



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Ben Luedtke  
Budget and Policy Analyst

**DATE:** November 17, 2020

**RE:** **Creating an Appeal Hearing Officer System by  
Repealing Civil Service Commission and Employee Appeals Board**

## **Project Timeline:**

Set the Date: November 17, 2020

1<sup>st</sup> Briefing: November 17, 2020

Public Hearing: December 1, 2020

Potential Action: December 8, 2020

## **ISSUE AT-A-GLANCE**

The Civil Service Commission (CSC) is an administrative review body that deals with public safety personnel issues in the City. The Employee Appeals Board (EAB) handles disciplinary appeals for other City departments. The Administration is proposing to repeal City Code Chapter 2.16 which authorizes the CSC and repeal Chapter 2.24 which authorizes the EAB. The proposed changes would also include moving some appeals processes, as appropriate, to a newly established section of City Code. The changes are intended to create several benefits for the City including:

- Improve the City's competitive position in the market by speeding up job offers
- Increase accountability by decreasing the costs of engaging the disciplinary system
- Expand access to employment opportunities for qualified candidates
- Streamline the disciplinary system for eligible employees
- Maintain full staffing of programs for longer durations
- Free up leadership and staff time to work on other priorities
- Lower barriers for new employees to bring more diverse approaches, experiences and ideas

## **New Chapter 2.24**

Chapter 2.24 would be replaced with a new ordinance using the same numbered section in City Code and be renamed Employee Discipline Appeals Process. The proposed ordinance would maintain the same or similar disciplinary safeguards provided to employees under existing ordinances. It establishes a single disciplinary appeal hearing officer system for all qualifying employees rather than separate systems under the CSC and EAB. Some employee groups are not qualified to access the disciplinary appeals process per state law including appointed employees, part time, seasonal, and statutory positions like City Engineer among other exceptions. If the Council adopts the proposed ordinance in December, then the new hearing officer system would begin in February 2020. The current chapters of City Code proposed to be repealed are available in Attachment 1 and Attachment 2.

The CSC and EAB approve or reject the employment decisions made by department heads. The CSC handles employment decision reviews and appeals from the Fire Department and Police Department. The EAB handles employment decision reviews and appeals from all other City departments. The options to employees for appealing beyond the hearing officer remain the same as currently available under the CSC and EAB. State law designates all such appeals must go to the Utah Court of Appeals. Certain disciplinary actions (suspensions without pay of longer than two days, demotions and terminations) are appealable to the CSC and EAB and will remain appealable as required by state law to a hearing officer. Appeals to a hearing officer must be made within 10 calendar days of the disciplinary decision being appealed per state law.



## **Public Safety Recruitment and Promotion Process Ordinance**

The Administration is proposing a second ordinance for competitive merit-based recruitment and promotion processes in the Fire Department and Police Department. All promotions within the Fire Department and Police Department are currently limited to existing employees except for the appointment of a chief which is done by the Mayor and subject to the Council's advice and consent. The proposed ordinance does include an internal promotions preference (favoring existing employees) but it is not a requirement. State law requires promotions within the Fire Department and Police Department be subject to CSC rules and regulations (Attachment 3) when a city has established such a body.

Limiting promotions to existing employees is a de facto result of the CSC rules and regulations for the fire and police departments. For example, requirements an applicant must meet for some leadership positions include having a minimum number of years working in the City's Fire Department or Police Department – over a decade in some cases. Potential lateral hires from other public safety agencies are unable to meet these Salt Lake City specific employment requirements. As a result, potential lateral hires are constrained to entry-level positions at the City's Fire Department and Police Department regardless of qualifications and experience working in more advanced positions at other organizations.

## **Social Worker Program Example**

During annual budget deliberations, the Council expressed interest in the social worker program reaching full staffing and added approximately \$81,000 so four positions could be hired instead of waiting for the six-month hiring freeze to end. One of the primary difficulties reported in filling the social worker positions was weeks long delays between interviews, job offers and CSC approval. This resulted in applicants accepting positions elsewhere. The field of social work is experiencing a shortage in the supply of licensed clinical social workers and delays in the hiring process disadvantage the City.

## **Union Feedback**

All three unions, AFSCME, fire and police, that represent some City employees were provided drafts of the ordinances. AFSCME and the Police Union indicated no major concerns. The Fire Union expressed concerns that the draft ordinance would limit promotional opportunities and results in a greater burden placed on an employee during the disciplinary appeal hearing process than under the CSC.

## **Evolving Proposal**

The Administration is considering changes to the proposed Chapter 2.24 ordinance based on feedback from some of the unions. A new transmittal with updated ordinances was not available at the time of publishing this staff report. Inadvertently omitted from the recruitment and promotion process ordinance is the Salt Lake City Code numbered section (title and chapter) that the Council would be changing or creating. This information will likely be needed for the Council to act on the proposal.

## **POLICY QUESTIONS**

1. Advancing City Priorities – The Council may wish to ask the Administration what parts of the CSC rules and regulations (Attachment 3) have caused challenges with City priorities such as workforce diversity, efficient use of limited resources, maintaining full staffing of programs, and progressive discipline among other goals and how the proposed ordinances will advance the City's priorities.
2. Employee Education and Feedback – What outreach has and would be done to educate City employees impacted by the proposed changes? Have the Administration's proposed ordinances changed as a result of employee and/or union feedback?
3. Changing Standard of Review and Burden of Proof – The Council may wish to ask the Administration what impacts may occur from using a different standard of review for cases that would have gone to the EAB. The Council may also wish to ask what impacts may occur from using a different burden of proof for cases that would have gone to the CSC. See additional info section for the changes and term definitions.

## **ADDITIONAL AND BACKGROUND INFORMATION**

### Hearing Officer Model

A hearing officer is a contracted attorney with experience in the relevant field of law over which they would issue decisions. Hearing officers are paid hourly from department budgets. The City currently contracts with three hearing appeals officers for land use appeals and the Administration reports the model has worked well. Multiple hearing officers are on contract to facilitate scheduling availability and rotate through appeals. The Administration anticipates mirroring this model for employment decision appeals.

### Standard of Review and Burden of Proof Changes

The standard of review currently used by the CSC (substantial evidence/abuse of discretion) will remain the same under the hearing officer model. Substantial evidence/abuse of discretion is a different standard than the clearly erroneous standard used by the EAB. These legal terms are defined below.

- Substantial evidence is defined as “something less than the weight of the evidence” but “more than a mere scintilla” of evidence.
- Clearly erroneous requires an individual to demonstrate that a challenged disciplinary decision is “against the clear weight of the evidence” or leads to “the definite and firm conviction [by the Board] that a mistake has been made.”
- Abuse of discretion is defined as a decision that “exceeds the bounds of reasonableness and rationality.”

### New Evidence after Disciplinary Decision

City Code currently requires a department head or designee who originally issued the disciplinary action to consider the new evidence and issue a written decision (City Code 2.24.080). This option remains under the hearing officer model but the officer may instead decide to consider the new evidence themselves.

### Employee Notification about New Disciplinary Appeals Process

The Administration is developing an FAQ about the new disciplinary appeals hearing officer model and process. It's important to note that a small proportion of the City's workforce is ever involved in the disciplinary process. Employees that are involved are notified about their options at each step. When a disciplinary decision is made the impacted employee(s) is also informed about available appeal options.

### Minor Revisions to Memorandums of Understanding (MOU)

Approval of the proposed ordinances would result in minor revisions to the City's MOU with the Police Union in four areas. These are not considered to be substantive revisions. The MOU between the City and Fire Union already includes language about moving away from the Civil Service Commission. Both MOUs are open for negotiations and expire near the end of FY21.

### Prevalence of CSCs in Utah

Only cities of the first or second class can have CSCs under state law. Nine cities are classified as first or second class of which only Salt Lake City and Provo have a CSC.

### Cases Currently Before the CSC and EAB

Petitions currently pending before the CSC and EAB will be asked to choose whether to continue under the CSC or EAB (whichever is applicable) or move the disciplinary appeal to the new hearing officer system. The petitioner's decision is final and cannot be changed once made. Two such cases are currently pending.

### History of the CSC and EAB

The CSC was established at least as early as the 1940s and possibly earlier. The EAB was established in the 1970s after state law required the City to have such a board in 1977. The EAB ordinance was last updated in 2009.

## **ATTACHMENTS**

1. Salt Lake City Code Chapter 2.16 Civil Service Commission
2. Salt Lake City Code Chapter 2.24 Employee Appeals Board
3. Salt Lake City Civil Service Commission Rules and Regulations

## **ACRONYMS**

CSC – Civil Service Commission

EAB – Employee Appeals Board

FAQ – Frequently Asked Questions

FY – Fiscal Year

MOU – Memorandum of Understanding

SLCFD – Salt Lake City Fire Department

SLCPD – Salt Lake City Police Department

## CIVIL SERVICE COMMISSION

## SECTION:

**2.16.010: Appointment****2.16.020: Qualifications****2.16.030: Compensation****2.16.040: Removal****2.16.050: Duties****2.16.060: Employment Of Attorney****2.16.070: Employment Of Examiners****2.16.010: APPOINTMENT:**

The mayor shall appoint a civil service commission to be composed of three (3) members, one of whom shall serve until June 30, 1986, another to serve to June 30, 1988, and another member to serve until June 30, 1990. In the month of June 1984, and every second year thereafter, one member shall in like manner be appointed for the term of six (6) years to take the place of the member whose term shall next expire. In case of a vacancy, appointment shall be made in like manner for the unexpired term. (Prior code § 24-10-1)

**2.16.020: QUALIFICATIONS:**

No member of the civil service commission shall, during his tenure of office, hold any other public office, nor shall such member be a candidate for any other public office. Not more than two (2) members of the civil service commission shall at any one time be of the same political party. (Prior code § 24-10-2)

**2.16.030: COMPENSATION:**

Each member of the civil service commission shall receive twenty five dollars (\$25.00) for each meeting of the commission which he/she shall attend, provided that such member shall not receive more than one hundred dollars (\$100.00) in any one month or such larger sum as may hereafter be provided in section 10-3-1004 of the Utah code or any successor section. (Prior code § 24-10-3)

**2.16.040: REMOVAL:**

Any member of the civil service commission may be removed from office by the mayor for cause, including misconduct, inability or wilful neglect of duty. Such member shall have opportunity to be heard in his/her defense in a hearing meeting the minimum standards of due process of law. (Prior code § 24-10-4)

**2.16.050: DUTIES:**

The civil service commission shall have full charge of all examinations and establishing the classified civil service list, from which appointments and promotions shall be made for positions in the police and fire departments by the appointing power thereof. Further, the commission shall make such rules and regulations as it may deem necessary for the carrying out of the powers conferred upon it by law. This section shall not, however, prohibit police and fire department participation in such testing and recruiting as is otherwise allowed by law. (Prior code § 24-10-5)

**2.16.060: EMPLOYMENT OF ATTORNEY:**

The civil service commission with the advice and consent of the mayor may employ an attorney to act as counsel for the commission to perform such duties and at such compensation as the mayor may fix. (Prior code § 24-10-7)

**2.16.070: EMPLOYMENT OF EXAMINERS:**

The civil service commission may employ such examiners as it may deem necessary at such compensation as the mayor may fix. (Prior code § 24-10-6)



**EMPLOYEE APPEALS BOARD**

## SECTION:

**2.24.010: Promulgation Of Procedures****2.24.020: Board Composition****2.24.030: Terms Of Office****2.24.040: Duties****2.24.050: Board Panel****2.24.060: Standards Of Review****2.24.070: Rights Of Appellant****2.24.080: Discovery****2.24.090: Remedy****2.24.010: PROMULGATION OF PROCEDURES:**

The mayor's designee shall promulgate procedures to provide for the creation and function of an employee appeals board within the parameters set out in this chapter. (Ord. 67-09 § 1, 2009)

**2.24.020: BOARD COMPOSITION:**

The mayor shall appoint at least eleven (11) current city employees to serve as board members. Before appointing an employee to the board, the mayor shall consider any recommendations made by employee representatives and/or department directors and shall ensure that the board members are representative of the city's workforce. (Ord. 67-09 § 1, 2009)

**2.24.030: TERMS OF OFFICE:**

Board members shall serve a three (3) year term, unless the term is terminated by disability, resignation, or for reasons relating to cause. The initial terms of office of the board members shall commence January 1, 2010.

The mayor's designee shall coordinate with the mayor regarding the appointment of board members so that the initial terms of the appointed board members will commence January 1, 2010. Thereafter, the mayor shall appoint board members every three (3) years. In the event of a vacancy created by the resignation or removal of an appointed board member, the mayor shall appoint a new person to fill the remaining term of the person who has resigned or otherwise been removed from the board. (Ord. 67-09 § 1, 2009)

**2.24.040: DUTIES:**

It shall be the duty of the employee appeals board to conduct hearings related to an employee's appeal from a discharge or termination, suspension without pay for more than two (2) days, involuntary transfer to a position with less remuneration or designation for layoff as outlined in this chapter. The employee appeals board may not hear an appeal filed by:

- A. An employee appointed by the mayor;
- B. An employee employed by the city council;
- C. An employee in an at-will position;
- D. An hourly employee;
- E. A seasonal employee;
- F. A probationary employee;
- G. An employee in the police department; or
- H. An employee in the fire department. (Ord. 67-09 § 1, 2009)

**2.24.050: BOARD PANEL:**

Each impaneled employee appeals board shall consist of three (3) members. The mayor's designee shall select three (3) of the eleven (11) appointed members to serve as the panel to hear any appeal. (Ord. 67-09 § 1, 2009)

**2.24.060: STANDARDS OF REVIEW:**

The panel of the employee appeals board designated to hear an appeal shall review a department head's decision using the following standards of review.

If an appeal is based upon a disciplinary decision, the designated panel shall determine if the employee has demonstrated that the department head's decision to impose discipline was clearly erroneous in light of the record viewed in its entirety including the employee's entire employment history with the city. The designated panel cannot substitute its own judgment for the department head's judgment, but can only overturn a disciplinary decision if it is clearly erroneous.

If an appeal is based upon a layoff designation, the review by the designated panel shall be limited to whether the city substantially followed its layoff procedures when it designated the employee for layoff.

If an appeal is based upon a termination decision for nondisciplinary reasons, the review by the designated panel shall be limited to whether the city followed its procedures when it terminated the employee. (Ord. 67-09 § 1, 2009)

**2.24.070: RIGHTS OF APPELLANT:**

An appellant may appear in person before the panel designated to hear the employee's appeal and be represented by a person of his or her choice. The appellant may also: a) have a hearing held in compliance with Utah's open and public meetings act; b) confront any witness whose testimony is to be considered; and c) examine the evidence the designated panel will consider in making its decision. (Ord. 67-09 § 1, 2009)

**2.24.080: DISCOVERY:**

Discovery shall be limited to that information which was actually considered in making the decision which is being appealed. If the employee or the city introduces information which was not considered in making the decision being appealed, the designated panel shall remand the matter to the department head or designee who made the decision. The department head or designee shall consider the new evidence, reconsider the decision being appealed and issue a written decision within seven (7) calendar days. If the mayor's designee determines the modified decision is within the board's duties, the panel originally designated to hear an appeal shall reconvene and hear the employee's appeal. (Ord. 67-09 § 1, 2009)

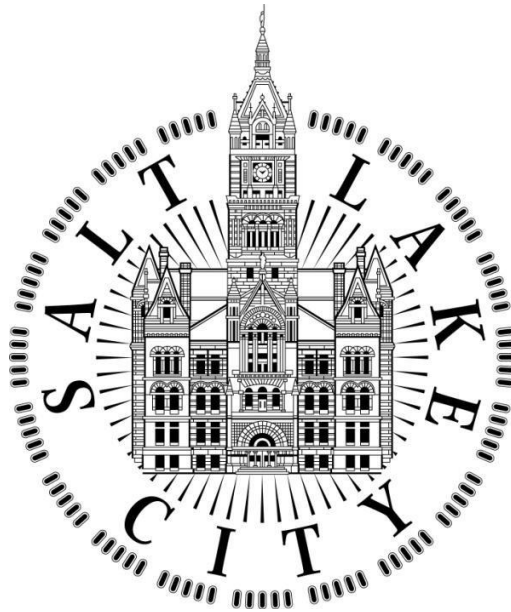
**2.24.090: REMEDY:**

If the designated panel determines that discipline should not have been imposed, the city will revoke the discipline and reimburse the employee for any lost wages. If the designated panel determines that an employee was erroneously designated for layoff, the city will reinstate the employee and reimburse the employee for any lost wages. If the designated panel determines that employee should not have been terminated for the stated nondisciplinary reason, the city will revoke the termination and reimburse the employee for any lost wages. The employee appeals board may not provide any remedy beyond that described in this chapter. (Ord. 67-09 § 1, 2009)

# Salt Lake City

## Civil Service Commission

### Rules and Regulations



*January 2020*

## Table of Contents

CHAPTER I .....	1
GENERAL PROVISIONS .....	1
1-1-0. INTRODUCTION.....	1
1-2-0. CLASSIFIED POSITIONS .....	2
1-2-1. POSITIONS INCLUDED IN CIVIL SERVICE .....	2
1-2-2. GOVERNMENTAL REORGANIZATIONS .....	2
1-2-3. EXCLUDED POSITIONS - RETURN TO CIVIL SERVICE POSITIONS .....	2
1-3-0. CIVIL SERVICE COMMISSION .....	2
1-3-1. CIVIL SERVICE COMMISSION - ORGANIZATION .....	2
1-3-2. CIVIL SERVICE COMMISSION - LEGAL COUNSEL .....	3
1-3-3. CIVIL SERVICE COMMISSION - MEETINGS .....	3
1-3-4. CIVIL SERVICE COMMISSION - QUORUM AND RULES OF ORDER.....	4
1-3-5. CIVIL SERVICE COMMISSION - REPORTS.....	4
1-3-6. CIVIL SERVICE COMMISSION - DUTIES .....	4
1-4-0. GENERAL PROVISIONS .....	5
1-4-1. DISCRIMINATION IN CITY EMPLOYMENT .....	5
1-4-2. REPORTS TO THE COMMISSION.....	5
1-5-0. ESTABLISHING RULES AND REGULATIONS .....	5
1-5-1. ESTABLISHMENT OF RULES AND REGULATIONS .....	5
1-5-2. PUBLICATION OF RULES AND REGULATIONS .....	6
1-5-3. SEPARABILITY OF PROVISIONS.....	6
1-5-4. CALCULATION OF TIME .....	6
CHAPTER II .....	7
ENTERING THE CIVIL SERVICE .....	7
2-1-0. INTRODUCTION.....	7
2-2-0. GENERAL REQUIREMENTS .....	7
2-2-1. GENERAL QUALIFICATIONS FOR APPLICANTS .....	7
2-2-2. QUALIFICATIONS AND REQUIREMENTS FOR APPLICANTS.....	8
2-3-0. APPLICATIONS .....	8
2-3-1. APPLICATIONS .....	8
2-4-0. ENTRY-LEVEL EXAMINATIONS .....	8
2-4-1. NOTICE OF EXAMINATIONS.....	9
2-4-2. IDENTIFICATION FOR ADMITTANCE TO EXAMINATION .....	9
2-4-3. FAILURE TO COMPLETE AN EXAMINATION DUE TO DISQUALIFICATION OR POSTPONEMENT .....	9
2-4-4. CONTENT OF EXAMINATIONS.....	10
2-4-5. CONDITIONAL OFFER - PRE-EMPLOYMENT EXAMINATIONS. ....	11
2-4-6. MINIMUM GRADES AND WEIGHTS BY SECTION .....	12
2-4-7. METHOD OF SCORING AND RANKING .....	12
2-4-8. NOTIFICATION OF EXAMINATION RESULTS .....	13
2-5-0. ELIGIBILITY REGISTERS .....	13
2-5-1. ELIGIBILITY REGISTERS.....	13
2-5-2. DURATION OF ELIGIBILITY REGISTER.....	14
2-5-3. REMOVAL FROM ELIGIBILITY REGISTER.....	14

2-5-4. CHANGES AND CORRECTIONS TO ELIGIBILITY REGISTERS .....	15
2-5-5. REVOCATION OF ELIGIBILITY REGISTER.....	15
2-6-0.APPOINTMENTS .....	16
2-6-1. APPOINTMENT FROM THE ELIGIBILITY REGISTER .....	16
2-6-2. APPOINTMENT NOT FROM AN ELIGIBILITY REGISTER - TEMPORARY APPOINTMENTS.....	16
2-6-3. APPOINTMENTS NOT FROM AN ELIGIBILITY REGISTER - REHIRED EMPLOYEES UNDER OTHER CONDITIONS THAN LAY-OFFS .....	17
CHAPTER III.....	19
PROBATION AND CONTINUED EMPLOYMENT.....	19
3-1-0.INTRODUCTION .....	19
3-2-0.PROBATION - ENTRY LEVEL .....	19
3-2-1. PROBATION - ENTRY LEVEL.....	19
3-2-2. TERMINATION DURING PROBATION - ENTRY LEVEL.....	19
3-3-0.PROBATION AFTER PROMOTION.....	19
3-3-1. PROBATION - PROMOTIONS.....	19
3-4-0.LEAVES OF ABSENCE AND LAY-OFFS.....	20
3-4-1. LEAVE OF ABSENCE .....	20
3-4-2. EMPLOYEES WHO ARE LAID OFF OR REDUCED IN RANK FOR ANY REASON NOT THE FAULT OF THE EMPLOYEE.....	20
3-5-0. PROBATION AFTER REINSTATEMENT.....	21
3-5-1. PROBATION - REINSTATEMENT .....	21
CHAPTER IV .....	22
PROMOTIONS .....	22
4-1-0.INTRODUCTION .....	22
4-2-0.GENERAL PROVISIONS.....	22
4-2-1. PROMOTIONS - GENERAL PROVISIONS.....	22
4-2-2. CONTENT OF EXAMINATIONS - PROMOTIONS .....	23
4-2-3. SENIORITY IN SERVICE - PROMOTIONS .....	24
4-2-4. NOTICE OF PROMOTIONAL EXAMINATION .....	25
4-2-5. CONTENT OF PROMOTIONAL NOTICES .....	25
4-2-6. APPLICATION FOR PROMOTIONAL EXAMINATION.....	25
4-2-7. CUT-OFF LEVELS AND METHODS OF SCORING AND RANKING.....	26
4-2-8. PROMOTIONAL ELIGIBILITY REGISTERS .....	26
4-2-9. NOTIFICATION OF PROMOTIONAL EXAM RESULTS .....	26
4-2-10. CHANGES AND CORRECTIONS OF ELIGIBILITY REGISTER.....	26
4-2-11. REVOCATION OF ELIGIBILITY REGISTER .....	26
4-2-12. DURATION OF PROMOTIONAL ELIGIBILITY REGISTERS .....	27
4-2-13. SELECTION FOR PROMOTION .....	27
4-2-14. ACCEPTANCE OF PROMOTION .....	27
CHAPTER V .....	28
RULES OF DISCIPLINE .....	28
5-1-0. APPLICATION OF DISCIPLINE.....	28
5-1-1. RESPONSIBILITY FOR DISCIPLINE.....	28
5-1-2. DISCHARGES, DEMOTIONS, OR SUSPENSIONS WITHOUT PAY.....	28
5-1-3. DEMOTIONS.....	28

CHAPTER VI .....	29
DISCIPLINARY APPEALS.....	29
6-1-0. INTRODUCTION.....	29
6-2-0. APPEAL PROCESS .....	29
6-2-1. REQUEST FOR APPEAL – TIME LIMIT.....	29
6-3-0. DISCIPLINARY ACTION / TERMINATION APPEALS.....	29
6-3-1. NOTICE OF APPEAL .....	29
6-3-2. RECEIPT OF NOTICE OF APPEAL.....	30
6-3-3. EXTENSION OF TIME .....	30
6-4-0. HEARING PROCEDURES ON APPEALS.....	30
6-4-1. PRE-HEARING CONFERENCE.....	30
6-4-2. PRE-HEARING MOTIONS.....	30
6-4-3. PRE-HEARING CONFERENCES.....	30
6-4-4. CONTINUANCE OF HEARING .....	31
6-4-5. CONDUCT OF HEARINGS .....	31
6-4-6. COMMISSION DECISIONS .....	33
6-4-7. HEARING TRANSCRIPT .....	34
6-4-8. WAIVER PROCEDURES .....	34
CHAPTER VII.....	35
PETITIONS .....	35
7-1-0. INTRODUCTION .....	35
7-1-1. PETITIONS IN GENERAL.....	35
7-1-2. PETITIONS OF THE EXAMINATION PROCESS.....	35
7-1-3. CIVIL SERVICE RULES AND REGULATIONS PETITIONS.....	35
7-2-0. PETITION PROCESS.....	35
7-2-1. FORM OF PETITION .....	35
7-2-2. FILING PETITION-TIME LIMIT.....	36
7-2-3. RECEIPT OF NOTICE OF PETITION .....	36
7-2-4. EXTENSION OF TIME .....	36
7-3-0. HEARING PROCEDURES ON PETITIONS .....	36
7-3-1. PROCEDURES FOLLOWED .....	36
7-3-2. FILING OF PETITION.....	36
7-3-3. OTHER RULES FOR PETITIONS .....	37
CHAPTER VIII .....	37
COMMISSION OVERSIGHT.....	37
8-1-0. OVERSIGHT PROCESS .....	38
8-1-1. INTRODUCTION.....	38
8-2-0. REQUEST TO INITIATE AN INQUIRY .....	38
8-3-0. OPEN MEETINGS.....	38
8-4-0. SUBPOENAS.....	38
APPENDIX “A” .....	39
APPENDIX “B” .....	40
APPENDIX “C” .....	41
APPENDIX “D” .....	43
APPENDIX “E” .....	45
APPENDIX “F” .....	47

# **SALT LAKE CITY CIVIL SERVICE COMMISSION RULES AND REGULATIONS**

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **1-1-0. INTRODUCTION**

State law permits Salt Lake City Corporation (the “City”) as a “City of the first class” to establish a Civil Service System for all employees in the Police and Fire Departments except the Police Chief, Fire Chief, Deputy Chiefs and Assistant Chiefs in the Police and Fire Departments [10-3-1001 et seq. U.C.A.].

The Police and Fire Chiefs may be appointed from the ranks of Civil Service. Deputy Chiefs and Assistant Chiefs shall be appointed from the ranks of the Civil Service. When a Deputy Chief or Assistant Chief is removed for non-disciplinary reasons, his or her term, if any, expires, or because the Police Chief or Fire Chief appoints a successor, he or she shall return to the Civil Service rank he/she held at the time of the appointment to Deputy Chief or Assistant Chief status based on accrued seniority. [10-3-1002 U.C.A.]

Those serving as Chief of the Police Department and Chief of the Fire Department are exempt from Civil Service Disciplinary Rules and Regulations and serve at the pleasure of the Mayor. The Deputy Chiefs and the Assistant Chiefs of the Police and Fire Department serve at the pleasure of the department Chiefs and are exempt from the Civil Service appeal process.<sup>1</sup>

The Civil Service Commission (the “Commission”) is comprised of three members appointed by the Mayor. Not all three may be from the same political party, nor may a member hold public office nor be a candidate for public office during his or her tenure with the Commission. Their terms are for six years, but they shall be appointed so the term of one of the members shall expire on the 30th day of June of each even-numbered year. If a vacancy occurs in the Commission, the Mayor shall appoint a replacement.

The Mayor may remove any Commissioner charged with misconduct, inability, or willful neglect of performance of the duties of the office. Such member is entitled, if desired, to be heard in his or her own defense by the Mayor. [10-3-1003 U.C.A.; 10-3-1004 U.C.A.]

Civil Service Rules and Regulations shall be printed by the Commission for distribution. Revisions will be distributed when adopted. [10-3-1006 U.C.A.]

---

<sup>1</sup> August 17, 2017 Section updated to correspond with changes made in 2012 to sections 1-1-0, 1-2-1.

## **1-2-0. CLASSIFIED POSITIONS**

### **1-2-1. POSITIONS INCLUDED IN CIVIL SERVICE**

The Fire and Police Chiefs shall appoint all Civil Service positions within their respective departments through the Civil Service system. All paid positions within both departments shall be considered to be under Civil Service, except Deputy Chiefs and Assistant Chiefs of both departments. [10-3-1001 U.C.A.; 10-3-1002 U.C.A.]<sup>2</sup>

### **1-2-2. GOVERNMENTAL REORGANIZATIONS**

Whenever, through reorganization of City government or assimilation of functions from another governmental entity by city government, positions are assigned to either the Fire or Police Departments for administration and supervision, all paid employees so affected shall become Civil Service employees [10-3-1002 U.C.A.] subject to appropriate eligibility requirements as approved by the Commission. Reassigned and assimilated positions are considered new employees as it relates to probation in section [3-2-1 PROBATION – ENTRY LEVEL].

Nothing in this section [1-2-2] will be construed to allow the intent of the Utah statutes and City Ordinances to be circumvented.<sup>3</sup>

### **1-2-3. EXCLUDED POSITIONS - RETURN TO CIVIL SERVICE POSITIONS**

Any person who was appointed from the Civil Service to the position of Chief, Deputy Chief, or Assistant Chief in the Police and Fire Departments shall be returned to his or her former Civil Service position when he or she is removed for non-disciplinary reasons, his or her term, if any, expires, or upon appointment of a successor. If no vacancy exists, others may be reduced to a previous rank in order that such restoration may take place. Reductions will be based upon seniority in the position.<sup>4</sup>

Seniority for purposes of this Section [1-2-3] shall mean length of service within the rank and shall include length of service in the excluded position.

## **1-3-0. CIVIL SERVICE COMMISSION**

### **1-3-1. CIVIL SERVICE COMMISSION - ORGANIZATION**

The Commission shall designate one of its members as Chairperson. The Chairperson will preside at all meetings of the Commission and perform all other duties that such position requires, or as may be established by the Commission. Appointment of a temporary Chairperson will be made by a quorum of the Commission to serve in absence of the chair. [10-3-1005 U.C.A.]

---

<sup>2</sup> March 16, 2017 Section updated to correspond with changes made in 2012 to sections 1-1-0, 1-2-1.

<sup>3</sup> September 21, 2017 Section updated to include assimilation from other governmental agencies.

<sup>4</sup> August 17, 2017 Section updated to correspond with Utah Code, U.C.A. 10-3-1002. Classified civil service -- Places of employment constituting classified civil service – Appointments to and from classified civil service.



The Commission may, upon concurrence of the City, name a City employee to serve as Secretary. The Secretary shall keep a record of all meetings of the Commission and its work, perform such other duties as the Commission may direct, and serve as the custodian of the minutes and records of the Commission.

Payment to the Commissioners for attendance at Commission meetings will be the responsibility of the City. Compensation shall be made in accordance with State law and City Code. [10-3-1004 U.C.A.; Salt Lake City Code 2.16.030]

### **1-3-2. CIVIL SERVICE COMMISSION - LEGAL COUNSEL**

Legal Counsel for the Commission may be provided, as necessary, by the Office of the City Attorney. When such representation is provided by the City Attorney, due care should be taken to avoid possible conflicts of interest. In cases of conflict of interest, the Commission in accordance with Salt Lake City Code Section 2.16.060 may retain independent counsel at such compensation as the Mayor may fix.

### **1-3-3. CIVIL SERVICE COMMISSION - MEETINGS**

The Commission meets at the direction of the Chairperson, and upon 24-hours' notice, as required by Utah law including statutes governing "open meetings". [52-4-6 U.C.A.] The agenda shall also be posted in compliance with "open meetings" law. [52-4-6 U.C.A.] Further, the Chief of the Police Department, the Chief of the Fire Department, and the City Attorney shall be given notice of any meetings of the Commission, along with a copy of the agenda.

The Commission shall have the authority, by a vote of two-thirds of the Commissioners, to close a meeting and to meet in executive session concerning matters permitted under Utah law, including but not limited to, discussions of the character, professional competence, physical and mental health of an individual, strategy sessions with respect to litigation or investigation regarding allegations of criminal misconduct. The names of the Commissioners voting to close a meeting and the reasons for holding a closed meeting shall be recorded in the minutes of the Commission. [52-4-4, 52-4-5 U.C.A.] If the Commission closes a meeting to discuss the character, professional competence, or physical or mental health of an individual, the Chairperson or the Commissioner acting as chair in the Chairperson's behalf, shall sign a sworn statement affirming that the sole purpose of closing the meeting was to discuss the character, professional competence, or physical or mental health of an individual. [52-4-7.5(1)].

If the Commission closes a meeting for any other reason, the Commission shall either tape record the closed portion of the closed meeting or keep detailed minutes that disclose the content of the closed portion of the meeting. Such tape recordings and written minutes of closed meetings are protected records under Title 62, Chapter 2, Government Records Access and Management Act. However, the tape

recordings and written minutes of closed meetings may be disclosed only pursuant to a court order as provided in Section [52-4-10 U.C.A.; 52-4-7.5(2)(a) and (b)].

#### **1-3-4. CIVIL SERVICE COMMISSION - QUORUM AND RULES OF ORDER**

Two (2) members of the Commission shall constitute a quorum for the transaction of business, and the concurring vote of two (2) members of the Commission is necessary to constitute an action, or decide an issue. [52-4-2 U.C.A.]

The Chairperson of the Commission shall determine the rules of order to be used in the conduct of the business of the Commission. The Chairperson may invoke Robert's Rules of Order any time it is considered convenient and appropriate, to maintain the proper order and decorum at any meeting or hearing.

#### **1-3-5. CIVIL SERVICE COMMISSION - REPORTS**

The Commission shall prepare an annual report for the Mayor each December and any special reports that the Mayor may request. [10-3-1013 U.C.A.]

#### **1-3-6. CIVIL SERVICE COMMISSION – DUTIES**

1. The Civil Service Commission shall have full charge of all examinations;
2. Establishing the classified Civil Service eligibility registers from which appointments and promotions shall be made for positions in the Police and Fire Departments by the appointing power thereof;
3. Making such rules and regulations as it may deem necessary for the carrying out of the powers conferred upon it by law;
4. Hearing and determining appeals of disciplinary terminations, demotions, or suspensions without pay which exceed three (3) days, or twenty four (24) working hours. [10-3-912 & 10-3-1012 U.C.A]; 2.16.050 Salt Lake City Code.

The Commission may request the City's Human Resources Department or others to develop and recommend eligibility criteria, conduct examinations, prepare eligibility lists, conduct investigations, prepare reports, or any other matter as appropriate. Unless otherwise requested by the Commission, the City Human Resources Department may, in carrying out such duties, consult with the affected Police or Fire department, collective bargaining representatives, or the City Attorney, as appropriate.

## **1-4-0. GENERAL PROVISIONS**

### **1-4-1. DISCRIMINATION IN CITY EMPLOYMENT**

Salt Lake City Code sections 2.53.035 and 10.04.060-070 outline procedures an applicant for employment or a candidate for promotion may follow if he or she believes he or she has been discriminated against. The Civil Service Commission does not hear, review, or determine grievances, complaints, or petitions regarding charges of discrimination based on race, color, national origin, sex, religion, age, honorable or general service in the United States uniformed services, sexual orientation, gender identity, or disability.

### **1-4-2. REPORTS TO THE COMMISSION**

In consideration of the Commission's responsibilities, and the necessity of keeping proper and updated records, the department Chiefs shall make reports to the Commission concerning:

1. Every office or position of employment created within their respective departments in order for the Commission to approve required testing procedures.
2. Every promotion.
3. Every probationary, provisional, or temporary appointment made.
4. Every refusal, or neglect, on the part of a person duly certified to accept an appointment.
5. Every suspension, without pay, greater than three (3) days or twenty-four (24) work hours.
6. Every demotion
7. Every retirement.
8. Every termination, separation and resignation.

## **1-5-0. ESTABLISHING RULES AND REGULATIONS**

### **1-5-1. ESTABLISHMENT OF RULES AND REGULATIONS**

The Commission may make all necessary rules and regulations to carry out the purposes of [U.C.A. Section 10-3-1001 et seq.] and for examinations, appointments and promotions. The consideration and adoption of such rules and regulations is a legislative function of the Commission. Such rules and regulations shall be adopted by the majority vote of the Commission in an open meeting, after review, and after the opportunity for comment has been extended to interested parties. The

Commission shall discuss any proposed rules and regulations in an open meeting unless Utah law allows the Commission to close the meeting.

#### **1-5-2. PUBLICATION OF RULES AND REGULATIONS**

The Commission shall cause the Civil Service Rules and Regulations to be compiled and available to Civil Service employees. They shall be republished, or revised, as needed. A copy of said Rules and Regulations shall be on file with the City Recorder's Office. [10-3-1006 U.C.A.]

The Commission may also adopt and publish interim orders. Such orders shall reflect changes in the Rules and Regulations, or temporary orders which will remain in effect until a permanent rule or modification can be enacted. Copies of interim orders are to be filed with the City Recorder's Office and available to Civil Service employees.

#### **1-5-3. SEPARABILITY OF PROVISIONS**

If any rule, regulation, subdivision, sentence, clause or phrase of these rules and regulations is, for any reason, held to be invalid, such decision shall not affect the remaining rules, regulations, subdivisions, sentences, clauses or phrases.

#### **1-5-4. CALCULATION OF TIME**

In calculating any period of time set out in these rules, the day of the act or event triggering the time calculation is not included. The last day of the period is included, unless it is a weekend or legal holiday, in which event the period runs until the end of the business of the next day after the weekend or holiday. For the purposes of time calculations under these rules and regulations, the end of the business day will be 5:00 p.m.

## **CHAPTER II**

### **ENTERING THE CIVIL SERVICE**

#### **2-1-0. INTRODUCTION**

Statutes of the State of Utah require that all applicants for employment under Civil Service be subject to examination. The examinations must be public, competitive, and administered without cost to the applicants. The examinations are for the purpose of determining the qualifications of the applicants for the position sought. Examinations must be job-related, practical and shall fairly test the fitness of the applicants to perform the essential functions of the position sought and shall include tests of physical qualifications and health, where appropriate. [10-3-1007 U.C.A.]

As required by the Americans with Disabilities Act (ADA), all medical examinations and inquiries must be kept in a locked cabinet or file separate from the general Civil Service personnel files as a separate confidential medical record, available only to persons designated access. Records of the Civil Service, which are private or protected as defined in the Government Records Access and Management Act, Title 63, Chapter 2 of the Utah Code Annotated (GRAMA) or any ordinance adopted pursuant to GRAMA, shall not be subject to disclosure unless otherwise required by law. In all cases when the Commission receives a request for release of Commission records the Commission will request the advice of the City Attorney prior to any response to the request. [10-3-1005 U.C.A.]

As a result of the competitive examination process, applicants are placed on an eligibility register.

#### **2-2-0. GENERAL REQUIREMENTS**

##### **2-2-1. GENERAL QUALIFICATIONS FOR APPLICANTS**

Anyone wishing to enter into the Civil Service must make an application and submit to a competitive examination for placement on an eligibility register. All applicants for entry-level positions must be at least eighteen (18) years of age, except persons applying for the position of Police Officer, who must be at least twenty-one (21) years of age, at the time of certification as a special function officer.<sup>5</sup> The Special Function Officer block is held during the first eight weeks of the police academy.

All Police Officer applicants for the Police Department must be citizens of the United States on the date of examination. All applicants for Fire Department positions must be legally authorized to work in the United States on the date of examination and throughout the duration of their employment.

---

<sup>5</sup> February 22, 2019 Section updated to match UT code 53-6-203 regarding age at time of certification.

The Commission may approve changes to any qualifications and requirements prior to the examination by modification of these rules, or by specification in the recruiting bulletins, or examination announcements.

The Commission may approve changes to any qualifications and requirements prior to examination by modification of these rules, or by specification in the recruiting bulletins, or examination announcements.

### **2-2-2. QUALIFICATIONS AND REQUIREMENTS FOR APPLICANTS**

Prior to examination for any position within the Civil Service, the Commission shall approve and announce the necessary minimum qualifications for the position. These qualifications may vary in content and substance between the departments, but shall reflect the essential functions of the job. Qualifications may include, but are not be limited to:

1. Education level or training;
2. Experience; and
3. Requisite knowledge, skills and abilities.

## **2-3-0. APPLICATIONS**

### **2-3-1. APPLICATIONS**

1. All persons applying for Civil Service positions must fully and accurately complete designated application forms and any additional requests for information. Failure to comply with these requirements may cause a rejection of the applications or termination of Civil Service employment. Any false or misleading information supplied by the applicant will be grounds for rejection of the application, disqualification from future applications, or termination upon discovery.
2. Applications for all Civil Service positions must be filed with and reviewed by a representative of the City's Human Resource Management office or the respective representative from the Police or Fire Department.

## **2-4-0. ENTRY-LEVEL EXAMINATIONS**

### **2-4-1. NOTICE OF EXAMINATIONS**

Examinations shall be scheduled and conducted as the Commission approves. Examinations may be given from time to time, and at the places designated in the examination notices. Applicants for entry-level positions will be given at least ten (10) business day's prior written notice in which to apply. Salt Lake City Human Resource Department may post or mail the notice.

The notice of the examination shall contain the date, time and place of the examination along with the closing date for applications to be filed. The eligibility requirements shall be specified in the notice of examination. The announcement of the examination shall specify the method and rating criteria as approved by the Commission.

The notice shall also include the examination methods to be used and, where appropriate, the weight to be given on each examination component toward the final score. The notice shall also contain information regarding methods for requesting reasonable accommodation in the examination process. The notice may also contain any other information that the Commission feels should be included.

The notice of examination is to be considered as the regulation approved by the Commission for the examination, and the minutes of the Commission shall reflect the directions relative to that examination process.<sup>6</sup>

#### **2-4-2. IDENTIFICATION FOR ADMITTANCE TO EXAMINATION**

Applicants may be required, when appearing to take an examination, to present proper identification, i.e., a valid driver's license, passport, military identification card or any other official document that includes their photograph for identification purposes.

All notices of the examination shall contain notice of this requirement.

#### **2-4-3. FAILURE TO COMPLETE AN EXAMINATION DUE TO DISQUALIFICATION OR POSTPONEMENT**

Failure of any applicant to appear and complete any examination upon proper notice may result in a forfeiture of the applicant's right to continue the examination process. Applicants who are unable to take any portion of the examination on the scheduled date may request a postponement from the department. All requests for postponement shall be submitted to the department in writing, at least ten (10) business days prior to the scheduled examination date.

If the postponement is not granted by the department, the applicant may petition the Commission in writing at least five (5) business days prior to the scheduled examination date. Any such postponement provided herein shall not affect the scheduled dates approved by the Commission for other applicants or the completion dates of the examination process.

After review of the applicant's petition, the Commission may approve a postponement of any portion of the examination, provided:

---

<sup>6</sup> August 17, 2017 Section updated to remove reference to promotional examination. Chapter 4 outlines all promotional examination procedures.

1. The applicant can objectively verify the circumstances that prohibit him/her from taking any portion of the examination.
2. A later examination has been scheduled, or is anticipated to be scheduled, within one (1) year of the initial examination.
3. The applicant can demonstrate to the Commission that the circumstances that prohibit him/her from taking any portion of the examination will likely be removed prior to the next scheduled examination.
4. The postponement will not result in administrative difficulties, or unfairly give advantage to the applicant over others also competing.

Postponement may be granted by the department, only upon approval by the Commission, after review of the petition. Nothing in this section shall be construed to allow the applicant to be hired without examination, or grant any right to the applicant for the postponement.

Applicants may request reasonable disability-based accommodation for the examination. Such requests shall be submitted to the department in writing as described in the job announcement at least ten (10) business days prior to the scheduled examination date. The department shall determine whether the requested accommodation is reasonable. If the department refuses to grant a reasonable accommodation, the applicant may petition the Commission in writing at least five (5) business days prior to the examination.

#### **2-4-4. CONTENT OF EXAMINATIONS**

Applicants for positions within the Civil Service shall be examined to determine the qualifications and fitness of the applicant for the position. [U.C.A. 10-3-1007] Examinations may consist of one or more of the following parts:

1. Written Tests:  
This part, when required, shall show the applicant's ability to learn and apply certain job-related functions and tasks.
2. Oral Interview:  
This part, when required, shall show if the applicant meets certain job-related criteria essential for success in such a position.
3. Performance Tests:  
This part, when required, shall include tests of performance or trade skills as needed to determine the ability and manual skills of competitors to perform the essential functions of work required.



Typing or data input tests required by the Commission are to be considered valid for a period of one (1) year from the date taken and will be accepted for placement on the eligibility register as long as all other qualifications are met.

4. Agility Tests:

This part, when required, shall include such tests of fitness and physical agility that are necessary for successful performance of the essential functions of the job.

The Human Resources Department, upon approval by the Commission may allow delayed completion of the agility test pursuant to Section 2-4-3 if an applicant has a verifiable illness or injury on the date of the examination. In these cases the Commission shall require the completion of the agility test prior to appointment.

5. Mental Tests:

This part, when required, shall include such tests of psychological and mental characteristics and fitness that are necessary for successful performance of the essential functions of the job.

6. Training and Experience:

This part, when required, shall include documentation of education and experience contained in the application form, or such supplementary data as may be required.

7. Background

This part is required and shall include examinations or investigations, including fingerprints and photographs. Findings averse to performing the job sought may be used to exclude applicants from further consideration.<sup>7</sup>

8. Other Examinations:

The Commission may approve such other job-related examinations as is appropriate for any position within the Civil Service. The addition of such examinations will be announced by the notices of employment opportunity and examination.

**2-4-5. CONDITIONAL OFFER - PRE-EMPLOYMENT EXAMINATIONS.**

After a conditional offer of employment is made but before employment begins, the department, with Commission approval, may require all applicants to undergo pre-employment examinations including:

---

<sup>7</sup> August 16, 2018 Section updated to move the background information from section 2-4-5 to section 2-4-4.

1. A medical examination, psychological examination and chemical screen:  
Applicants for any position may be required to undergo a medical examination, psychological examination and/or a chemical screen before employment begins and the department may condition the offer of employment on the results of the examination.  
.
2. Polygraph:  
This part, when required, will be administered through a qualified examiner.

No formal offer of employment may be made until after the results of the pre-employment examinations are reviewed and evaluated. Pre-employment inquiries made after such conditional offer must meet the following requirements:

- (a) All applicants for the position in question must be examined regardless of disability;
- (b) The results of any medical or psychological examination must be recorded on separate forms and kept confidential in a locked cabinet or file separate from the general personnel files; and
- (c) The conditional offer of employment may be withdrawn if the results of any pre-employment examination indicate that the applicant does not meet the physical standards, is found to have psychological traits or disorders that will likely preclude successful performance of the essential functions of the job, or does not meet the standards relating to alcohol and drugs pursuant to Salt Lake City Policy 3.01.01 and 3.05.06 and no reasonable accommodation will permit the applicant to meet the standards; or the results of any pre-employment examination indicate the existence of a condition that creates a direct threat to the safety of others, to the applicant or to property, and no reasonable accommodation will eliminate the risk or reduce it to an acceptable level.<sup>8</sup>

#### **2-4-6. MINIMUM GRADES AND WEIGHTS BY SECTION**

The Commission shall approve a minimum grade and weight for each examination section. Any applicant who fails to attain the minimum grade for a section shall be considered to have failed and shall not proceed further in the examination process.

#### **2-4-7. METHOD OF SCORING AND RANKING**

An applicant's final score will be obtained by adding the weighted numerically scored portions of the examination. In addition, a preference eligible veteran or

---

<sup>8</sup> August 16, 2018 Section updated to reflect correct Salt Lake City Policy numbers.

preference eligible spouse, as defined in Sections [71-10-2 of the U.C.A.], shall receive additional points consistent with Utah law. The final score will determine the rank order in which applicants appear on the eligibility register, with the applicant having the highest weighted score listed at the top of the register and all others listed in descending order.

#### **2-4-8. NOTIFICATION OF EXAMINATION RESULTS**

All applicants who complete the examination process will be notified in writing of the results of the examination, their final score, and the position attained on the eligibility register.

Likewise, any applicant who fails any portion of the examination, or are disqualified for any other reason shall be notified of such result in writing and shall be given notice of the right to petition the Commission.<sup>9</sup>

### **2-5-0. ELIGIBILITY REGISTERS**

#### **2-5-1. ELIGIBILITY REGISTERS**

An eligibility register shall be certified by the Commission for each Civil Service position. The register shall contain the terms of the duration of the register and the names of the applicants, in ranked order as determined by the results of the competitive examination.

Registers shall not be separated by gender, unless the position requires a gender distinction for a bona fide occupational reason. There shall be no notations on the eligibility registers that can be used contrary to the anti-discrimination provisions of these rules and regulations and applicable state and federal law.

1. The Commission may approve a continuous examination process to fill positions. If a continuous examination process is used, names may be added to the eligibility register upon completion of the proper examinations. Names added to any eligibility register will be integrated with the existing names on the basis of the final score, with the highest score listed at the top of the eligibility register, and the rest listed in descending order. Applicants may, upon request, be notified of their relative positions on the register. The register shall be open and available for inspection in the City's Human Resource Department, upon request of any interested person.
2. An applicant whose name is already on a current Civil Service eligibility register may retest for the same position under the following conditions:
  - (a) It has been at least six (6) months since the last time the applicant tested; and

---

<sup>9</sup> September 20, 2017 Section updated to be consistent with language changes made to rule 2-5-3 re: method of notification.

- (b) The person goes through the entire examination process. The position on the register of any applicant who has been retested shall be determined by the final score attained upon the most recently completed examination, whether higher or lower than the applicant's original or prior scores. A new term of eligibility will commence each time the applicant's name is entered on the register through retesting.

### **2-5-2. DURATION OF ELIGIBILITY REGISTER**

The duration of the eligibility register and the duration of eligibility for each applicant on the register shall be specified by the Commission at the time of placement on the register. The Commission may establish an eligibility register for any time period not to exceed two (2) years. Applicants who have failed to receive appointments at the end of the eligibility time period shall have their names stricken from the current register and can only be returned to the register through a competitive examination process.

### **2-5-3. REMOVAL FROM ELIGIBILITY REGISTER**

Applicants may have their names removed from any eligibility register, as determined by the Police or Fire Department and their Human Resources staff.<sup>10</sup>

The Commission authorizes the appropriate department or the assigned Human Resources staff to remove the name from the eligibility register for any of the following reasons:<sup>11</sup>

1. The applicant fails to report to a scheduled interview with the appropriate department Chief or his or her designee for the purpose of being offered employment or fails to report to or complete any pre-employment examination after a conditional offer of employment has been made.
2. The applicant fails to respond to a notice of the appropriate department, or Human Resources Staff within five (5) business days.<sup>12</sup>
3. The applicant declines an offer of employment.<sup>13</sup>

---

<sup>10</sup> March 22, 2018 Section updated to streamline the hiring process by updating the procedure for removing names from the eligibility registers

<sup>11</sup> March 22, 2018 Section updated to streamline the hiring process by updating the procedure for removing names from the eligibility registers.

<sup>12</sup> March 22, 2018 Section updated to streamline the hiring process by updating the procedure for removing names from the eligibility registers.

<sup>12</sup> March 22, 2018 Section updated to streamline the hiring process by updating the procedure for removing names from the eligibility registers.

<sup>13</sup> March 22, 2018 Section updated to streamline the hiring process by updating the procedure for removing names from the eligibility registers.

4. The applicant cannot be located, and has not provided the appropriate department or Human Resources staff with an updated address, email address and/or phone number.<sup>1415</sup>
5. The applicant fails any non-scored part of the examination process and is disqualified after placement on the eligibility register. This provision includes failing any psychological or medical examinations, physical agility, background examinations, or any other pass/fail part of the examination.

The Commission exercises the right to remove names for any other reason not specified above or any other reason deemed necessary by the Commission.

The Commission shall be notified of all candidates whose names have been removed from an eligibility register in the Commission's monthly meeting following the removal action. This notification will include the reason for removal and will be as an "Information Only" item on the agenda.

If an applicant's name is removed under this section, the applicant shall be notified in writing by the appropriate department or assigned Human Resources staff and shall be given notice of the right to petition the Commission as outlined in Chapter VII of these rules.<sup>16</sup>

The Commission may conduct such inquiry as necessary in considering petitions by applicants. If the Commission determines the petition to be meritorious, the Commission may authorize the reinstatement of the name on the eligibility register to the former position.

If an applicant's name is removed from the eligibility register for an entry-level position because the applicant failed any of the examinations provided in this section, and the applicant exercised or had the opportunity to exercise his or her right to petition the Commission, the applicant shall not be eligible to reapply or retest for the same position for a period of twelve (12) months from the date the applicant was notified, in writing, of the removal of the applicant's name from the eligibility register.

#### **2-5-4. CHANGES AND CORRECTIONS TO ELIGIBILITY REGISTERS**

The Commission may authorize any necessary corrections to eligibility registers whenever it determines an amendment to be appropriate based on specific facts or when the public will be served by such action.

---

<sup>14</sup> August 17, 2017 Section updated to reflect all notification options utilized by the Police and Fire departments.

<sup>15</sup> March 22, 2018 Section updated to streamline the hiring process by updating the procedure for removing names from the eligibility registers.

<sup>16</sup> March 22, 2018 Section updated to streamline the hiring process by updating the procedure for removing names from the eligibility registers

### **2-5-5. REVOCATION OF ELIGIBILITY REGISTER**

All names on the eligibility register resulting from an examination may be stricken and another examination ordered at any time the Commission determines it advisable to do so. All competitors in the first examination shall be given the opportunity to again compete. The names shall not be stricken except upon written notice to all persons mailed to the last known address whose position or status will be affected, and upon the reasons stated in a meeting called by the Commission for such purpose.

## **2-6-0. APPOINTMENTS**

### **2-6-1. APPOINTMENT FROM THE ELIGIBILITY REGISTER**

The appointing power shall fill all vacancies from a certified eligibility register and notify the Commission of the person(s) selected along with the date of the appointment. The eligibility register shall be utilized as follows:

1. If the appointing power needs to fill a position or positions, the appointing power shall notify the Commission, and the Commission shall, as soon as practical, certify to the appointing power the names of:
  - (a) Ten persons, if the position to be filled is entry level, or
  - (b) Five persons, if the position to be filled is other than entry level.
2. Persons certified under section (1) shall have the highest standing on the eligibility register, but a lesser number may be certified if the required number is not on the eligibility register.
3. If more than one position is available in the same department, the Commission shall also certify to the appointing power one additional name for each additional position to be filled.
4. The appointing power will select from the names certified.
5. All persons not appointed shall be restored to their relative positions on the eligibility register.
6. All persons who have been on the eligibility register for two (2) years without appointment shall be removed from the register and may be returned to it only upon regular examination. [10-3-2008 U.C.A., 10-3-1009 U.C.A.]

## **2-6-2. APPOINTMENT NOT FROM AN ELIGIBILITY REGISTER - TEMPORARY APPOINTMENTS FOR ENTRY LEVEL POSITIONS**

The department Chiefs may appoint any person to an entry level position for a temporary period only, without making such appointment from a certified Civil Service eligibility register.

Such appointments for entry level positions may only be for a period not to exceed one (1) month in the same calendar year. Under no circumstances may the department Chief permanently appoint anyone to a paid position unless such appointment has been made from a certified Civil Service eligibility register. Current eligibility registers may be used to select persons for such temporary appointments, but the appointment may not exceed the one (1) month provision. At the end of the temporary appointment, the appointee's name will be restored to the register, if appropriate, and such temporary appointment will not prejudice the eligibility for permanent appointment in the future. Time spent in a temporary appointment shall in no way be credited toward the probationary period required if the appointee is later permanently appointed to the position, nor shall it be taken into consideration in establishing and computing the person's seniority. [10-3-1011 U.C.A.]. Nothing in this section shall apply to existing employees temporarily acting out of class as a supervisor.<sup>17</sup>

## **2-6-3. APPOINTMENTS NOT FROM AN ELIGIBILITY REGISTER - REHIRED EMPLOYEES FOR CONDITIONS OTHER THAN LAY-OFFS**

Any employee who resigns from either the Fire or Police Department in good standing may be reinstated to their former position under the following conditions:

1. A current vacancy exists for the position being sought.
2. The resigned employee requests reinstatement within thirty six (36) months of resignation and is available for reinstatement at the time of the request.
3. In the event any employee resigns from either the Fire or Police Department and is approved for Long Term Disability, that employee has up to and including thirty-six (36) months to request to be reinstated to their former position.<sup>18</sup>
4. The resigned employee passes all appropriate examinations and tests, as approved by the Commission, prior to reinstatement.
5. The resigned former sworn police employee must be Utah POST certified, prior to reinstatement.

---

<sup>17</sup> September 21, 2017 Section updated to include entry level position language.

<sup>18</sup> July 20, 2017 Section updated to correspond with time frame in 2-6-3 item 2.

If reinstated, the employee must serve a probationary period specified by the Commission.

If a former sworn police employee requests reinstatement within one (1) year, the employee will receive their original IBM#. In addition, the employee will receive an adjusted anniversary date, minus the time they were gone.

If a former sworn police employee requests reinstatement between one (1) year to three (3) years, the employee will receive a new IBM# and their seniority begins anew.

No former employee may be reinstated to a supervisory or promoted position. [10-3-1008 U.C.A.]

Nothing in this section guarantees that an employee who requests reinstatement will be reinstated by the respective department. The Police and Fire Chiefs shall have complete discretion in deciding whether to recommend to the Commission the reinstatement of an employee who has resigned from the Police or Fire departments.



## **CHAPTER III**

### **PROBATION AND CONTINUED EMPLOYMENT**

#### **3-1-0. INTRODUCTION**

There are several types of probation that are established by these regulations. Among them are the initial probationary period for a new employee, the probationary period following promotion, and the probationary period for a reinstated employee. The criteria of each are outlined.

#### **3-2-0. PROBATION - ENTRY LEVEL**

##### **3-2-1. PROBATION - ENTRY LEVEL**

The probationary period shall be used for training and careful monitoring of the ability of the applicants to perform the essential functions of the job and to successfully adjust to the existing working conditions. A probationary period must be successfully completed by all applicants for positions within the Civil Service.<sup>19</sup>

The probationary period for Firefighter, Police Officer or other specific Civil Service positions as designated by the Commission is twelve (12) months.<sup>20</sup> The probationary period for all other Civil Service Employees classified as full-time employees per City policy is six months or the length of time designated when the position is open.

Civil Service employees who are classified as part time or seasonal employees pursuant to City policy shall remain probationary for the duration of their employment.

##### **3-2-2. TERMINATION DURING PROBATION - ENTRY LEVEL**

Probationary employees, including all Civil Service employees classified as part-time or seasonal employees pursuant to City policy, are “at will” employees and may be terminated at the sole discretion of the department Chief, without further review of the Commission.

#### **3-3-0. PROBATION AFTER PROMOTION**

##### **3-3-1. PROBATION - PROMOTIONS**

Whenever any member of the Civil Service is promoted to a position, there shall be a probationary period to evaluate the employee’s ability to perform the essential job functions of the new position. The probationary period of six (6) months must be

---

<sup>19</sup> June 21, 2018 Section Updated to clarify probationary period.

<sup>20</sup> June 21, 2018 Section Updated to clarify probationary period.

satisfactorily completed by the employee before the promotion becomes a non-probationary position. Any employee who fails to complete his or her probationary period in a promoted position shall be returned to his or her position prior to the promotion.

### **3-4-0. LEAVES OF ABSENCE AND LAY-OFFS**

#### **3-4-1. LEAVE OF ABSENCE**

The department Chief, with notice to the Commission, may grant a leave of absence to any employee of the Police or Fire Department. Such a leave of absence shall not exceed twelve (12) consecutive calendar months.

Upon return from the leave, the employee may be returned to a vacant position in the highest ranking position he/she held when taking the leave of absence if a position vacancy exists on the date of the return, if the employee meets the minimum qualifications for the position, and if the appropriate department Chief approves the placement.

If no such position vacancy exists, or the department Chief does not appoint the employee to the vacancy, the employee may be returned to a lower rank for which he/she is qualified. The employee shall be considered eligible for promotion and shall be placed at the top of the current eligibility register for the position he/she held when taking the leave of absence, for the duration of that eligibility register.

If no such eligibility register exists, the employee shall be considered eligible for promotion to the next highest rank he/she held when taking the leave of absence until an eligibility register is certified. When a new eligibility register is certified, the employee shall be placed at the top of the newly certified eligibility register for the duration of that eligibility register.

Nothing in this section guarantees that the employee will be appointed to a vacancy from the eligibility register. The appointing power shall fill all vacancies from a certified eligibility register using the discretion and authority stated in Salt Lake City Civil Service Commission Rule & Regulation 2-6-1.

In cases of Military Leave, the City shall comply with all state and federal laws governing such leaves of military service.

#### **3-4-2. EMPLOYEES WHO ARE LAID OFF OR REDUCED IN RANK FOR ANY REASON NOT THE FAULT OF THE EMPLOYEE**

Employees who are laid off or reduced in rank because of a reduction in force, reorganization, or for any other reason not the fault of the employee, may, if qualified, bump the least senior, full-time employee from a job position that the laid off employee previously and actually held within his/her department.

Any City employee who has been laid-off or reduced in rank shall be placed at the top of any existing eligibility register for any position he/she previously and actually held before the lay-off or reduction in rank. If any laid off City employee satisfies the qualifications for an existing eligibility roster, the employee shall be given the opportunity to meet the requirements necessary to be placed on that eligibility roster. If the laid off City employee satisfies the requirements to be placed on an eligibility roster, the employee shall remain on that eligibility roster for a period of twelve (12) months or the duration of the eligibility roster, whichever is longer.

Prior to appointment to a position, the employee must meet the minimum qualifications and successfully complete any other requirements of the position, as certified by the Civil Service Commission. Employees who are placed in a new position must begin a new probationary period upon reappointment. Employees exercising rights under this rule must notify the Human Resources Department within ten (10) business days of receiving notification that they are being laid off or reduced in rank.

Nothing in this section guarantees the employee will be appointed to a vacancy from the eligibility register. The appointing power shall fill all vacancies from a certified eligibility register using the discretion and authority stated in Salt Lake City Civil Service Commission Rule & Regulation 2-6-1.

### **3-5-0. PROBATION AFTER REINSTATEMENT**

#### **3-5-1. PROBATION - REINSTATEMENT**

Whenever a resigned employee is reinstated to their former position, there shall be a probationary period to evaluate the employee's ability to perform the essential job functions of the new position. The employee must satisfactorily complete the probationary period of ninety (90) days before the reinstatement becomes a non-probationary position.

## **CHAPTER IV**

### **PROMOTIONS**

#### **4-1-0. INTRODUCTION**

All promotions within the Civil Service shall be made on the basis of:

1. Ascertained merit.
2. Seniority in service.
3. Standing obtained by competitive examination.

The weight given to each of the above criteria shall be approved by the Commission.

Whenever possible, all vacancies shall be filled by promotion of members of the next-lower rank, who are already Civil Service employees and who submit themselves for examination and promotion. [10-3-1010 U.C.A.]

Employees temporarily acting out of class shall not be considered promotions; however, employees acting out of class shall be compensated as per applicable Memorandum of Understanding or Compensation Plan.<sup>21</sup>

#### **4-2-0. GENERAL PROVISIONS**

##### **4-2-1. PROMOTIONS - GENERAL PROVISIONS**

Promotions are based on a substantial change of duties and the exercise of supervisory or administrative skills. They may also require substantially different training or skills.

The positions within the Civil Service that are considered to be promotions are created by the department Chiefs with the approval of the Commission. The classifications and salaries of all such positions are determined by the ordinances and policies of the City and are outside the jurisdiction of the Commission. Vacancies occurring in any of these positions must be filled in accordance with the rules and regulations of the Commission.

Effective 1 January 2006, for promotion to the rank of Captain in the Fire Department, a Firefighter will not be eligible to test for promotion until he or she

---

<sup>21</sup> September 21, 2017 Section updated to clarify the position of employees temporarily acting out of class.

has at least ten (10) years of service as a Firefighter with the Salt Lake City Fire Department<sup>22</sup>

Effective 1 January 2006, for promotion to the rank of Battalion Chief in the Fire Department, a Fire Captain must prior to testing for promotion have served a minimum of two (2) years as a Captain in the Salt Lake City Fire Department *and* have completed fifteen (15) years of service as a Firefighter/Captain with the Salt Lake City Fire Department

#### **4-2-2. CONTENT OF EXAMINATIONS - PROMOTIONS**

All applicants for promotion must successfully pass an examination that is job related and fairly tests the abilities of the applicants to perform the essential duties required of the position. The examination may consist of the following:

1. Written Test:  
This part, when required, shall include a written demonstration designed to show the applicant's knowledge of and familiarity with the essential duties of the position for which the examination is given.
2. Oral Interview:  
This part, when required, may test for the same factors as the written test, but in addition may also test the skill in communication, ability to deal with others, the ability to properly represent the City and the department, or any other job-related qualifications as approved by the Commission.
3. Performance Test:  
This part, when required, shall include such tests of performance or trade as is necessary to determine the ability and skills required to satisfactorily perform the essential job duties.
4. Oral Boards:  
This part, when required, may be used in place of, or in addition to, other testing methods such as written examinations. It may also be used to assist in determining the ascertained-merit portion of the testing process. When used for determining ascertained-merit, the oral boards may be comprised of members from outside or inside the department.
5. Assessment Centers:  
This part, when required, shall be used in place of, or in addition to, other testing methods. This technique may also be used to assist in determining the ascertained-merit portion of the testing process. The Commission shall approve the contents of such assessment centers and shall approve the use of qualified assessors from outside or inside the department.

---

<sup>22</sup> August 16, 2018 Updated section to reflect a standard for the years of service requirement and removed education component

6. Other Examinations:  
The Commission may approve any other examination method to test applicants for promotions as the department may determine appropriate.
7. Promotional Ratings:  
Promotional ratings used to calculate ascertained merit are designed and used as indicators of how applicants are likely to perform in the new positions. Such ratings measure attributes necessary for success in the promoted position, which is often supervisory in nature. They do not necessarily indicate the ability of the individual in the present classification and are separate and distinct from the annual performance evaluations. Such ratings are used, alone or as a part of a larger process, to determine rankings on the ascertained-merit portion of the promotional process. Promotional ratings do not require remedial action to correct deficiencies for the purpose of continuing employment. The correction of such deficiencies is optional and serves only to increase the competitive position of the applicant on future examinations.

The costs for administering such tests shall be the responsibility of the department involved.

#### **4-2-3. SENIORITY IN SERVICE - PROMOTIONS**

For the purposes of promotions to sworn positions within the Police Department, seniority shall be defined as the length of service as a sworn officer in the current rank in the department.

For the purposes of promotions to sworn positions within the Fire Department, seniority shall be defined as the length of service as a sworn officer in the department.

For the purposes of promotions to civilian positions within the Police and Fire Departments, seniority shall be defined as length of service in a civilian capacity in the current rank with the respective department.

The periods in which the employee terminated employment or was on an approved leave of absence with the Salt Lake City Police or Fire Department shall not be counted as time in service. Authorized military leave shall be construed as time in service. Each department shall establish a written policy addressing how it will calculate the seniority of an employee who has been demoted. Each department shall submit any such policy for the Commission's approval prior to implementing the policy and the department shall not change any such policy absent Commission approval.

#### **4-2-4. NOTICE OF PROMOTIONAL EXAMINATION**

The Commission shall give notice of any promotional examination by posting the notices in the appropriate department. The notices shall be posted at least twenty (20) business days prior to the date of the examination.

#### **4-2-5. CONTENT OF PROMOTIONAL NOTICES**

The notice of the promotional examinations shall contain the date, time and place of the examination along with the closing date for applications. The eligibility requirements shall be specified in the notice of examination.

The Commission shall approve the ratings to be used and the criteria for the rating prior to the announcement of the promotional examination. The announcement of the examination shall specify the method and rating criteria as approved by the Commission.

The notice shall also indicate the examination methods to be used and where appropriate, the weight to be given on each examination component toward the final score. The notice shall also contain information regarding methods for requesting reasonable accommodation in the examination process. The notice may also contain any other information that the Commission feels should be included.

The notice of examination is to be considered as the regulation approved by the Commission for the examination, and the minutes of the Commission shall reflect the directions relative to that examination process.

#### **4-2-6. APPLICATION FOR PROMOTIONAL EXAMINATION**

All qualified persons who wish to compete for promotions shall make application on the forms approved by the Commission within the time period specified in the notice.

Failure to make application by the deadline shall disqualify the employee from taking the promotional examination.

Any member of the Civil Service is not eligible to participate in a promotional process, if the employee has been subject to discipline within the previous twelve (12) months prior to the application date that resulted in either: 1) a demotion; or 2) suspension without pay of one or more regular scheduled shifts. In the event an appeal of a disqualifying disciplinary action is pending, the applicant may participate in the evaluation process. However, the applicant will not be eligible for promotion until the appeal is adjudicated and the discipline is overturned. If the discipline is upheld, the applicant will be excluded from the evaluation process or removed from the eligibility register.

#### **4-2-7. CUT-OFF LEVELS AND METHODS OF SCORING AND RANKING**

After scoring written examinations and any other examination phases approved by the Commission, the Commission may approve a cut-off level to exclude low scoring applicants from further consideration. The Commission is not required to allow the excluded applicants to participate in other phases of the examinations, such as oral boards or assessment centers.

An applicant's final score will be obtained by adding the weighted numerically scored portions of the examination. The final score will determine the rank order in which applicants appear on the eligibility register, with the applicant having the highest weighted scores listed on the top of the register and all others listed in descending order.

#### **4-2-8. PROMOTIONAL ELIGIBILITY REGISTERS**

Upon completion of the examination process, an eligibility register of all ranked applicants shall be prepared. After review, the Commission shall certify the register as the current eligibility register from which future promotions will be made for the position tested. The Commission shall approve the term for which the register is adopted, and designate the expiration date. No promotional register shall be established for a period of more than two (2) years.<sup>23</sup>

#### **4-2-9. NOTIFICATION OF PROMOTIONAL EXAM RESULTS**

Upon certification by the Commission, all ranked applicants will be notified of their ranked position on the eligibility register and the expiration date of the register. All applicants who failed to qualify will also be notified.

#### **4-2-10. CHANGES AND CORRECTIONS OF ELIGIBILITY REGISTER**

The Commission may authorize any necessary corrections to eligibility registers whenever it determines an amendment to be appropriate based on specific facts or when the public will be served by such action.

#### **4-2-11. REVOCATION OF ELIGIBILITY REGISTER**

All names on the eligibility register resulting from an examination may be stricken and another examination ordered at any time the Commission determines it advisable to do so. All competitors in the first examination shall be given the opportunity to again compete. The names shall not be stricken except upon written notice to all persons mailed to the last known address whose position or status will be affected, and upon the reasons stated in a meeting called by the Commission for such purpose.

---

<sup>23</sup> July 20, 2017 Section updated to reflect the removal of the language relating to Police Sergeant Candidates taken from the promotional registrar for early entrance into a police Sergeants training program.



#### **4-2-12. DURATION OF PROMOTIONAL ELIGIBILITY REGISTERS**

Any eligibility register for promotion into positions within Civil Service will expire whenever the list is exhausted, on the date approved by the Commission for its expiration, or by order of the Commission. Whenever the eligibility register contains less than five (5) eligible names, the Commission may, upon request of the department Chief, approve a new examination to be given. Upon adoption of a new eligibility register, all previous registers shall expire.

#### **4-2-13. SELECTION FOR PROMOTION**

The department Chief shall select for promotion one person from the top five (5) names on the eligibility register for each position to be filled, and shall notify the Commission of the selection. Persons who are denied promotions in violation of a provision of this Chapter IV may petition the Commission. <sup>24</sup>

#### **4-2-14. ACCEPTANCE OF PROMOTION**

Any applicant who is selected for promotion must indicate acceptance of the position to the department Chief within ten (10) business days after receiving notification of selection. Failure to accept within the ten (10) business day period shall result in forfeiture of the applicant's place on the eligibility register unless waived by the Commission.

The Chief may grant an extension of the time when it is determined in the best interest of the department to do so. Such extension shall not exceed twenty (20) business days. If a waiver is requested, the request must be made to the Commission by the Chief before the expiration of the ten (10) business days.

---

<sup>24</sup> July 20, 2017 Section updated to reflect changes noted in foot note for section 4-2-8.

## **CHAPTER V**

### **RULES OF DISCIPLINE**

#### **5-1-0. APPLICATION OF DISCIPLINE**

##### **5-1-1. RESPONSIBILITY FOR DISCIPLINE**

The basic responsibility for maintaining and administering discipline belongs to the department Chief. The department Chief, as granted by law, has the authority to suspend, without pay, any subordinate whenever the good of the department demands it. Suspensions with pay or suspensions without pay for a period not to exceed three (3) working days or twenty four (24) work hours, are not subject to appeal before the Commission. [10-3-912 U.C.A.]

##### **5-1-2. DISCHARGES, DEMOTIONS, OR SUSPENSIONS WITHOUT PAY**

All discharges, demotions, and suspension without pay of more than three (3) working days or twenty four (24) working hours are subject to the timely appeal to the Commission as provided in these regulations.<sup>25</sup>

##### **5-1-3. DEMOTIONS**

The Commission finds that any disciplinary action which constitutes a permanent demotion, as from Sergeant to Police Officer or from Fire Captain to Firefighter, constitutes a "removal from office" in that the person subject to such a demotion has been effectively removed from a previously held office, as designated by the prior rank. Such demotions are therefore subject to grievance appeal review by the Commission.

---

<sup>25</sup> August 17, 2017 Section updated to coincide with section 6.

## **CHAPTER VI**

### **DISCIPLINARY APPEALS**

#### **6-1-0. INTRODUCTION**

Utah law requires the Commission to hear appeals for any “removal from office” (discharge or demotion in the Fire or Police Departments), or suspensions without pay of more than three (3) working days or twenty-four (24) hours. [U.C.A. Sections 10-3-1012 and 10-3-912] When such appeals are filed, the Commission has the authority to hear the evidence and make a determination relative to the discharge or suspension. The Commission’s determination may be appealed to the Court of Appeals by either the City or the employee. [U.C.A. Section 10-3-1012.5] The standard for review is whether the Commission abused its discretion or exceeded its authority. [U.C.A. Section 10-3-1012.5]

#### **6-2-0. APPEAL PROCESS**

##### **6-2-1. REQUEST FOR APPEAL – TIME LIMIT**

All requests for appeals must be in writing, addressed to the Commission, and filed with City Records Office Located in room 415, City and County Building. Depending on the manner of delivery of the decision or action being appealed, all requests for appeal must be filed as follows: (a) within five (5) business days of the date the decision or action was delivered to the person requesting the appeal or (b) within eight (8) business days of the date the decision or action was mailed and postmarked by the United States Postal Service to the person requesting the appeal. An appeal is considered to be filed on the date it is postmarked by the United States Postal Service.<sup>26</sup>

#### **6-3-0. DISCIPLINARY ACTION / TERMINATION APPEALS**

##### **GENERAL PROVISIONS**

##### **6-3-1. NOTICE OF APPEAL**

An employee filing an appeal must provide all of the information requested on the form attached as Appendix “C.” The form will be available at the City Recorder Office located at 451 South State Street, rm415 Salt Lake City, Utah and on the City’s Internet site.

The City Records office will promptly provide a copy of the appeal to the relevant Chief and the City Attorney’s office.

---

<sup>26</sup> August 17, 2017 Updated as per Hollenbach Court of Appeals decision.

The Chief or their designee must provide all of the information requested on the form attached as Appendix “D” to the Secretary of the Commission within fourteen (14) business days of the date the appeal is filed.

At its next regularly scheduled meeting, the Commission will decide if it has jurisdiction to hear the appeal.<sup>27</sup>

#### **6-3-2. RECEIPT OF NOTICE OF APPEAL**

If the Commission assumes jurisdiction of an appeal, the Secretary of the Commission will notify the employee filing the appeal of the place, date and time of any Pre-Hearing conference or appeal hearing.

#### **6-3-3. EXTENSION OF TIME**

The Commission may extend the time limitations established by these Rules. The Commission may initiate such action, on its own whenever it is appropriate to do so. However, the Commission may not extend the time for an employee to file an appeal.

### **6-4-0. HEARING PROCEDURES ON APPEALS**

#### **6-4-1. PRE-HEARING CONFERENCE**

The Commission may schedule a pre-hearing conference with the employee filing the appeal and the employee’s Chief or Chief’s representative to discuss the timing and conduct of the appeal hearing.

#### **6-4-2. PRE-HEARING MOTIONS**

Either party may file motions to the Commission before the pre-hearing conference which relate to the issues presented in the appeal.

#### **6-4-3. PRE-HEARING CONFERENCES**

A pre-hearing conference is designed to ensure the speedy resolution of the appeal. At the pre-hearing conference, the Commission may:

- (a) Hear argument and rule on any motions;
- (b) Determine the issue or issues which will be heard;
- (c) Require each party to identify any witnesses who will be called;
- (d) Require each party to identify any documents which may be used;
- (e) Determine if there are any undisputed facts which do not need to be presented by testimony;

---

<sup>27</sup> August 17, 2017 Section updated to correspond with current city appeal filing processes.

(f) Schedule the hearing; and

(g) Decide any other issues needed to ensure proper resolution of the appeal.

#### **6-4-4. CONTINUANCE OF HEARING**

The Commission may, on its own motion, continue the pre-hearing conference or the hearing. Continuances requested by a party will not be granted without a showing of good cause or by mutual agreement with the other party.

#### **6-4-5. CONDUCT OF HEARINGS**

1. Hearing Requirements.

All parties must be provided copies of all evidence considered by the Commission. All parties must be given the opportunity to cross examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal. The Commission must address the factual and legal contentions raised by the parties if necessary to resolve the appeal.

2. Rules of Evidence.

The Commission conducts its hearings with appropriate formality and decorum in order to ensure that the due process rights of all parties are protected. The Commission uses the *Utah Rules of Evidence* and *Utah Rules of Civil Procedure* as guidelines during hearings. The Rules are not strictly followed or applied.

3. Additional Issues.

Upon reasonable justification, additional issues not presented in the forms (Appendix "C" and Appendix "D") or at the pre-hearing conference may be verbally raised at the time of the hearing; however, the opposing party will be allowed an extension of time, if necessary, in order to prepare a response to the additional issues.

4. Order of Presentation - Burden of Proof.

The City shall present its case first. The City has the burden of proof on whether the facts support the charges and whether the facts support the proportionality of the discipline imposed. If the employee challenges the consistency of the discipline imposed, the employee bears the burden of proof on that issue.

5. Open Meetings.

Commission hearings will comply with the Utah Open and Public Meetings Act.

6. Subpoenas.

- a) Parties may request the Commission to authorize and issue subpoenas to compel witness' testimony or request relevant written documentation.
  - i. After receiving a proposed subpoena from a requesting party, the Commission may authorize a subpoena.
  - ii. Before the subpoena is issued, the attorney acting as counsel for the Commission must approve the subpoena to affirm the subpoena is an appropriate use of the Commission's power. If there is not an attorney acting as counsel for the Commission then the office of the City Attorney must approve the subpoena.
  - iii. The Commission shall then issue the subpoena. The Secretary of the Commission must keep a record of the date of issuance and the proof of return.
  - iv. The requesting party must make his/her own arrangements for service of the subpoena and is responsible for the payment of all costs of service and witness fees associated with the authorized subpoena [City Code 2.59.070, 2.59.080]. The requesting party must return proof of service to the Secretary of the Commission and leave a copy of the subpoena with the person upon whom it is served.
- b) Any request for a subpoena must be made at least thirty (30) calendar days before a scheduled hearing. Subpoenas shall be issued at least ten (10) business days prior to a scheduled hearing or appearance unless good cause is shown for a shorter period. <sup>28</sup>

7. Witnesses.

The Commission may invoke the exclusionary rule for witnesses. However, one department representative will be allowed to remain present at all times.

8. Exhibits.

A final exhibit list must be submitted by each party at the pre-hearing conference, but not later than thirty (30) calendar days prior to the hearing date, whichever comes first. Each party must submit the final exhibit list to the Commission and to the other party. Each party must submit six (6) copies of the exhibits to be distributed as follows: one copy for each Commission member and their legal counsel, one copy for opposing counsel and the original/copy for the record.

9. Objections.

During the hearing, the Commission will entertain objections at the time they occur and will rule either to sustain or overrule the objections. Because the hearings are either recorded or transcribed by a court reporter, a ruling to "strike an answer" will signify that the Commission will not consider that

---

<sup>28</sup> August 17, 2017 Section updated to correspond with current Commission subpoena serving process.

evidence in reaching its decision. The request and answer, however, will not be removed from the recording or from the transcript.

10. Standard of Review.

The standard of “substantial evidence” shall apply to hearings before the Commission. Substantial evidence is that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion.

In disciplinary appeals, the Commission must make the following two inquiries:

- (a) Do the facts support the charges made by the department?
- (b) If the facts support the charges, is the sanction so clearly disproportionate to the charges as to amount to an abuse of discretion?

The Commission only has the authority to uphold or reverse the department head’s decision in disciplinary appeals.

11. Post-Hearing Outlines.

When needed, the Commission may request that the parties submit post-hearing outlines or briefs on specified legal issues.

**6-4-6. COMMISSION DECISIONS**

1. Written Decisions.

Following the hearing, the Commission shall meet in a duly noticed, closed meeting to deliberate. The Commission shall vote on any decision in open session. The ruling of the Commission shall be based on a majority vote of the members. In disciplinary appeals, the written Findings of Fact, Conclusions of Law and Order shall be prepared by the Commission. The Commission may order the prevailing party to prepare a draft of a decision of Findings of Fact, Conclusions of Law and Order to assist the Commission in preparing its final decision and order. If so ordered, the prevailing party shall submit the proposed order to the opposing party and give the opposing party seven (7) calendar days to either approve the order as to form or object. Any objections to a proposed order must be in writing and submitted to the Commission and the opposing party within seven (7) calendar days of receiving the proposed order.

2. Distribution of Decisions.

The Commission will not make its decisions public unless otherwise required by the Government Records Access and Management Act – Title 63 Chapter 2

of the Utah Code. A copy of the Commission's decision shall be distributed to the parties by the Secretary of the Commission.

The Commission's finding and decision shall be certified to the head of the department from whose order the appeal is taken. A copy will also be mailed by certified mail to the employee filing the appeal.

Each Commission finding and decision will be dated and served to all parties.

#### **6-4-7. HEARING TRANSCRIPT**

1. Recording or Transcript of Meeting.

A recording or a transcript prepared by a certified court reporter of the hearing shall be kept on file in the Commission's office. For any preliminary meetings, including pre-hearing conferences, the Commission may make an appropriate record.

2. Copy of Recording or Transcript.

The Commission will provide, upon request, a copy of the hearing recording or a transcript to either party. The requesting party shall bear any cost of producing the recording or transcript for review.

3. Disclosure.

The public may inspect recordings or transcripts of a closed hearing. Such records may be inspected only in accordance with the Government Records Access and Management Act.

#### **6-4-8. WAIVER PROCEDURES**

Waiver by Stipulation of the Parties.

The parties to an appeal may, by written stipulation, waive or modify any or all of the procedures provided herein, subject to approval by the Commission.



## **CHAPTER VII**

### **PETITIONS**

#### **7-1-0. INTRODUCTION**

##### **7-1-1. PETITIONS IN GENERAL**

An employee who believes that the employee is aggrieved by the violation of a provision of these Rules and Regulations or of U.C.A. Section 10-3-1001 et seq. for which an appeal is not authorized pursuant to U.C.A. Section 10-3-1012 may file a petition with the Commission as provided in this Chapter.

The Commission's decision on a petition is a quasi-judicial action. A petitioner may not combine a request for a rulemaking and a petition in a single proceeding, i.e. a petitioner may not request the Commission to adopt a new or revised rule and then apply it to the petitioner's pre-existing factual situation. If there has been no violation of the Commission's rules and regulations or U.C.A. Section 10-3-1001 et seq., the Commission will not take any action.

##### **7-1-2. PETITIONS OF THE EXAMINATION PROCESS**

Petitions of the examination process at entry-level shall not interfere with the department's ability to make job offers to otherwise qualified individuals. Applicants whose petitions are successful may be restored to an appropriate position on the eligibility register as determined by the Commission.

The appropriate department or assigned Human Resources staff will include the applicant's petition rights, timeframe for filing, and include a copy of the Appendix E form the applicant will use to file a petition if an applicant is removed from an eligibility register.<sup>29</sup>

##### **7-1-3. CIVIL SERVICE RULES AND REGULATIONS PETITIONS**

The Commission may entertain petitions concerning the validity of the Civil Service Rules and Regulations and may waive certain Civil Service requirements, as appropriate.

#### **7-2-0. PETITION PROCESS**

##### **7-2-1. FORM OF PETITION**

An Applicant or employee filing a petition must fill out *The Request for Petition Hearing Before the Salt Lake City Civil Service Commission* form located in Appendix E of these

---

<sup>29</sup> April 19, 2018 Section updated to include language detailing the process for submitting a petition.

rules. The form is also available at the City Recorder's Office located at 451 South State Street, Room 415, Salt Lake City, UT and on the City's internet site.<sup>30</sup>

#### **7-2-2. FILING PETITION – TIME LIMIT**

All petitions must be in writing, addressed to the City Recorder's Office, and must be received by the City Recorder's Office within fourteen (14) calendar days of the date the challenged action or decision occurred.<sup>31</sup>

#### **7-2-3. RECEIPT OF NOTICE OF PETITION**

Upon receipt of a notice of petition, the City Recorder's Office shall endorse upon the notice the date and time received. If the Commission assumes jurisdiction, the City Recorder's Office shall provide the applicant notification of the place, date and time the appeal will be heard.<sup>32</sup>

#### **7-2-4. EXTENSION OF TIME**

When either the petitioning party or the department Chief can show good cause, the Commission may extend the time limitations established by these regulations, or take such other action as is in the best interest of the parties involved to obtain a fair and impartial hearing, except with respect to Rule 7-2-1. The Commission may initiate such action, on its own, whenever it is appropriate to do so.

### **7-3-0. HEARING PROCEDURES ON PETITIONS**

#### **7-3-1. PROCEDURES FOLLOWED**

Unless otherwise ordered by the Commission, petitions shall be reviewed and heard by the Commission according to the rules provided herein.

#### **7-3-2. FILING OF PETITION**

1. Petition Form

- (a) With the notice of petition, filed pursuant to Rule 7-2-0 and of these rules, the petitioning party ("Petitioner") must complete and file the form, a copy of which is attached as Appendix "E". The form will be available at the City Recorder's Office, 451 South State Street, Salt Lake City, Utah.
- (b) A copy of the appropriate form filed by the Petitioner shall be delivered to the opposing party by the City Recorder's Office.
- (c) After receipt of Petitioner's form, the responding party ("Respondent"), within ten (10) working days, must complete and file

---

<sup>30</sup> April 19, 2018 Section updated to provide detail as to what is needed for a petition.

<sup>31</sup> September 21, 2017 Section updated to correspond with language used for appeals.

<sup>32</sup> September 21, 2017 Section updated to correspond with language used for appeals.

with the City Recorder's Office a form, a copy of which is attached as Appendix "F".

At some time prior to the hearing, during a meeting of the Commission, the Commission shall determine whether or not the Commission has jurisdiction over the petition and shall schedule a pre-hearing conference and hearing.<sup>33</sup>

### **7-3-3. OTHER RULES FOR PETITIONS**

In all other respects, the applicable rules for petitions shall be the same as Rules 6-4-3 to 6-4-9 for appeals.

---

<sup>33</sup> September 21, 2017 Section updated to correspond with language used for appeals

## **CHAPTER VIII**

### **COMMISSION OVERSIGHT**

#### **8-1-0. OVERSIGHT PROCESS**

##### **8-1-1. INTRODUCTION**

The Commission is directed by statute to adopt the necessary rules and regulations to “carry out the purposes of U.C.A. Sections 10-3-1001 et seq.” The previous rules relating to rule making, appeals and petitions provide the tools for the Commission to address a wide range of potential concerns about the operation of the civil service process in Salt Lake City. However, there may be situations which the Commission believes need to be addressed, but the foregoing rules are inadequate for the Commission to do so. The oversight process described in this Chapter is an additional tool for the Commission.

The Commission may inquire into any matter within its jurisdiction pursuant to U.C.A. Section 10-3-1001 et seq. The Commission may make inquiry on its own initiative or upon the request of a City employee in the classified Civil Service. An inquiry pursuant to this chapter carries with it no remedial authority, but does not preclude the Commission from conducting a rule making or hearing a petition or an appeal pursuant to these rules.

#### **8-2-0. REQUEST TO INITIATE AN INQUIRY**

A City employee in the classified Civil Service may request the Commission to initiate an inquiry by filing a letter addressed to the Commission with the Secretary of the Commission. The letter shall describe the nature of the inquiry and provide a summary of the relevant facts and/or law on which the request is based.

#### **8-3-0. OPEN MEETINGS**

All meetings held by the Commission during the course of an inquiry shall be open to the public unless a closed meeting is permitted pursuant to Utah Code Section 52-4-205(l). The Commission is not acting in a judicial or quasi-judicial capacity when conducting an inquiry.

#### **8-4-0. SUBPOENAS**

The Commission may request the Director of the Human Resources Department and the City Attorney Office to issue an executive branch subpoena pursuant to Salt Lake City Code Sections 2.59.020 and 2.59.040.

SALT LAKE CITY  
CIVIL SERVICE RULES AND REGULATIONS

**APPENDIX “A”**

SWORN PROMOTIONAL POSITIONS  
SALT LAKE CITY POLICE DEPARTMENT

The eligibility requirements for the following promotions in the Police Department are as follows:

A. Sergeant

Incumbent Police Officers to be considered for promotion to the rank of Sergeant shall meet the following minimum standards and criteria established by the department and approved by the Commission<sup>34</sup>:

1. Three (3) years continuous experience as a sworn police officer for Salt Lake City Police Department and/or Salt Lake City Airport Police and (5) years total experience as a sworn police officer<sup>35</sup>.
2. Must successfully complete the promotional and examination process as required by the Salt Lake City Civil Service Commission.

B. Lieutenant

Incumbent Sergeants to be considered for promotion to the rank of Lieutenant shall meet the following minimum standards and criteria established by the department and approved by the Commission<sup>36</sup>:

1. Two (2) years minimum in the position of Salt Lake City Police Sergeant and/or Salt Lake City Airport Police Sergeant.<sup>37</sup>
2. Must successfully complete the promotional and examination process as required by the Salt Lake City Civil Service Commission.

C. Captain

1. Minimum of two (2) years as a Salt Lake City Police Lieutenant.
2. Must successfully complete promotional and examination process as required by Salt Lake City Civil Service Commission.

---

<sup>34</sup> January 16, 2020 Section updated to clarify Eligibility Requirements (Incumbents)

<sup>35</sup> January 16, 2020 Section updated to modify years of service requirement

<sup>36</sup> January 16, 2020 Section updated to clarify Eligibility Requirements (Incumbents)

<sup>37</sup> September 19, 2019 Section updated to include Airport Police Sergeant

**SALT LAKE CITY  
CIVIL SERVICE RULES AND REGULATIONS**

**APPENDIX "B"**

**SWORN PROMOTIONAL POSITIONS  
SALT LAKE CITY FIRE DEPARTMENT**

**A. Captain:**

Incumbent Firefighters to be considered for promotion to the rank of Captain shall meet all minimum standards and criteria established by the department and approved by the Commission. These requirements may change over time as need dictates and the Commission approves.

**B. Battalion Chief:**

Incumbent Captains to be considered for promotion to the rank of Battalion Chief shall meet all minimum standards and criteria established by the department and approved by the Commission. These requirements may change over time as need dictates and the Commission approves.

**APPENDIX "C"**  
**REQUEST FOR APPEAL HEARING BEFORE**  
**THE SALT LAKE CITY CIVIL SERVICE COMMISSION**

Name of Applicant	Person who took action being appealed
Address	Department and Date of Action
City	State and Zip
Home Phone	Work Phone
Appellant will be represented by	Representative's Phone
Address	
City	State and Zip
What is the action that is being appealed:	Appellant's Rank or Grade
Please provide the facts regarding your appeal.	<b>Attach additional pages if necessary</b>

Please list any witnesses you may have testify:

Name	Telephone
Address	
City	State and Zip

**Attach additional sheets, if necessary.**

What records and other information do you request from the person who took the action that resulted in this appeal?

What action do you want the Salt Lake City Civil Service Commission to take?

I hereby request a hearing before the Salt Lake City Civil Service Commission.

\_\_\_\_\_  
Signature of Appellant

\_\_\_\_\_  
Date

Submit this document to the City Recorders Office,  
451 South State Street, Room 415, P.O. Box 145515, Salt Lake City, Utah 84114-5515



**APPENDIX "D"**  
**RESPONSE TO REQUEST FOR APPEAL HEARING BEFORE**  
**THE SALT LAKE CITY CIVIL SERVICE COMMISSION**

Respondent	
Address	
City	State and Zip
Home Phone	Work Phone

Please state the action taken by the Respondent:

Please provide facts or occurrences surrounding the appeal:

What records and other information do you request from the Appellant?

Attach additional sheets, if necessary

Please list any witnesses you may have testify:

Name	Telephone
Address	
City	State and Zip

**Attach additional sheets, if necessary.**

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
By:

\_\_\_\_\_  
Date

Submit this document to the City Records Office,  
451 South State Street, Room 415, P.O. Box 145515, Salt Lake City, Utah 84114-5515

**APPENDIX “E”**  
**REQUEST FOR PETITION HEARING BEFORE**  
**THE SALT LAKE CITY CIVIL SERVICE COMMISSION**

Name of Applicant	Person who took action being challenged
Address	Department and Date of Action
City	State and Zip
Home Phone	Work Phone
Petitioner will be represented by	Representative’s Phone
Address	
City	State and Zip
What is the action that is being challenged:	Petitioner’s Rank or Grade
Please provide the facts regarding your petition	<b>Attach additional pages if necessary</b>

Please list any witnesses you may have testify:

Name	Telephone
Address	
City	State and Zip

**Attach additional sheets, if necessary.**

What records and other information do you request from the person who took the action that resulted in this petition?

What action do you want the Salt Lake City Civil Service Commission to take?

I hereby request a hearing before the Salt Lake City Civil Service Commission.

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Date

Submit this document to the City Recorder's Office, 451 South State Street, Room 415,  
P.O. Box 145515, Salt Lake City, Utah 84114-5515

**APPENDIX "F"**  
**RESPONSE TO REQUEST FOR PETITION HEARING BEFORE**  
**THE SALT LAKE CITY CIVIL SERVICE COMMISSION**

Respondent	
Address	
City	State and Zip
Home Phone	Work Phone

Please state the action taken by the Respondent:

Please provide facts or occurrences surrounding the petition:

What records and other information do you request from the Petitioner?

Please list any witnesses you may have testify:

Name	Telephone
Address	
City	State and Zip

**Attach additional sheets, if necessary.**

\_\_\_\_\_  
Respondent


\_\_\_\_\_  
By:

\_\_\_\_\_  
Date

Submit this document to the City Recorder's Office, 451 South State Street, Room 415, P.O. Box 145515, Salt Lake City, Utah 84114-5515



## CITY COUNCIL TRANSMITTAL

  
Rachel Otto, Chief of Staff

**Date Received: 11/2/2020**  
**Date sent to Council: 11/3/2020**

---

**TO:** Salt Lake City Council **DATE:** November 2, 2020

**FROM:** Rachel Otto, Chief of Staff

**SUBJECT:** Ordinance repealing City Code Chapter 2.16 (Civil Service Commission) and amending Chapter 2.24 (Employee Appeals Board) and replacing both boards with a disciplinary appeal hearing officer; Ordinance adopting competitive merit-based recruitment and promotion processes for full-time non-appointed positions in the Fire Department and the Police Department.

**STAFF CONTACTS:** Rachel Otto, Chief of Staff

**DOCUMENT TYPE:** Ordinances

**RECOMMENDATION:** The Administration recommends that after discussion at a Council work session, the City Council adopt the attached ordinances.

**BUDGET IMPACT:** N/A

**BACKGROUND/DISCUSSION:**

Under Utah law, certain Salt Lake City Corporation employees have the right to appeal certain final disciplinary decisions (i.e. discharge, suspension without pay for more than two days, or involuntary transfer from one position to another with less remuneration) to an appeals board or hearing officer. The City currently handles these appeals through two separate bodies created under Salt Lake City Code: the Civil Service Commission (Salt Lake City Code 2.16) and the Employee Appeals Board (Salt Lake City Code 2.24). Specifically, the Civil Service Commission adjudicates all disciplinary appeals filed by eligible employees in the Police

Department and Fire Department, and the Employee Appeals Board adjudicates all disciplinary appeals filed by eligible employees in all other departments.

The Administration recommends that the appeal process for all eligible employees be uniform and be handled by a hearing officer qualified to hear employment appeals. For that reason, the Administration is recommending repeal of City Code 2.16 (the Civil Service Commission ordinance) and revision of City Code 2.24 (the Employee Appeals Board ordinance) and replacement of both the Civil Service Commission and the Employee Appeals Board with a qualified hearing officer.

The Administration also recommends that the Council adopt an ordinance establishing competitive merit-based recruitment and promotion processes for full-time non-appointed positions in the Fire Department and the Police Department.

**PUBLIC PROCESS:** City Council public work session.



1 SALT LAKE CITY ORDINANCE

2 No. \_\_\_\_ of 2020

3 (Adopting competitive merit-based recruitment and promotion processes for full-time  
4 non-appointed positions in the Fire Department and the Police Department.)  
5

6 WHEREAS, the Salt Lake City Council has determined that the adoption of  
7 competitive merit-based recruitment and promotion processes for full-time non-appointed  
8 positions in the Fire Department and the Police Department is in the best interests of Salt  
9 Lake City;

10 NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City  
11 as follows:

12 SECTION 1. PURPOSE. The purpose of this ordinance is to adopt competitive  
13 merit-based recruitment and promotion processes for full-time non-appointed positions in  
14 the Fire Department and the Police Department.

15 SECTION 2. DEFINITIONS.

16 A. Recruitment: The process by which an applicant is selected for a full-time non-  
17 appointed position in the Fire Department or the Police Department.

18 B. Promotion: The process by which an applicant is selected for a full-time, non-  
19 appointed, non-entry level position in the Fire Department or the Police Department.

20 C. Examination: The process by which, through a competitive job-related assessment  
21 (or series of job-related assessments), an applicant's qualifications for recruitment or  
22 promotion are evaluated.

23 SECTION 3. GENERAL PRINCIPLES/ADMINISTRATIVE OVERSIGHT.  
24

25 A. The Human Resources Department shall oversee the administration of the recruitment  
26 and promotion processes for full-time non-appointed positions in the Fire Department

and the Police Department. In overseeing the administration of these recruitment and promotion processes, the Human Resources Department shall adhere to the following general principles:

1. Open merit-based competition, which will include preference being given to current employees of Salt Lake City Corporation.
2. Diversity and inclusivity.
3. The establishment of objective job-related minimum qualifications for each full-time non-appointed position and a requirement that applicants meet such minimum qualifications to be considered for recruitment or promotion.
4. Promotional examinations that ensure each applicant is qualified for the position sought, consider the qualifications of each applicant, and result in a rank-ordered list of qualified applicants.
5. Recognition of the equivalency of merit examination processes administered by other fire protection and law enforcement agencies, for the purpose of recruiting qualified external applicants for non-entry level positions.
6. The establishment of probationary periods.
7. The establishment of requirements and time limitations pertaining to employees designated to serve in an “acting” capacity.
8. The establishment of a process by which a current employee of Salt Lake City Corporation who is not selected for promotion may appeal that decision.

#### SECTION 4. RULES, REGULATIONS, AND/OR PROCEDURES.

The Mayor, or the Chief Human Resources Officer at the direction of the Mayor, shall adopt and publish rules, regulations, and/or procedures governing competitive merit-based recruitment and promotion processes for full-time non-appointed positions in the Fire Department and the Police Department that are consistent with and further the objectives of this Chapter.

SECTION 5. This ordinance shall become effective upon first publication. If a petition filed pursuant to Chapter 4-2-13 of the Salt Lake City Civil Service Commission Rules and Regulations is pending before the Salt Lake City Civil Service Commission prior to the date of first publication of this ordinance, the petitioner has the right to have his/her petition heard and adjudicated: i) by the Salt Lake City Civil Service Commission in accordance with that entity's existing governing ordinances, rules, regulations, and procedures or ii) via the appeal process established in accordance with the provisions of this Chapter.

Passed by the City Council of Salt Lake City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CHAIRPERSON

Approved as to Form:  
Salt Lake City Attorney's Office

th N.W.

Katherine N. Lewis, City Attorney

November 2, 2020

---

Date

80 ATTEST:

81

82

83

84 CITY RECORDER

85

86

87 Transmitted to Mayor on \_\_\_\_\_.

88

89

90 Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

91

92

93

94

\_\_\_\_\_  
MAYOR

95

96

97

98 CITY RECORDER

99 (SEAL)

100

101 Bill No. \_\_\_\_\_ of 2020.

102 Published: \_\_\_\_\_.

1 SALT LAKE CITY ORDINANCE

2 No. \_\_\_\_ of 2020

3 (Repealing Chapter 2.16 and amending Chapter 2.24 of the *Salt Lake City Code*  
4 pertaining to the Civil Service Commission and Employee Appeals Board, respectively.)  
5

6 WHEREAS, Section 10-3-1106 of the Utah Municipal Code provides that eligible  
7 Salt Lake City Corporation employees have the right to appeal certain final disciplinary  
8 decisions (i.e. discharge, suspension without pay for more than two days, and involuntary  
9 transfer from one position to another with less remuneration) to an appeal board or  
10 hearing officer; and

11 WHEREAS, Section 10-3-1106(7)(a) of the Utah Municipal Code provides that  
12 “[t]he method and manner of choosing a hearing officer or the members of the appeal  
13 board, the number of members, the designation of a hearing officer’s or appeal board  
14 member’s term of office, and the procedure for conducting an appeal and the standard of  
15 review shall be prescribed by the governing body of each municipality by ordinance;”  
16 and

17 WHEREAS, the Salt Lake City Civil Service Commission, established pursuant  
18 to Chapter 2.16 of the *Salt Lake City Code*, currently adjudicates all disciplinary appeals  
19 filed by eligible employees in the Police Department and Fire Department, while the Salt  
20 Lake City Employee Appeals Board, established pursuant to Chapter 2.24 of the *Salt*  
21 *Lake City Code*, currently adjudicates all disciplinary appeals filed by eligible employees  
22 in all other departments; and

23 WHEREAS, the Salt Lake City Council finds that the appeal process required by  
24 Section 10-3-1106 of the Utah Municipal Code should be uniform for all eligible Salt  
25 Lake City Corporation employees; and

WHEREAS, the Salt Lake City Council finds that the appeal process required by Section 10-3-1106 of the Utah Municipal Code is intended to promote efficient resolution of appeals while providing due process; and

WHEREAS, the Salt Lake City Council has determined that the following ordinance enacting a uniform disciplinary appeals process for all eligible Salt Lake City Corporation employees promotes these purposes and is in the best interests of Salt Lake City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City as follows:

SECTION 1. That Chapter 2.16 (Civil Service Commission) of the *Salt Lake City Code* is hereby repealed in its entirety.

SECTION 2. That Chapter 2.24 (Employee Appeals Board) of the *Salt Lake City Code* is hereby amended to read as follows:

**Chapter 2.24**  
**EMPLOYEE DISCIPLINE APPEALS PROCESS**

**2.24.010: DEFINITIONS**

A. Eligible City Employee: An employee of Salt Lake City Corporation, unless the employee is:

1. An appointed employee as defined by the Utah Municipal Code;
2. The Police Chief, a Deputy Police Chief, or an Assistant Police Chief;
3. The Fire Chief, a Deputy Fire Chief, or an Assistant Fire Chief;
4. A department director or deputy department director;
5. A division director or deputy division director;
6. A superintendent;

- 52 7. A probationary employee;
- 53 8. A part-time employee, including a paid call firefighter;
- 54 9. A seasonal or temporary employee;
- 55 10. An individual who works in the office of the Mayor or the City Council;
- 56 11. A secretarial or administrative assistant whose position is specifically
- 57 designated to assist an elected official, a department director, or a deputy
- 58 department director;
- 59 12. The City Engineer;
- 60 13. The City Recorder;
- 61 14. The City Treasurer;
- 62 15. The City Attorney;
- 63 16. An employee who has acknowledged in writing that their employment status
- 64 is appointed or at-will; or
- 65 17. An employee who has voluntarily waived the disciplinary appeal procedure
- 66 provided for in the Utah Municipal Code.

67 B. Final Appealable Disciplinary Decision: A disciplinary decision that, at the

68 conclusion of all applicable internal grievance procedures, results in an eligible City

69 employee's discharge, suspension without pay for more than two working days, or

70 involuntary transfer from one position to another with less remuneration.

71 **2.24.020: CREATION OF DISCIPLINARY APPEALS PROCESS:**

72 In accordance with the provisions of this Chapter, disciplinary appeals hearing officers

73 shall hear and adjudicate appeals filed by eligible City employees seeking to overturn

74 final appealable disciplinary decisions.

75 **2.24.030: SELECTION AND TERM OF DISCIPLINARY APPEALS HEARING**

76 **OFFICER:**

77 A. Selection: The Mayor shall select one or more disciplinary appeals hearing officers  
78 with the advice and consent of the City Council.

79 B. Term: Each disciplinary appeals hearing officer will serve a two-year term, with a  
80 maximum of five (5) consecutive terms or ten (10) total years of service.

81 C. Qualifications: Each disciplinary appeals hearing officer shall be an attorney licensed  
82 to practice law in the State of Utah who has significant professional experience in  
83 employment law. A disciplinary appeals hearing officer may not currently be  
84 employed by Salt Lake City Corporation nor hold public office nor be a candidate for  
85 public office during his/her term.

86 D. Conflict of Interest: A disciplinary appeals hearing officer may not hear and  
87 adjudicate appeals in which the disciplinary appeals hearing officer has a conflict of  
88 interest prohibited by Chapter 2.44 of the *Salt Lake City Code*.

89 **2.24.040: AUTHORITY OF DISCIPLINARY APPEALS HEARING OFFICER:**

90 A disciplinary appeals hearing officer selected pursuant to this Chapter may hear and  
91 adjudicate an appeal filed by an eligible City employee seeking to overturn a final  
92 appealable disciplinary decision to:

93 A. Discharge the employee;

94 B. Suspend the employee without pay for more than two working days; or

95 C. Involuntarily transfer the employee from one position to another with less  
96 remuneration.



All other personnel actions (including, but not limited to, suspensions without pay of two working days or less, written warnings, written or oral coach-and-counsels, non-disciplinary discharges or involuntary transfers, layoff designations, or reassignments due to reorganizations) are not subject to appeal to a disciplinary appeals hearing officer.

**2.24.050: PROCEDURE:**

The following procedure shall apply to appeals filed by eligible City employees seeking to overturn final appealable disciplinary decisions:

A. Filing of Appeal: All appeals must be: i) filed by an eligible City employee and ii) submitted in writing to the Salt Lake City Recorder within ten (10) calendar days of the date the final appealable disciplinary decision was issued. The appeal shall identify the disciplinary decision being appealed and the specific reason(s) why the employee believes the disciplinary decision should be overturned. An eligible City employee who is the recipient of a final appealable disciplinary decision is the only individual who may appeal that decision to a disciplinary appeals hearing officer.

B. Assignment of Disciplinary Appeals Hearing Officer: A single disciplinary appeals hearing officer shall be assigned to hear and adjudicate each appeal of a final appealable disciplinary decision.

C. Appeal Hearing: Upon receipt of an appeal of a final appealable disciplinary decision, the assigned disciplinary appeals hearing officer shall schedule a hearing to fully hear and adjudicate the appeal. Although an eligible City employee has the right to have an open and public appeal hearing, the disciplinary appeals hearing officer retains discretion to close any portion of the appeal hearing in accordance with applicable law.

D. Standard of Review/Burden of Proof: The eligible City employee bears the burden of proving that the final appealable disciplinary decision should be overturned. With respect to the question of whether the facts support a conclusion that the eligible City employee's conduct violated policy, the standard of review is "substantial evidence" and, to prevail, the eligible City employee must demonstrate that the conclusion is not supported by substantial evidence. With respect to the question of whether the specific disciplinary sanction is proportional and consistent, the standard of review is "abuse of discretion" and, to prevail, the eligible City employee must demonstrate that the disciplinary sanction constitutes an abuse of discretion.

E. Representation/Confrontation of Witnesses/Examination of Evidence: At an appeal hearing, an eligible City employee may:

1. Appear in person and be represented by counsel;
2. Confront any witness whose testimony may be considered by the disciplinary appeals hearing officer; and
3. Examine any evidence that may be considered by the disciplinary appeals hearing officer.

F. Evidence: With the exception of evidence pertaining to the proportionality and/or consistency of the specific disciplinary sanction, a disciplinary appeals hearing officer may only consider evidence that was previously presented during the disciplinary process (including any applicable internal grievance procedure) that resulted in the final appealable disciplinary decision.

G. Written Decision: A disciplinary appeals hearing officer shall certify his/her written decision with the Salt Lake City Recorder no later than fifteen (15) calendar days

after the day on which the appeal hearing concludes. A disciplinary appeals hearing officer may only affirm or overturn the final appealable disciplinary decision and must explain the factual and legal basis for his/her determination. For good cause, a disciplinary appeals hearing officer may extend the fifteen (15) day certification period referenced above to a maximum of sixty (60) calendar days, if the employee and Salt Lake City Corporation both consent to such an extension.

H. Audio Recording of Appeal Hearing: The proceedings of each appeal hearing shall be recorded on audio equipment.

I. Rules, Regulations, and/or Procedures: The Mayor, or the Chief Human Resources Officer at the direction of the Mayor, shall adopt and publish rules, regulations, and/or procedures governing the employee discipline appeals process that are consistent with and further the objectives of this Chapter.

#### **2.24.060: APPEAL OF DECISION OF DISCIPLINARY APPEALS HEARING**

##### **OFFICER:**

A final written decision of a disciplinary appeals hearing officer may be appealed by either party to the Utah Court of Appeals within thirty (30) calendar days of the date the decision was certified with the Salt Lake City Recorder.

#### **2.24.070: STAY OF DECISION OF DISCIPLINARY APPEALS HEARING**

##### **OFFICER:**

If a final written decision of a disciplinary appeals hearing officer is appealed, the disciplinary appeals hearing officer may, in the exercise of his/her discretion or at the request of the eligible City employee or Salt Lake City Corporation, stay the effect of the decision until the appeal has been adjudicated.

166 SECTION 3. This ordinance shall become effective upon first publication. If a  
167 disciplinary appeal is pending before the Salt Lake City Civil Service Commission or the  
168 Salt Lake City Employee Appeals Board prior to the date of first publication of this  
169 ordinance, the appellant has the right to have his/her appeal heard and adjudicated by  
170 either: i) the Salt Lake City Civil Service Commission or the Salt Lake City Employee  
171 Appeals Board (whichever entity is applicable) in accordance with that entity's existing  
172 governing ordinances, rules, regulations, and procedures or ii) a disciplinary appeals  
173 hearing officer in accordance with the provisions of this Chapter.

174 Passed by the City Council of Salt Lake City, Utah this \_\_\_\_ day of  
175 \_\_\_\_\_, 2020.

176  
177  
178 \_\_\_\_\_  
179 CHAIRPERSON

180  
181 Approved as to Form:  
182 Salt Lake City Attorney's Office

183 

184 Katherine N. Lewis, City Attorney

185  
186 November 2, 2020

187 Date  
188

189 ATTEST:

190  
191  
192 \_\_\_\_\_  
193 CITY RECORDER

194  
195  
196 Transmitted to Mayor on \_\_\_\_\_.  
197  
198  
199  
200  
201

202 Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

203

204

205

206

\_\_\_\_\_  
MAYOR

207

208

209

210 \_\_\_\_\_  
CITY RECORDER

211 (SEAL)

212

213 Bill No. \_\_\_\_\_ of 2020.

214 Published: \_\_\_\_\_.