examinations, examination materials or documents which contain answers to test items. Complaints of this nature shall first be submitted directly to the Secretary to Commissioners for resolution within five (5) days of the grievance or of the sworn employee's knowledge of its occurrence. If the matter cannot be resolved between the complaining party and the Secretary to Commissioners, the complaining party may then file a grievance pursuant to this chapter. Said grievance must be filed within five (5) days from the date of the Secretary to Commissioners' final response to the complaint. Provided further, that in the event such a grievance is filed and in order to preserve the security of the Board's testing procedures, only the specific examination questions and/or documents at issue shall be the subject of the grievance. Furthermore, such test questions and documents and any other examination materials which may be relevant to the grievance shall be made part of the public records only upon the affirmative ruling of the Board.

Matters relative to the administration and enforcement of the City's drug and alcohol policy are not grievable under this chapter. However, disciplinary actions which result from the enforcement of the drug and alcohol policy may be appealed under Chapter 19 of these guidelines.

#### **SECTION 21.2 – TIMING**

All grievances will be administered in the following manner and processed within the stated time limits. All time limits are stated in terms of working days. Upon failure of the City to comply with the time limits set forth in the procedure and provide a required meeting or response, the sworn employee shall assume this indicates a negative response and shall have the responsibility of proceeding to the next step of this procedure within the time allotted. Failure of the sworn employee to comply with the time limits set forth in the procedure shall constitute an abandonment of the grievance.

Any sworn employee involved in this procedure will not be charged with leave during the period his presence or participation is required. The Secretary to Commissioners shall assist any sworn employee with the preparation of his grievance and shall counsel the sworn employee as to the procedures which must be followed. Further, the Secretary to Commissioners is given the authority to design any forms which, in his discretion, are found to be necessary and appropriate.

#### **SECTION 21.3 – ALTERNATIVE RESOLUTION**

Use of the channels provided for resolution of problems or addressing concerns is encouraged. No sworn employee shall be penalized for his submission of a good faith grievance. Any sworn employee will have the right to follow all the steps of the Grievance Procedure with complete freedom from retaliation. Acts of retaliation as the result of utilization of the grievance procedure or participation in the grievance of another sworn employee are prohibited. However, the filing of



a grievance will not affect the City's ability to pursue appropriate disciplinary actions. Any sworn employee who believes that he has been a victim of retaliation for participating in the grievance process should immediately report such activity to the Secretary to Commissioners.

#### **SECTION 21.4 – GRIEVANCE PROCEDURE**

##### **Step One –**

- (A) The sworn employee shall present his grievance in writing to his immediate supervisor within five (5) days of the grievance or of the sworn employee's knowledge of its occurrence. Said document shall include the sworn employee's name, classification, and address. The grievance shall be dated as of the day the document is given to the immediate supervisor. The grievance shall contain the date of the grievance or the sworn employee's knowledge thereof, the nature of the grievable action, the nature of the sworn employee's disagreement with the action, and the relief being sought. The nature of the grievance shall be stated in sufficient detail to enable the supervisor to respond relative to the grievance. It shall also include a space for the immediate supervisor's signature, indicating his receipt of a copy of the grievance. If the immediate supervisor is unavailable to sign receipt, receipt may be signed by the supervisor's designee in order to preserve timelines.
- (B) Upon receipt of the grievance, the sworn employee's immediate supervisor shall sign the appropriate space, indicating receipt of the grievance. A copy shall be kept by the immediate supervisor, with the sworn employee retaining the original. The immediate supervisor shall forward a copy to the Secretary to Commissioners.
- (C) The immediate supervisor shall discuss the grievance with the sworn employee and shall attempt to resolve the dispute within three (3) days. This meeting shall be coordinated by Secretary to Commissioners and shall be held at a location designated by the same. The only persons who may be present at this meeting are the supervisor and the grievant. It is the intent of this provision to encourage informal discussion between sworn employees and supervisory staff on matters of mutual concern. Within three (3) days of the meeting, the immediate supervisor shall answer the grievance of the sworn employee. Said answer shall be in writing and shall state with particularity the immediate supervisor's response and the reasons therefor. Any action taken or the lack of action on the immediate supervisor's part shall be explained in this document. The answer shall include an explanation of the reasons for the original action which is the subject of the grievance. The answer shall state the date it is prepared and the date it is presented to the sworn employee. The sworn employee shall sign the answer as having been received and shall retain a copy thereof. The immediate supervisor shall forward the original to the Secretary to Commissioners to be placed in the sworn employee's file.
- (D) If the action which results in the grievance is taken by the supervisor above the sworn employee's immediate supervisor, but below the level of Department Head, Step One shall be read as referring to the intermediate supervisor who took the action and not the immediate supervisor.

### **Step Two –**

- (A) If the grievance is not resolved at Step One and the sworn employee wishes to continue with the grievance, the sworn employee shall file a copy of his grievance with the Department Head within three (3) days of his receipt of the immediate supervisor's answer. If the Department Head is unavailable to sign receipt, receipt may be signed by the Department Head's designee in order to preserve timelines. After the Department Head has signed the receipt, the sworn employee shall forward a copy to the Secretary to Commissioners and include the immediate, or intermediate, supervisor's written response.
- (B) Within five (5) days of the receipt of the grievance, the Department Head shall hold a meeting with the sworn employee, the immediate supervisor, the section supervisor, and any witnesses to discuss the grievance. This meeting shall be coordinated by the Secretary to Commissioners and shall be held at a location designated by the same. The only persons who may be present at this meeting are the Department Head, and/or his designee, the immediate supervisor, the section supervisor, applicable witnesses, and the grievant. It is the intent of this provision to encourage informal discussion between sworn employees and supervisory staff on matters of mutual concern. Within three (3) days of this meeting, the Department Head shall respond in writing to the grievance.
- (C) Said response shall state with particularity the Department Head's response and the reasons therefor. Any action taken or the lack of action on the Department Head's part shall be explained in this document.
- (D) The answer shall state the date it is prepared and the date it is presented to the employee. The sworn employee shall sign the answer as having been received and shall retain a copy thereof. The Department Head shall retain the original to be placed in the sworn employee's file.
- (E) If the action grieved from has been taken by the Department Head, the grievance procedure will begin with Step Two.

### **Step Three –**

- (A) If the grievance is not resolved after Step Two, the sworn employee, if he wishes to continue the grievance, shall file a copy of his grievance and a copy of all responses and/or answers obtained from his supervisors, Department Head, etc., with the Secretary to Commissioners within three (3) days of his receipt of the response from the Department Head.
- (B) The Board and the Secretary to Commissioners shall select a date for the hearing (or pre-hearing conference) of the grievance which date will be within ten (10) days of the receipt of the grievance with the Secretary to Commissioners, provided that the Secretary to Commissioners shall have the authority to extend this period if he finds that he is unable to convene the Board within that period. The Secretary to Commissioners shall have the authority to extend this period if he has sufficient reason to believe the grievance can be settled by meeting with both parties and working out a settlement without convening the

Board. After said meeting, if no resolution of the grievance is reached and the sworn employee requests that a hearing be convened pursuant to Step Three, the Secretary to Commissioners will arrange for the hearing. If the Board finds in favor of the City, the City shall have the right to move that the Board find that the grievance was frivolous. Upon such a ruling by the Board, all costs incurred during Step Three will be charged to the sworn employee. In no event shall the hearing (or pre-hearing conference) be set by the Board more than thirty (30) days after the receipt of the grievance by the Secretary to Commissioners.

- (C) Both parties shall have an absolute right to one continuance from the original date of the hearing (or pre-hearing conference), provided that said continuance will not be for more than forty-five (45) days and provided that the request for the continuance is submitted to the Board no later than three (3) working days prior to the date set for the hearing. The Board will have the sole discretion as to whether a request for continuance not filed in a timely manner is granted.
- (D) At the hearing both parties may be represented by counsel and shall have the right to call witnesses to testify. The strict rules of evidence shall not apply, and the Board may take notice of any judicially cognizable fact or facts. The Board shall reduce to writing the findings, conclusions, and decision within ten (10) days of the hearing. The original of this decision will be forwarded to the Secretary to Commissioners, with a copy provided for each party. The decision of the Board shall be final; provided however, that such decision may be appealed in accordance with the provisions of Chapter 21 governing the appeal of the Board in a disciplinary action.
- (E) Pursuant to Tennessee Code Annotated § 27-9-114, contested case hearings by Civil Service Boards of a municipality which affect the employment status of a Civil Service sworn employee are to be conducted in conformity with contested case procedures under Tennessee Code Annotated § 4-5-301, et seq., from and after January 1, 1989. Therefore, for any disciplinary action pending or instituted on or after January 1, 1989, such procedures shall apply to all hearings and/or pre-hearing conferences before the Board held under this chapter and to the extent any of the guidelines or procedures set forth herein conflict with the provisions of Tennessee Code Annotated § 4-5-301, et seq., the provisions of Tennessee Code Annotated § 4-5-301, et seq., shall control.