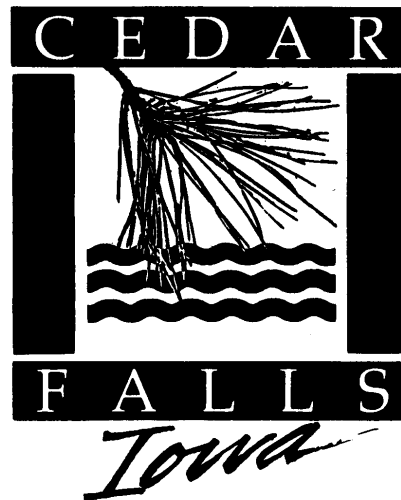


CEDAR FALLS CIVIL SERVICE COMMISSION

LOCAL RULES AND REGULATIONS



"Our Citizens Are Our Business"

Department of Administrative Services

City of Cedar Falls • 220 Clay Street • Cedar Falls, Iowa 50613

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CEDAR FALLS CIVIL SERVICE RULES AND REGULATIONS

FORWARD

The Civil Service Commission of the City of Cedar Falls is a special tribunal created under the authority of the Code of Iowa, Chapter 400, Civil Service, and the City ordinances of the City of Cedar Falls. The purpose of the Commission is to provide an efficient and equitable public service, which protects the interests of the citizens of Cedar Falls, the City of Cedar Falls and its employees. Commissioners are to govern the appointment, promotion, transfer, dismissal, discipline and other related conditions of employment on the basis of merit, in accordance with the spirit of the Code of Iowa, Chapter 400. Day to day administration of these responsibilities is delegated to the City's Administrative Services Department. In fulfilling the Commission's empowered duties, it is the Commission's ultimate goal to bring the citizens, employees, and the City government of Cedar Falls the advantages of effective public service based on merit.

To assist in the administering of Civil Service Commission duties, a representative from the Administrative Services Department, to be designated by the City Clerk of the City of Cedar Falls, shall serve as clerk/ex-officio member, without vote, to aid in the direction of merit employment and to act as a liaison between the City administration and the Cedar Falls Civil Service Commission (hereinafter referred to "Clerk of the Commission"). The City of Cedar Falls does not and will not favor, nor discriminate against any person based on gender, race, national origin, age, disability, political or religious affiliations, employee association membership, or office therein.

For assistance or questions regarding the following rules of the Cedar Falls Civil Service Commission, contact the Administrative Services Department at 273-8600.

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CHAPTER I - ORGANIZATION OF COMMISSION

Section 1.1. Arrangement of the Commission

The Commission shall be composed of three members appointed by the Mayor in accordance with requirements set forth by the Iowa Code, including but not limited to, making a good faith effort to establish a gender balanced Commission in compliance with Iowa Code § 69.16A. They shall serve staggered terms, ranging from one to four years. At the first meeting of the calendar year, the Commission shall elect a chairperson from among its members to serve annual terms. The Clerk of the Commission, as appointed by the City Clerk, shall serve as an ex-officio member of the Commission. Commission members shall be removed from their positions once they are no longer a resident of Cedar Falls. The Mayor shall appoint new Commissioners to vacant seats.

Section 1.2. Meetings

Regular business meetings shall be held as necessary. Special meetings shall be held at the call of the Chairperson or any two members. Notice of the date, time, place and purpose of the meetings shall be given to each member by the Clerk of the Commission at least 24 hours prior to the meeting. Two members of the Commission present at any meeting for which notice has been given shall constitute a quorum for the transaction of business.

Meetings shall be conducted in accordance to Iowa Code Chapter 400, these Rules and Roberts Rules of Order.

Electronic meetings may be held when a meeting in person is impossible or impractical as long as it is conducted in accordance with § 21.8 of the Code of Iowa. Any number of members may participate in the meeting by electronic means when attendance in person is impossible or impractical.

As used in these Rules and Regulations, the term “meeting” does not include any gathering where there is no deliberation or action within the scope of the Commission’s policymaking duties. Ministerial functions are therefore not open to the public.

Section 1.3. Open Meetings

All meetings of the Commission shall be conducted under the terms of Iowa Code Chapter 21—Open Meetings Law. The public may use cameras or recording devices at any open session so long as such use is not disruptive of the meeting. Notice of the time, date and place of each meeting, and its tentative agenda shall be given by advising those news media that have filed a request for such notice and by posting such notice on a public bulletin board in City Hall.

Notice shall be given at least 24 hours prior to the commencement of any meeting unless for good cause such notice is impossible or impractical in which case as much notice as is reasonably possible shall be given and the good cause justifying the lack of full notice shall be stated in the minutes.

The Commission may hold a closed meeting by affirmative public vote of 2/3 of the members present only to the extent necessary for any of the following reasons:

- A. To discuss strategy with counsel in matters that are presently in litigation or where litigation is eminent where its disclosure would be likely to prejudice or disadvantage the position of the Commission in that litigation.
- B. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered and that individual requests a closed session.
- C. For any other reasons authorized by the Code of Iowa.

The vote of each member on the question of holding the closed meeting and the reasons for the closed meeting shall be announced publicly at the open session and entered in the minutes, but the statement of such reason need not state the name of any individual or the details of the matter discussed in the closed meeting. However, the closed session shall be electronically recorded and separate, detailed minutes of all discussion, persons present and action occurring shall be taken. These recordings and minutes shall be sealed and shall not be open to public inspection. They shall be kept for at least one year from the date of the meeting.

Section 1.4. Canceling Meetings

Meetings may be cancelled for good cause, including lack of a quorum.

Section 1.5. Oral Examination Interviews

Oral interviews conducted by the Commission or at the Commission's delegation are an integral component of the examination process and ministerial in nature. Therefore, they are not open to the public.

Section 1.6. Chairperson

The Commission shall elect a Chairperson from among its members annually. In the event the Chairperson is absent from a meeting of the Commission, the members in attendance shall elect an "acting Chair" at the beginning of the meeting.

Section 1.7. Minutes

The Commission shall keep a record of all of its meetings. The Clerk of the Commission shall be responsible for the recording of these minutes. The minutes shall contain a record of actions taken at the meeting and not a verbatim record. Copies of the minutes shall be distributed by the Clerk of the Commission to the Commission members. The minutes of all open meetings shall become part of the public record and open for public examination.

All hearings before the Commission shall be recorded by use of an electronic voice recording device. The voice recording shall be maintained by the Clerk of the Commission pursuant to state and local law. Either party shall notify the opposing party and the Clerk of the Commission/Civil Service Commission three days before the hearing of its intent to have a certified court reporter transcribe the proceedings, at its expense.

Section 1.8. Records

All records of the Commission shall be maintained in the Administrative Services Department by the Clerk of the Commission in compliance with Cedar Falls code of ordinances and related practices and procedures. The Administrative Services Department shall keep a complete, individual record of all Civil Service employees. All Civil Service records, except minutes of open meetings and hearings, shall be confidential. Requests for review must comply with the Iowa Code.

Section 1.9. Amendment of Rules

Any proposed rule change shall be announced and discussed at a scheduled meeting. No votes shall be taken until the following scheduled meeting. Any proposed amendment to these rules shall not be effective until all voting members of the Commission shall have an opportunity to cast a vote for or against said rule or amendment. A two-thirds vote of the voting members shall be necessary to pass a new rule or amendment.

Section 1.10. Legal Counsel

One of the City Attorneys shall be the attorney for the Commission or when requested by the Commission shall present matters concerning Civil Service employees to the Commission. However, the Commission may hire a counselor or an attorney on a per diem basis to represent it when in the opinion of the Commission there is a conflict of interest between the Commission and the City Administration. The Counselor or attorney hired by the Commission shall not be a member of the City's legal staff. The City shall pay the costs incurred by the Commission in employing an attorney under this section. Retention of outside legal counsel to represent the Commission and payment for such services

rendered shall be in accordance with the City Council resolutions regarding such matters duly adopted from time to time.

CHAPTER II - CLASSIFICATION

Section 2.1. Classification Plan

The Commission shall utilize the Classification Plan prepared in the Administrative Services Department and approved by the City Council. This plan groups the various job classes into series promoting more efficient administration and establishes minimum employment standards for original appointments and promotional appointments based upon the qualifications necessary for job success.

Section 2.2. New Position Classifications

Whenever a new position classification is created, the Clerk of the Commission shall notify the Commission. The Commission shall determine whether or not that position classification falls under the Commission's jurisdiction. If the position does fall within the Commission's jurisdiction, the appropriate examination status, entrance or promotional, will also be determined.

Section 2.3. Changes in Positions

The appointing authority shall notify the Clerk of the Commission whenever the duties and responsibilities of a Civil Service position change so materially that reclassification is contemplated. The Commission shall review each case concerning any annulment of an employee's Civil Service rights. Reclassification shall not be used for the purpose of avoiding restrictions surrounding promotions and demotions.

Section 2.4. Reclassification of Incumbents

An employee regularly serving in or holding a position when the position is reclassified by the city shall retain the position and have full civil service rights in the position under any of the conditions listed in Iowa Code and these rules. Whenever the title of a class is changed without a significant change in duties and responsibilities the incumbents shall have the same status in the retitled class as they had in the former class.

Section 2.5. Abolishing a Position

When the public interest requires a diminution of employees in a classification or grade under civil service for the purpose of economy or efficiency, the City

Council by resolution, after notifying the Commission of such action, may either abolish the position or reduce the number of employees in any classification by suspending the necessary number. Employees so removed or suspended shall be those having seniority of the shortest duration in the classification affected. Seniority shall be computed as provided in Chapter X, Section 10.3. (See also Chapter VIII, Section 8.2. (Layoffs)).

CHAPTER III - EXAMINATIONS

Section 3.1. Nature of Examinations

Examinations for classified positions in Civil Service are to be practical, fair and competitive tests to determine the person most fit to discharge the required duties of the position sought. It shall be the responsibility of the Civil Service Commission to oversee the selection process of employees for vacant and anticipated vacant positions. The examinations will be written, oral and/or physical, consisting of one or more parts, and may include, but are not limited to one or more of the following methods of testing: experience and character background checks, knowledge and ability tests, manual skills tests, physical ability tests, psychological tests, drug-screenings and medical examinations. When necessary, a post-offer condition of employment test may require passing a medical examination, including but not limited to drug and alcohol screenings. The Commission shall determine the qualifying score for each part of an examination as well as the combined score for all parts of the examination based upon sound testing principles. Failure to pass any one part of the examination may be deemed sufficient reason to disqualify the applicant from further consideration on the particular examination involved.

The Administrative Services Department will develop and administer examinations on behalf of the Commission in accordance with the Iowa Code, Chapter 400. The Commission may also hire persons with expertise to consult in the preparation of such examinations if the persons so hired are employed to aid the personnel of the Commission in assuring that a fair examination is conducted.

The City has the exclusive rights to the results of the examinations and such results shall not be released to other potential employers.

Section 3.2 Types of Examination

A. Entrance Level Examination: An entrance level examination is given to non-employees and employees to fill an entry level classification. A promotional classification may be given an entrance level examination when no employee meets the requirements of Iowa Code § 400.9. The Commission shall guide the Clerk of the Commission and the Administrative Services Department in the

preparation, administration and guidelines for all entrance level examinations in compliance with Iowa Code § 400.8.

B. Promotional Examination: The Commission shall guide the Clerk of the Commission and the Administrative Services Department in the preparation, administration and guidelines of all promotional examinations in compliance with Iowa Code § 400.9 and subsection A of this rule.

Section 3.3. Announcement of Examinations

Entrance examinations will be scheduled as the needs of the service may require. The Commission, through the Administrative Services Department, will give notice of all civil service examinations. All announcements shall be distributed to every City Department, Collective Bargaining Unit, and the Commission; however, failure of a department or bargaining unit to post said announcement shall not serve as lack of notice. All such announcements shall be posted in City Hall. Announcements shall be posted at least ten (10) days prior to the application deadline. The deadline may be extended by the Administrative Services Department so long as such extension is announced and posted.

Examination announcements shall contain:

- A. The official notice inviting the filing of applications.
- B. The titles and rates of pay of the positions to be filled.
- C. A summary of the types of duties typically performed.
- D. The minimum qualifications required for eligibility to take examination as established by the Commission.
- E. The method of obtaining application forms and final dates for filing the same.
- F. The outline of testing criteria including requirements established by law.
- G. The time, date and place of examinations.
- H. Any additional information desirable at the discretion of the Commission.

In addition, promotional announcements shall instruct employees to notify the Clerk of the Commission if they currently hold a position in the classification and wish to transfer or if they previously held the position and wish to take a voluntary demotion to the vacancy.

Section 3.4. Cancellation or Postponement

The Clerk of the Commission may cancel or postpone any examination for good cause. Should a cancellation or postponement be necessary, the Clerk of the Commission must notify all applicants of their status or alternate testing date.

Section 3.5. Veteran's Preference

See Iowa Code § 400.10 for Preferences. The veteran's preference percentage points will be given only upon passing the exam and cannot be the determining factor in passing the examination. Veteran's preference percentage points shall be applied once to the final scores used to rank applicants for selection for an interview.

Honorably discharged veterans may be awarded five percentage points to their grade or score, and veterans with a service connected disability, as defined below, may be awarded an additional five percentage points to their grade or score. The "five percentage points" for an exam with a raw score shall be computed on the basis of the total possible points. For example, if an exam has a total of 800 possible points, five percent would equal 40 points.

In order to receive veteran's preference, applicants must furnish a copy of their DD 214 or other official Department of Defense document that verifies the dates of their induction and separation and their honorable discharge from military service. Qualified veterans may claim an additional five percentage points be added to the grade or score if the veteran has a service-connected disability or is receiving compensation, disability benefits or pension under laws administered by the veterans administration. An honorably discharged veteran who has been awarded the Purple Heart incurred in action shall be considered to have a service-connected disability. Veterans who believe they qualify for the additional five percentage points due to a service-connected disability must submit a disability statement issued by the Veterans' Administration and dated within the 12 months preceding the examination announcement closing date. Qualified veterans claiming a Purple Heart award as the basis for these additional five percentage points must submit a copy of an official document from the Veterans Administration or Defense Department verifying such award.

Documents verifying eligibility for veteran's preference percentage points and additional disability percentage points must be submitted to the Clerk of the Commission prior to the conclusion of the examination process.

For the purposes of these Rules and Regulations, the term "veteran" means as defined in Iowa Code Section 35.1, except that the requirement that the person be a resident of this state shall not apply.

Section 3.6. Applications

All applications shall be filed on forms approved by the Commission and provided by the Administrative Services Department and shall require information covering the applicant's education, training, experience and references. The Clerk of the Commission has the right to ask for additional job related information. The application shall be signed by the applicant and filed in the Administrative

Services Department within the time period established for receipt of applications. Applications may be submitted in person to the Administrative Services Department in City Hall, 220 Clay Street, Cedar Falls, Iowa, 50613. Applications submitted by mail must be properly addressed and placed in the U.S. mail with the appropriate postage paid. When so mailed, such application shall be deemed filed as of the date postmarked by the U.S. Postal Service upon the envelope. Applications with all required supporting documentation may be filed by facsimile transmission provided they are received by the Administrative Services Department prior to the expiration of the application period. The original application with supporting documentation must be received by the Administrative Services Department within seven (7) days of the facsimile transmission. The Administrative Services Department may accept other electronically submitted applications consistent with its own procedures.

The Administrative Services Department shall accept an application if completed in accordance with these rules, from any qualified person who has not been rejected for cause. Any application received from a person previously employed in civil service employment with the City and separated from such employment under circumstances rendering such employee ineligible for rehire shall not be processed and considered by the Administrative Services Department until such ineligibility has been removed by the appointing authority or pursuant to an appeal finally determined by the Civil Service Commission in the employee's favor under these Rules or Iowa Law.

Section 3.7. Disqualification of Applicants

The Commission shall reject an application if the applicant does not possess the minimum qualifications as outlined in the job classification. An applicant will also be rejected after acceptance if it is later found that the applicant does not possess the minimum qualifications. An applicant may also be rejected because of any of the following:

- A. Does not pass the examination for the position, which can be a written examination, oral examination, performance examination, education and experience evaluation, or other selection procedure either singly or in combination.
- B. Is physically or mentally unable to perform the essential functions of the position with reasonable accommodation. A medical examination may be required after a conditional offer of employment has been made. Police Officer and Firefighter applicants are examined in accordance with the guidelines of the medical protocols established by the board of trustees of the fire or police retirement system and the appointing authority.
- C. Is guilty of making false statements of fact or of practicing fraud or deception in the application or the examination.

- D. Does not meet the qualifications established by Iowa Code §400.17.
- E. Failure to meet the position requirements or qualifications as specified in the job classification; or
- F. Has been discharged by the City pursuant to Iowa Code §400.18 or §400.19.

The Commission, through the Clerk of the Commission, shall send notice to any applicant whose application has been rejected stating clearly the reason(s) for the rejection. Rejection of applicants due to physical fitness or unsound health will be based on standards established by the respective pension board and/or by the job classification.

Section 3.8. Conduct of Examinations

Examinations will be conducted in settings appropriate to the type of examination being conducted, thereby offering applicants the best possible testing conditions. Any supplies which the applicant will be expected to furnish for the examination will be listed on the announcement. Applicants must report on the date and at the time and place scheduled. Late arrivals will not be permitted. Entry level examination make-ups will not be permitted. Employees requesting a make-up of a promotional examination shall present a written request to the Clerk of the Commission at least forty-eight hours prior to the scheduled examination time. Employee make-up on promotional examinations may be granted at the Clerk of the Commission's discretion in cases of serious personal illness or injury, emergency situations or good cause shown. An employee may be permitted to test during working hours. All applicants must notify the Clerk of the Commission at least three working days prior to the test date of any request for special accommodations.

Administrative Services Department Staff may require applicants to furnish proof of identity for admittance to examinations. Persons unable to verify their proof of identity, when requested, will be excluded from examinations.

Section 3.9. Promotional Examinations

Promotional examinations will be scheduled as the needs of the service may require in the same manner as for entrance examinations, and may consist of examinations of prior service, ascertained merit, accomplishments in special training courses, seniority in service, written, performance or oral examination. All applicants for promotional examinations must be permanent employees in the classified service, and must possess the minimum qualifications as set forth in the specifications of the class to which promotion is sought.

In accordance with Iowa Code Section 400.9(2), the names of persons approved to administer any promotional examination shall be posted in the city hall at least twenty-four hours prior to the examination.

Section 3.10. Notification of Results

The Commission shall notify all applicants of their examination results. The names of successful applicants shall be placed on certified lists as set forth in Iowa Code § 400.11 and these rules.

Section 3.11. Review of Written Tests

It is general policy of the Commission to permit applicants to review the test questions and their own answer sheets under supervision of the Administrative Services Department Staff. A review may not be permitted, however, when prohibited by the test publisher or when the examination is scheduled for immediate re-administration. Requests for test reviews must be received within two weeks following notification of examination results, and the applicant shall make arrangements with the Clerk of the Commission to view the test. The Clerk of the Commission or designee shall permit a reasonable time limit to view the test. The applicant shall not be permitted to take notes, make reproductions of the test or view the answer key. Errors in scoring brought to the attention of the Commission within the two-week review period shall be corrected, but such errors shall not invalidate any certifications or appointments previously made so long as the minimum requirements for the classification, after correction, are met. In instances where the publisher's test security provisions prohibit applicant review of the test booklet and/or scoring key, applicants may, where possible, receive counseling on their test results and/or written certification as to the correctness of their score.

All test scores directly associated with individual applicants not placed on the certified list shall be kept confidential pursuant to Iowa Code § 22.7(19). The Clerk of the Commission may disclose test scores or range of scores not associated with individual applicants. Requests that may be easily identifiable with individual applicants should be directed to the Commission for review. The Commission will balance the private interests in protecting against invasion of privacy with the public interest served by disclosure. The Commission also will consider whether the disclosure of test scores or range of scores will compromise the integrity of the test or interfere with the accomplishment of the test objectives.

Section 3.12. Fraud in Examinations

Applicants who commit, either singly or in cooperation with others, any fraudulent acts during the application and examination process shall be subject to the action deemed appropriate by the Commission. After having an opportunity to be heard and present their defense, such persons may be excluded from taking or continuing in the examination process or may have their names stricken from any eligible list on which they may appear. These acts include but are not limited to the following:

- A. Making any false representation regarding themselves or other applicants on any documents furnished either by the Commission or themselves.
- B. Impersonating anyone else or permitting anyone to impersonate them.
- C. Using printed or handwritten material or anything else while taking the examination, which would provide them with an advantage over other applicants.

Any Commission action upon such matter is independent of, and in addition to, any taken by the appointing authority if an employment relationship has been established prior to the discovery of the fraudulent conduct.

Section 3.13. Promotion of Individuals Serving on Active Military Duty

If an employee is serving on active duty and a vacancy occurs in a classification for which the employee is the only person on the List of Eligibles, the individual shall be promoted to fill the vacancy. If there is a critical need for an employee in this classification prior to the release from active duty of the newly promoted employee, a temporary appointment may be made pending the return of the employee.

If an employee is serving on active duty and a vacancy occurs in a classification for which the employee is one of two or more persons on the List of Eligibles, the employee could be promoted by the appointing authority. If, however, the employee is not selected to fill the vacancy, the employee will remain on the certified list or will be transferred to a subsequent list if a new one is developed during his/her absence. The employee's position on the new list would be commensurate with their previous score, or if that score is too low to qualify for the new list, be placed in a tie for tenth position on the new list. If an employee is serving on active duty, but is not on any Civil Service List of Eligibles as the result of a promotional examination, and a Civil Service examination is offered which is of interest to the employee, it shall be the employee's responsibility to fulfill the application and examination responsibilities. If competing in the examination is not possible for the employee, they shall have to await their release from active duty and subsequently participate in the next promotional examination when administered.

Section 3.14. Examination Scoring

The final score on examinations held by the Civil Service Commission shall be rounded off to the nearest whole number (.5 or more rounded to next highest number). When a final examination score consists of two or more sub-test scores, the score on each sub-test shall be rounded off to the nearest tenth and the final score rounded to the nearest whole number. When a sub-test is pass/fail, the nearest tenth is further rounded to the nearest whole number.

Section 3.15. Confidentiality of Examinations

Examinations, answer sheets, scores, results of background investigations, psychological screenings and related materials shall become property of the Administrative Services Department to hold in confidentiality.

CHAPTER IV - CERTIFICATION

Section 4.1. Certification

General: The Commission shall establish all Eligible Lists in compliance with qualifications established, these Rules and Iowa Code § 400.11. Whenever possible, all background and employee reference checks shall be completed prior to the certification of lists. Medical examinations are completed as part of the conditional offer of employment which takes place after the certification of lists.

Entry Level Lists: An entry level list shall be established when an entry level position needs to be filled or when no City employee applied for or passed a promotional test pursuant to Iowa Code § 400.9 and these rules. Entry level lists for all positions other than firefighter shall be considered valid for one year from the date of certification. The entry level list for firefighter shall be considered valid for two years from the date of certification.

The Commission may certify a list of names eligible for appointment subject to the completion of background and employee reference checks and medical examination results. The medical examination shall be provided pursuant to Commission rules adopted under Chapter 400 of the Iowa Code. If said information provides appropriate cause to decertify and/or remove any person(s) from the certified List of Eligibles, the Clerk of the Commission will notify affected person(s) by mail at the last known address and afford them the opportunity to be heard before the Commission prior to final action, pursuant to Section 4.2.

Promotional lists: Civil Service lists for promotions shall be considered valid for two years following the date of certification, except for certified eligible firefighter promotional positions which shall hold preference for three years upon approval of the Commission as set forth in Iowa Code § 400.11.

The Commission may certify a list of names eligible for promotion subject to the completion of background and employee reference checks and medical examination results. The medical examination shall be provided pursuant to Commission rules adopted under § 400.8 of the Iowa Code. If said information provides appropriate cause to decertify and/or remove any person(s) from the certified List of Eligibles, the Clerk of the Commission will notify affected

person(s) by mail at the last known address and afford them the opportunity to be heard before the Commission prior to final action, pursuant to Section 4.2.

Exhaustion of lists: A list shall be exhausted without further action from the Commission when all applicants whose names appear thereon have been appointed or when there is a vacancy and all applicants whose names appear thereon either refuse appointments or fail to respond, within reasonable time limits, to written notification of the vacancy mailed to their last known address.

Section 4.2. Removal of Persons from Entrance and/or Promotional Lists

The Commission shall remove names from a certified list including those names of persons requesting a lateral transfer and /or voluntary demotion for the following reasons:

- A. The person requests in writing that his or her name be removed.
- B. The person fails to respond to a notice of interview mailed to his or her last known address. The failure to respond to written notification of offered appointment within 5 days of notification to last known address shall be considered declination.
- C. The person refuses a conditional offer of employment or waives employment consideration for the classification.
- D. A person who leaves City employment for any reason shall be removed from any and all lists.
- E. All non-employees and employees shall be removed upon their declination of an offered appointment.

Section 4.3. Decertification

Upon request by the City, the Commission may remove a person from a certified list for cause, including, but not limited to, a violation of Section 3.7 of these Rules, as well as due to a failure to pass the medical examination, background check or reference check. The person affected shall have an opportunity to be heard. The City shall notify the individual in writing by mail sent to his or her last known address of the request to decertify at least seven days prior to the Civil Service Hearing. The Commission shall take into consideration any relevant evidence that occurred or became known after the initial certification of the list and shall determine in each case whether or not there is sufficient cause to remove the name of the person affected from the eligible list.

A decertification of an individual shall be considered as a factor in future entry level and promotional opportunities.

Section 4.4. Certified List Size

Pursuant to Iowa Code § 400.11, the Civil Service Commission may designate the number of individuals who shall be certified to the City Council as qualified for a position for original appointment. The Commission hereby determines that no more than 40 individuals shall be placed on a list for original appointment for any one position. If the list is exhausted prior to the one-year expiration date, or the two-year expiration date in the case of a firefighter certified list, a reserve list may be certified up to 40 individuals. All other provisions of Iowa Code § 400.11 remain applicable.

CHAPTER V - APPOINTMENTS

Section 5.1. Types of Appointments

All vacancies in Civil Service classifications shall be filled by transfer, demotion, or from eligibles certified by the Commission from an appropriate preferred (re-employment), entrance or promotion list, if available. In the absence of persons eligible for appointment in the foregoing ways, temporary appointment may be permitted in accordance with Iowa Code § 400.11.

Section 5.2. Permanent Appointments

Appointments are first made from preferred lists (re-employment from layoff lists) if any exist for the position classifications concerned. Appointments from these lists must be made in the order of greater seniority. Names remain on a preferred list for three years from the date of layoff.

If there is no preferred list, appointments are made from entrance or promotional lists or transfer or voluntary demotion. See Chapter VII regarding procedures for transfers and voluntary demotions when filling promotional positions. Persons appointed from entrance lists must satisfactorily serve a probationary period as provided for in Iowa Code § 400.8.

See also Iowa Code § 400.7 regarding preference by service.

Section 5.3. Temporary Appointments

In the absence of eligibles from whom permanent appointments may be made, a person otherwise meeting the qualifications for the vacant appointment may be temporarily appointed by the appointing authority pending the establishment of the certified list in the manner prescribed by these rules. The Commission shall determine and certify that such person meets the minimum qualifications before appointment may be effective. Any person whose name is on a certified list for a

position in the civil service may accept a temporary appointment in that, or a different competitive position, if he/she is properly qualified, without losing his/her place upon such a list.

CHAPTER VI - PROBATIONARY PERIOD

Section 6.1. Permanent Appointment Following Probationary Period

All original appointments shall be tentative, subject to satisfactory completion of a probationary period in accordance with Iowa Code § 400.8.

Section 6.2. Objective of Probationary Period

The probationary period is regarded by the Commission as an intrinsic part of the examination process to be utilized by the appointing authority for close observation of the employee's work, for securing the most effective adjustment of the new employee in the position and for eliminating any probationary employee whose performance does not meet the required work standards. Every effort shall be made by the appointing authority to insure that the new employee receives proper training and assistance and that performance evaluations are completed during the probationary period.

Section 6.3. Rejection of the Probationer

If at any time during the probation period the probationer shall be found incompetent or not qualified for the performance of the duties of the position, the probationer may be rejected by the appointing authority without recourse to appeal.

A person removed or discharged during a probationary period shall, at the time of discharge, be given notice in writing stating the reason or reasons for dismissal. A copy of such notice shall be promptly filed with the Commission. Continuance in the position after the expiration of such probationary period shall constitute a permanent appointment.

CHAPTER VII - CHANGES IN EMPLOYMENT STATUS

Section 7.1. Transfer

A lateral transfer means movement by an employee who is currently employed in the job classification to the same classification or to an equivalent job classification for which there is a current vacancy, without affecting pay grade.

An employee, other than a Police Officer or a Firefighter, may be transferred from one department to the same Civil Service classification in another department, and such employees shall retain the same Civil Service status. Transfers shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which must be accomplished only as provided in these rules. No employee shall be transferred to a position for which they do not possess the minimum qualifications.

An employee requesting a lateral transfer within the same job classification shall not be required to take the promotional examination. It is not a lateral transfer for an employee to request a different job assignment in the same job classification in the same department. An employee who qualifies for a lateral transfer shall have their name added to the certified list for consideration, subject to Section 7.2 of these rules and Iowa Code.

Section 7.2. Promotion

Vacancies in civil service promotional grades shall be filled by lateral transfer, voluntary demotion or promotion to the extent that City employees qualify for the position. See Iowa Code § 400.9. An employee seeking promotion to a higher classification shall have completed their probationary period.

Promotional grades are normally those position classifications above the lowest in each job family. In determining if a job is a promotion, the basic consideration shall be how well the knowledge, skills and abilities required of incumbents in the lower classification prepares them for success in the higher classification within the same job family. The Administrative Services Department shall maintain a list indicating which positions require a promotional examination. See Appendix B.

If a promotional list pursuant the requirements of Iowa Code § 400.9(3) is not established, then an entrance examination for such vacated position may be used to fill it. In order to be on a promotional list eligible for certification, an employee must pass a promotional examination, request a lateral transfer or voluntary demotion. The appointing authority retains the right to contest the placement of an individual(s) on the list and present sufficient evidence to the Commission that the individual/employee lacks the qualifications or adequate performance to warrant placement on the list. The Commission shall make the final decision as to the placement of individuals on the promotional list.

Section 7.3. Demotion

An appointing authority may demote an employee whose performance of the required duties falls below standard, or for disciplinary purposes. An employee shall not be demoted into another position unless the employee possesses the minimum qualifications for that position. Written notice of the demotion and pay rate shall be given to the employee within three days following the effective date

of the demotion and a copy shall be provided to the Commission. The employee shall have a right to request a hearing before the Commission as prescribed by these rules.

A voluntary demotion occurs when an employee voluntarily requests in writing to move to a vacant position in a lower classification which the employee previously had been employed. An employee requesting a voluntary demotion shall not be required to take the necessary examination. An employee who qualifies for a voluntary demotion shall have their name added to the certified list for consideration, subject to Section 7.2. Subsequent to any voluntary demotion, an employee must re-apply and be re-certified to be considered for a promotional position, their employment history notwithstanding.

CHAPTER VIII - SEPARATION FROM SERVICE

Section 8.1. Disciplinary Procedures

The appointing authority may peremptorily suspend, demote or discharge a subordinate then under the person's or chief's direction for neglect of duty, disobedience of orders, misconduct, or failure to properly perform their duties. A report of such action shall be made to the Mayor unless the action is initiated by the Mayor, in which case the report shall be given to the City Council. Such report shall be in writing, stating the reasons for such a suspension, demotion or discharge, and a copy thereof shall promptly be given to the Clerk of the Commission. The person or body to whom the report is made shall affirm or revoke such suspension, demotion, or discharge according to the facts and merits of the case. If the action is affirmed, the employee involved may appeal to the Commission as set forth in Chapter IX of these rules.

Section 8.2. Layoff

See Iowa Code § 400.28.

Section 8.3. Resignation

An employee wishing to terminate employment in good standing shall file with the department director, at least two weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. Failure by the employee to comply with this rule shall be entered on the service record of the employee and shall be cause for denying future employment by the City. All resignations shall be forwarded immediately to the Clerk of the Commission with a statement by the appointing officer as to the resigned employee's service, performance, and other pertinent information concerning the cause for resignation.

Section 8.4. Retirement from Service

Eligible employees may retire under varying retirement options available to City employees.

CHAPTER IX - APPEALS AND HEARINGS

Section 9.1. Appeals

Civil Service employees may appeal to the Civil Service Commission all matters involving their civil service rights under Chapter 400 of the Code of Iowa. Appeals shall be filed in accordance with the provisions of Chapter 400 which govern such matters. The trial of all appeals shall be public and the parties may be represented by Counsel. However, deliberations of the Commission to adjudicate the procedural and substantive issues of such appeal shall include only the members of the Commission and its attorney, if any. The Commission may affirm, modify or reverse any case on its merits. A quorum shall be necessary to hear appeals with only those Commissioners present for the entire hearing eligible to render judgment, unless a tie vote or other sufficient cause requires additional Commissioners to view the record as a whole and make a determination.

Section 9.2. Time Limits for Appealing/Union Grievance

If there is an affirmance by the Mayor or City Council of a suspension, demotion, or discharge, any person holding Civil Service rights may appeal therefrom to the Civil Service Commission within fourteen days. If the suspension, demotion, or discharge is not affirmed within five days, the appointing authority who has suspended, demoted, or discharged the employee may in like manner appeal. Appeals must be presented to the Civil Service Commission or filed with the Clerk of the Commission within fourteen days after the appellant has knowledge of the occurrence which precipitated the appeal.

If an issue is jurisdictional to the Commission (such as suspension, demotion, discharge or placement on the certified list) and grievance procedure under the employee's collective bargaining unit, the employee must file an appeal within the required time limits established in Iowa Code § 400.20 in order to preserve their appeal rights to the Commission.

Section 9.3. Notice of Appeal

The notice of appeal signed by the appellant and specifying the ruling appealed shall be filed with the Clerk of the Commission. It shall be the duty of the

Commission to inform the appointing authority or other persons involved of the filing of an appeal.

Section 9.4. Charges

If the appeal involves suspension, demotion or discharge, then within fourteen days from the service of the notice of appeal the person or body making the ruling appealed from shall file with the Civil Service Commission a written specification of the charges and grounds upon which the ruling was based. If the charges are not filed, the person suspended or discharged may present the matter to the Civil Service Commission setting forth the facts by affidavit and the Commission shall immediately enter an order reinstating the appellant for want of prosecution.

The Commission reserves the right to pass upon the sufficiency of the charges. If the charges are held to be insufficient, indefinite or have no precise meaning and the appointing authority fails to correct the charges, the Commission may dismiss the charges as not sustained.

Section 9.5. Time and Place of Hearing

If the appeal involves suspension, demotion or discharge, within ten days after the specifications are filed, the Clerk of the Commission, on behalf of the Commission, shall fix the time and place of the hearing. Both parties shall be notified in writing of the time and place of the hearing, and the notice shall contain a copy of the specifications. Hearings beyond one day in duration are discouraged. The parties are encouraged to stipulate facts and focus upon points of contention.

Section 9.6. Request for Continuance

The Commission shall consider requests for continuance and shall grant or deny these requests based upon the facts presented and the ability of the Commission to schedule an alternate hearing date within a reasonable time period. A party's request for continuance shall be in writing, shall include the reasons for the request, and shall be filed with the Clerk of the Commission not less than three working days before the hearing.

In granting requests, the Commission reserves the right to impose terms and conditions upon the requesting party when such action is deemed appropriate.

Section 9.7. Pre-hearing Motion/Conference

The intent of Chapter 400 of the Iowa Code is to provide a swift and appropriate resolution to appeals within the Commission's jurisdiction. Any pre-hearing motion or request for other Commission action shall be made at least five

working days before the scheduled hearing date. A pre-hearing motion or other request for Commission action must be in writing (typed or legible handwriting), served upon the opposing party and shall cite any statute or rule under which the motion or request for commission action is made. Any resistance to the motion shall be served and filed at least three working days before the scheduled hearing. Said motion shall be heard on the date of the hearing prior to commencement. However, both parties may consent to oral argument prior to the hearing date on the motion or request before the Chairperson of the Commission whose decision shall be that of the Commission.

If the parties desire a pre-hearing conference said request shall be in writing and made to the Chairperson of the Commission. All issues agreed to at the pre-hearing shall be submitted as a consent order and made a part of the hearing record.

Section 9.8. Subpoena Power

The Commission may issue subpoenas to require the attendance of witnesses or the production of records designated by either of the parties. Subpoenas shall be signed by the Commission Chairperson or the Mayor. Requests for subpoenas shall be filed in writing with the Clerk of the Commission at least three working days before the hearing and shall include the following:

- A. The names of those witnesses to be subpoenaed.
- B. The titles or detailed descriptions of requested books, papers and records.
- C. Sufficient information to establish the pertinence of the testimony or documents to the issues of the hearing.

Pre-hearing discovery is not allowed in the context of a Civil Service appeal. The Commission shall not issue subpoenas for the purpose of taking oral depositions for discovery.

Should a subpoenaed witness refuse to attend, testify or produce required documents, the Commission shall make a written report of the refusal to the District Court. The District Court shall then proceed against the person or witness as if the refusal had occurred in a proceeding legally pending before the court. The service of the subpoenas and the expense involved, if any, shall be the responsibility of the requesting party.

Section 9.9. Reproduction of Other Employees' Discipline Record

Requests for subpoenas for reproduction of records of other employees' discipline are not allowed. As an alternative to the issuance of such subpoenas, the Commission may require the following in challenges to discipline as

inconsistent, arbitrary, or disparate in order to prevent unwarranted intrusions into and disclosures from confidential files of other employees during the public trial of the appeal the following procedure shall be followed:

- A. The appointing authority or his/her designee (or the respective Chief of Police or Fire) may be examined at the public trial of the appeal regarding any instance of discipline believed to support the claim of inconsistent, arbitrary or disparate discipline so long as such examination is undertaken without identifying the other employee(s) involved.
- B. At the conclusion of the testimony, and only with respect to an issue(s) concerning discipline of other employees raised during the public trial which the Commission is persuaded warrants further consideration, the record shall be left open to allow the Commission itself to review any and all personnel files of other employees concerning such matters.
- C. The Clerk of the Commission or his/her designee (or the respective Chief of Police or Fire) shall provide the Commission the exclusive use of a suitable conference room for such review and shall assign a senior member of the City staff familiar with the disciplinary action(s) taken and the personnel records involved to assist the Commission in securing direct and swift access to the portions of the files which concern the discipline(s) the Commission wishes to scrutinize.
- D. At the completion of the Commission's review, the public trial shall be reconvened solely to allow the Commission to examine the City witness(es) taking the disciplinary action appealed from on any issues of concern generated by such review. Each party shall be allowed an opportunity to further examine the City witness(es) on such matters before the record is closed.
- E. This rule shall not operate to render evidence of other employee(s) discipline relevant or material to the subject matter of the public trial; rather, this rule merely sets out the procedure to be followed by the Commission should it find such evidence relevant and material to the issue(s) to be decided in the appeal.

Section 9.10. Record

The hearing shall be recorded by the Commission, either by the use of a tape recorder or by use of a certified court reporter. The decision shall be based on the anticipated length of the hearing and consultation with the Clerk of the Commission to determine the feasibility of the expense of the hearing. If any party wishes to separately transcribe the proceedings by using a certified court reporter, they may do so at their expense.

All appeal records shall be maintained pursuant to state and local law. Court reporter notes are considered working copies and shall be maintained for at least six months after the conclusion of the hearing. Any audiotapes of hearing shall be maintained pursuant to state and local law. Either party may request the court reporter to transcribe the testimony at its own expense.

Section 9.11. Appeal Proceedings

The Commission shall hear the evidence upon the charge and specifications as filed by the appointing authority. Brevity in presentation is strongly encouraged. The Commission Chairperson shall administer oaths to witnesses in the same manner and with like effect and under the same penalties as in the case of magistrates exercising criminal and civil jurisdiction. The proceedings shall be as informal as is compatible with the requirements of justice and with a view toward the presentation of all of the evidence so that a fair and impartial decision may be made. The Chairperson shall have full authority at all times to maintain orderly procedure and to limit the hearing to matters which are material and relevant to the issue to be decided. Hearsay evidence shall be permitted when relevant to the central issues but evidence shall not be relied upon when direct evidence is readily available. See Rule 9.12. The burden of proof required shall be that of substantial evidence. While all Commissioners may review the record and participate in an appeal's disposition, typically only the Commissioners hearing all the evidence will vote in matters heard.

The appointing authority shall have the burden of proof and shall first present evidence in support of the charge. The employee or employee's counsel shall then present such evidence as he/she may wish to offer in support of the appeal. The parties in interest may then offer rebuttal evidence. Commission members may question witnesses upon the conclusion of direct or cross-examination. After hearing all of the evidence, the Commission, in its discretion, may hear arguments or request that briefs be submitted.

If the appellant fails to appear or be represented by counsel at the time fixed for hearing the appeal, the Commission shall hear such evidence as may be produced, or it shall deem proper or necessary and make a finding according to the evidence. The Commission, after due consideration, shall notify the appointing authority and the employee of its judgment.

Counsel for both parties are entitled to be firm and direct in their cross examination, but not abusive. Conduct toward a witness which is unfair, oppressive, threatening and unnecessarily hostile will not be tolerated. Continued conduct of this nature may lead to suspension of the offending counsel from representing an appellant or the appointing authority before the Commission.

Either party may request that witnesses be sequestered. The Commission shall honor such requests or may on its own initiative require sequestering, when its

decision will most probably rest upon a determination of the credibility of the testimony given. The employee and the appointing authority or his/her designated representative shall be permitted to be present during the entire proceedings.

All persons participating in and appearing at hearings shall conduct themselves in an orderly and decorous manner. The Commission reserves the right to eject from the hearing room persons not conducting themselves in such manner.

Upon the conclusion of any hearing, the Commission shall cause its findings and decisions to be prepared in writing and signed by each Commissioner. If the decision is not unanimous, the dissenting member may submit a supplemental or minority report. The findings and decision together with the minority report, if any, shall be filed in the permanent files of the Administrative Services Department. A copy of the findings and decision shall be delivered to the appointing authority and the affected employee, and such judgment shall become effective forthwith.

The City, or any civil service employee, shall have the right to appeal to the District Court from the final rule and decision of the Civil Service Commission under Iowa Law. The appeal to the District Court shall be perfected by filing a notice of appeal with the clerk of the District Court within thirty days from the filing of the formal decision of the commission and by serving notice thereof on the Clerk of the Commission. The party appealing to the District Court shall bear the cost of the preparation of the transcript. See Iowa Code § 400.27.

In the event the ruling or decision appealed from is reversed by the District Court, the appellant, if an employee, shall then be reinstated as of the date of said suspension, demotion or discharge and shall be entitled to compensation from the original date of such action. The Clerk of the Commission shall communicate each case of appeal to the Commission.

Section 9.12. Rules of Evidence

In all hearings:

- A. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Parties may be permitted to make an off the record offer of proof.
- B. Objections to evidentiary offers may be made and shall be noted in the record.
- C. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original if available. Parties must provide 6 copies of the document submitted as evidence at the hearing.

- D. Either party may request that witnesses be sequestered. The appellant and the appointing authority (or his or her designated representatives) shall be present during the entire proceedings.
- E. Discovery procedures are not applicable in matters before the Commission.
- F. The Iowa Rules of Evidence, Iowa Rules of Civil Procedure and practice and procedure in the First Judicial District of Iowa may be consulted for guidance in matters not specifically covered by these rules and procedures.
- G. In which a drug test indicating the presence of alcohol or a controlled substance is submitted as evidence and the test sample was analyzed by a laboratory or testing facility approved by the department of public health pursuant to applicable state law, then no further foundation is necessary for the introduction of the drug testing results as evidence. If an appellant intends to challenge the foundation or testing procedures, the City shall be notified in writing five working days prior to the hearing.

Section 9.13. Public Trial

Hearings shall be open to the public, subject to the exceptions set forth in Iowa Code § 21.5. The commission shall hold a closed session to discuss the decision to be rendered in a hearing.

Section 9.14. Representation

An employee may be represented by a lawyer, the employee's authorized collective bargaining representative, or him/herself in a disciplinary hearing before the Commission.

Section 9.15. Legal Counsel

The Commission shall be represented by a City Attorney or designee. If in the Commission's opinion there is a conflict of interest in the City's legal counsel representing the Commission, they may hire an attorney pursuant to Iowa Code § 400.27. The Commission shall not hire outside counsel merely when there is a disagreement with the advice of legal counsel provided by the City.

Section 9.16. Legal Opinions

The Commission may request an interpretation of Chapter 400, these Rules or applicable civil service principles from legal counsel. The Commission shall act as the finder of fact and render its decision in light of the provided legal interpretation or opinion. The Commission may choose to accept or reject the advice of legal counsel. All written opinions by legal counsel shall be maintained in a binder by the Clerk of the Commission indexed by subject and date.

CHAPTER X - GENERAL PROVISIONS

Section 10.1. Change of Address

Every employee, former employee awaiting action by the Commission, person whose name is on the eligible list, and every applicant is required to notify the Clerk of the Commission of any change of address, or change of name. In sending notices affecting such persons, the Commission assumes no responsibility beyond the address last recorded with the Administrative Services Department. Failure to respond to notices sent by the Commission to the last recorded address may result in denial of admission to examination, in removal from eligible lists, or in waiver of hearing opportunity upon an appeal.

Section 10.2. Organization Membership

Membership in any organization will operate neither to injure or benefit any employee in the Commission's actions relating to rights and interests under these Rules or the Code of Iowa.

Section 10.3. Seniority

See Iowa Code § 400.12.

When classified positions formerly considered non-civil service are "blanketed in" by the Civil Service Commission, the civil service seniority of incumbent employees shall commence on the date the position is accepted by the Commission. In case of layoff in such a position, ties shall be broken by considering total City seniority in that position (civil service plus non-civil service). Further ties shall be broken by using normal layoff procedures. Employees who are promoted or transferred from such a position to a higher level position prior to the acceptance of the newly covered position by the Commission, shall receive seniority in the newly covered position equal to, but not greater than, employees incumbent at the date of acceptance by the Commission, provided such employees had completed their probation prior to their promotion or transfer.

Section 10.4. Violation of Rules

Violation of any of the rules contained herein may warrant disciplinary action, rejection of the application, or decertification depending upon the status of the person judged in violation after appropriate hearing as described herein.

Section 10.5. Exception of Collective Bargaining Agreement

The provisions of the Rules herein shall be followed except where these provisions are in conflict with existing and current union bargaining agreements.

In such instances when a conflict exists, the current bargaining agreement shall take precedence over the provisions herein.

APPENDIX A: GLOSSARY OF TERMS

Appointment The designation of a qualified person to a classified service position under the rules set forth for permanent, temporary and emergency appointments.

Certification The Civil Service Commission certifies to the City Council, lists of up to ten of the most preferred, eligible persons for entrance level positions and lists up to ten of the most preferred, eligible persons for promotional level positions for future appointments.

Class A group of positions, requiring similar qualifications and recognized as similar in duties and responsibilities, that is designated by a shared descriptive title and salary range.

Classification A specified set of duties that a covered employee is assigned to perform. (i.e. **position classification**)

Classification Plan An organized arrangement of positions into separate classes with similar qualifications, duties and responsibilities that establishes minimum standards of qualifications as set forth by the Administrative Services Department.

Commission The City of Cedar Falls Civil Service Commission.

Demotion The assignment of a covered employee to a position classification within a lower pay range or grade. Demotion can be on an involuntary or voluntary basis.

Eligible A person whose name is on a current eligible list and may be certified for appointment to a classified position.

Eligible Lists Lists of up to forty most eligible names for covered entrance level positions and lists of up to ten most eligible names for covered promotional positions, arranged in descending order, from the results of examinations for position classifications for which they are qualified for appointment.

Entrance Examination An examination open to the all City employees and members of the general public.

Examinations Tests that determine the qualification fitness of applicants for positions covered under civil service. Tests that fairly measure the knowledge, skills and abilities including mental and physical capabilities of the applicants may be used.

Grievance A disagreement between an employee and the City of Cedar Falls concerning working conditions or terms, unequal treatment or relationships with supervisors or fellow employees.

Lateral Transfer The movement of a covered employee to the same position classification in a different City department or division.

Layoff The involuntary separation of an employee from a classified position because of inadequate fund appropriations, lack of work or other reasons that does not reflect fault of the employee.

Original Appointment Employment appointment to entrance level position classifications covered under Civil Service.

Permanent Continuance after the expiration of a successfully completed probationary appointment period constitutes a permanent appointment.

Preferred List List of names of employees separated from covered position classifications due to layoff that are eligible for reemployment to the position classification layoff from within a specified time period from date of separation. See Iowa Code § 400.28.

Probationary Period A working test period for employees newly appointed or promoted to classified positions for the purpose of assessing their abilities in the position to which they have been appointed.

Promotion The reassignment of a covered employee to a position classification with a higher pay range or grade.

Promotional Examination An examination for classification advancement open only to covered qualified civil service employees (i.e. those employees who have completed the specified probationary period).

Suspension An involuntary leave of absence for disciplinary or investigative purposes; or when a covered position classification has been abolished due to economic reasons resulting in a layoff.

Temporary Appointment In the absence of a preferred list or certified eligible list or when the eligible list is exhausted, the person or body having the appointing power may fill the vacant position for no more than 90 days.

Vacancy A newly created position classification or position classification that is not occupied and has funding allocated for it.