

ORDINANCE NO. 8-23

AN ORDINANCE AMENDING SECTIONS V, VI AND VII OF THE CIVIL SERVICE RULES AND REGULATIONS OF THE CITY OF MEDINA RELATIVE TO LATERAL ENTRY OF PATROL OFFICERS, AND DECLARING AN EMERGENCY.

WHEREAS: Ordinance No. 99-08, passed May 27, 2008, adopted revised Civil Service Rules and Regulations; and

WHEREAS: The Civil Service Commission respectfully requests City Council to consider and accept several revisions to the Medina Civil Service Rules Sections V, VI and VII pertaining to Lateral Entry of Patrol Officers; and

WHEREAS: The Civil Service Commission reviewed these changes and voted to approve at their regular meeting on December 7, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That Sections V, VI and VII of the Civil Service Rules and Regulations are hereby amended as set forth in the attachment marked Exhibit A, attached hereto, and incorporated herein. (Proposed new rules are in **boldface** and *italics*)

SEC. 2: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 3: That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason to fill open positions as quickly as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: January 9, 2023

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: January 10, 2023

SIGNED: Dennis Hanwell
Mayor

(NOTE: Proposed new rules are in **boldface** and *italics*)

RULE V
APPLICATION FOR EXAMINATION

(A) Notice of Examination

1. Entrance Examination

The Commission shall give reasonable notice of time, place, and general scope of every competitive examination to a position in the civil service. Notice may be given through the local newspapers, bulletin boards, local cable, the City's Internet website, and/or any other means necessary to obtain qualified applicants in a timely manner.

2. Promotional Examination

Notice of competitive promotional examinations to be held shall be given by posting of the announcement of examination in conspicuous places in the departments whose employees may be interested, and may be by individual communications to the employees eligible for such promotion.

3. ***Lateral Transfer Patrol Officer Examination***

Notice of competitive Patrol Officer lateral transfer appointment examinations to be held shall be given by posting of the announcement of examination in conspicuous places in the City Police Department and shall be given through the local newspapers, bulletin boards, local cable television channel, the City's Internet website, and/or any other means necessary to obtain qualified applicants in a timely manner.

(B) Minimum Qualifications

The Commission shall establish and publish minimum entrance qualifications for each examination, which shall be included in the official announcement of each examination. Minimum entrance qualifications may include, among other things, the following:

1. Applicant's Age

Before publication of announcements of each examination, the Commission shall determine age requirements for entrance to such examination. After the publication of the examination announcement, no change in age requirements shall be made except by the Commission, which shall then publish a new announcement of examination. No modification of the age requirements as set

forth in the published notice shall be made in the cases of individual applicants. Age restrictions for appointment shall also be stated in the announcement of examination. Two such restrictions are listed below:

- a. Only persons who have reached the age of twenty-one (21) years shall be eligible to receive an original appointment as Police Patrol Officer.
- b. Only persons who have reached the age of eighteen (18) years shall be eligible to receive an original appointment as a Firefighter in the Fire Department.
- c. ***Only persons who have reached the age of twenty-one (21) years and less than forty-one (41) years of age shall be eligible to receive an appointment as a lateral transfer Police Patrol Officer.***

2. Experience and Education

The Commission may establish experience and educational requirements where they are necessary to performance of a specific job or professional position.

Lateral transfer Patrol Officers must be currently employed with a minimum of one (1) year of full-time peace officer experience, or previously employed within the last twelve (12) months as a full-time peace officer, with an Ohio State Certified Law Enforcement Agency in a jurisdiction in the State of Ohio, including having completed the probationary period at that employment. For purposes of this rule, "peace officer" shall be as defined in Ohio Revised Code 109.71 (A).

3. License or Certification

Wherever a license or certification is required by law to perform the duties of a classification, the applicant shall present such license or certificate or a certified copy at the time of filing application for entrance to an examination for such classification.

Lateral transfer Patrol Officers must be certified by the Ohio Peace Officer Training Academy ("OPOTA") or present to the Commission an OPOTA letter of training equivalency.

(C) Applications

Applications for admission to any examination shall be made upon application forms approved by the Commission. All applications shall be legibly printed or written, and applicants shall state under oath or affirmation all pertinent facts on the following subjects:

1. Name, address, and, if requested, date of birth
2. Service in the uniformed services, as defined in Rule VI(K)
3. Skills
4. Previous employment
5. Education, if requested
6. Other information affecting the qualification of the applicant for admission to the examination as required by the Commission

(D) Filing of Application

Unless otherwise permitted, all applications must be filled out at the Civil Service office in Medina, Ohio. Applications will be accepted only if received before the time fixed in the announcement of examination as the last date and time for filing; however, the time for filing may be extended if the Commission determines that there is just and sufficient cause.

(E) Rejection of Applicants

All applications shall be reviewed by an authorized representative of the Commission. Applications may be rejected for any of the following reasons:

1. That the applicant has not met the qualifications specified on the announcement by the date of the examination.
2. That the applicant has intentionally made any false statement on the application.
3. That the applicant is not within the prescribed age limits.
4. That the applicant does not meet the physical requirements of the position.
5. That the applicant has been convicted of a crime or has been guilty of disgraceful conduct or has been dismissed from employment for flagrant delinquency or misconduct.
6. That the applicant was previously in the classified service or the unclassified service and was removed for cause or did not resign in good standing.
7. That the applicant is applying for a classified position in the Division of Police and is not a United States citizen or has not legally declared the intention of becoming a United States citizen. The applicant must, however, be a United States citizen in the event the applicant is appointed to a classified position in the Division of Police.

In addition, applications may be rejected for any just or reasonable cause that is job-related, and not discriminatory, as determined by the Commission.

Upon rejecting any application, the Commission shall promptly notify the applicant of the reason for the rejection by certified mail (return receipt requested) or personal delivery or Fed-Ex (with signature requested) or substantially, similar, commercial mailing system. The applicant may, within seven (7) calendar days after issuance of the notice, file a written complaint against such rejection. The Commission will not hear complaints that contest the qualifications established by the Commission. If a complaint from a rejection is pending at the time an examination is scheduled to be held, the applicant shall be allowed to take the examination pending decision in such inquiry. If the Commission finds the rejection justified, the examination paper shall not be graded.

(F) Accommodation

The examination announcement will advise potential applicants as to the procedures by which a potential applicant may request reasonable accommodation in order to participate in the application process and/or examination process.

RULE VI
EXAMINATIONS

Examinations may be held where the Commission deems advisable and shall be administered under the direction of the Commission or its contracted provider.

(A) Character of Examinations

Examinations shall be practical and impartial and shall relate to those matters that will fairly test the relative capacity of the persons examined to perform the duties of the position.

(B) Types and Methods of Examination

The Commission shall determine and state in the announcement of each examination whether it will be competitive or noncompetitive, entrance or promotional, assembled or unassembled, or any combination.

(C) Parts of Examination

The Commission shall determine for each examination the parts or subjects into which it shall be divided and the weight to be assigned to each part. The parts that shall be recognized may include: written tests, oral tests, performance tests, evaluation of education and experience, evaluation of attendance, performance and conduct, physical examinations, medical examinations, and other such tests as the Commission deems appropriate.

1. Written tests may be either objective or essay type, as appropriate to demonstrate the knowledge, skills, or abilities required in the position and to indicate the applicant's general qualifications.
2. Oral tests shall consist of an interview between the applicant and the designated examiner(s) to measure the applicant's suitability for the position as to such job-related factors as may be examined in that manner.
3. Performance tests and assessment center tests shall include such tests of ability and skill as will determine the applicant's competence to perform the duties of the position.
4. The Commission shall evaluate the applicant's education and experience from the statements contained in the application and from such other sources as may be required.
5. Physical ability tests, drug tests, medical examinations, and psychological evaluations, as appropriate, may be given before admission to the examination, before being placed on the appropriate eligible list, before certification for

appointment, after certification and interview but before appointment, or after conditional appointment subject to successful completion of such test(s). Failure to satisfactorily meet appropriate standards in any such examination shall cause the rejection of an applicant without regard to the grade(s) attained on other parts of the examination. Any such test required shall be done at no expense to the applicant.

A person shall be eligible to receive an original appointment as a Police Patrol Officer or Firefighter *or shall be eligible to receive a lateral transfer appointment as a Police Patrol Officer* only if the person has passed a medical examination, given by a licensed physician not more than one hundred twenty (120) calendar days before the date of appointment, which shows that the applicant meets the requirements necessary to perform the duties of the position; however, inquiry regarding the results of any such examination shall be conducted at the time and manner permitted by law.

Physical examinations may include tests of bodily condition, muscular strength, ability, and physical fitness to perform the work of the position.

Applicants for lateral transfer appointment will be required to pass the Medina Police Department physical agility test which will be proctored by a team of Medina Police Officers.

(D) Scheduling Examinations

The Commission shall determine the time and place of examinations. The Commission shall cause an examination to be scheduled before an eligible list has expired or has been exhausted, or when a new position has been created for which there is no eligible list.

(E) Admitting Applicants to Examination

No applicant shall be admitted to any assembled examination after the advertised time for beginning such examination, or after any applicant competing in any such examination has completed the examination and left the examination room, except by special permission of the person in charge, who shall have discretion to admit the applicant conditionally, subject to the Commission's final approval or disapproval of such admission.

No applicant in any examination shall be given a longer time on any subject than prescribed by the Commission when examination questions are approved.

(F) Identity of Examinee Concealed

The identity of all persons taking competitive assembled examinations shall be concealed by the use of an identification number, which shall be used on all examination papers. This number shall be used from the beginning of the examination until the papers are rated. Any papers bearing the applicant's name or any other identification mark may be rejected and the candidate so notified.

(G) Frauds in Examinations

Frauds in examinations are prohibited and shall result in automatic disqualification. No person shall:

1. Willfully or corruptly or in cooperation with one or more persons deceive or obstruct any person in respect to the exercise of any right or privilege of examination, appointment, or employment under the civil service law and rules and regulations;
2. Willfully or corruptly falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified under the provisions of the civil service law, or aid in so doing;
3. Willfully or corruptly furnish to any person any special or secret information to either improve or injure the prospects or chances of any person so examined, registered, or certified, or to be appointed, employed, or promoted;
4. Willfully or corruptly make any false representation concerning the results of such examinations or concerning any person examined;
5. Willfully impersonate any other person, or permit or aid in any manner any other person to impersonate the applicant in connection with any examination, registration, appointment, application, or request to be examined, registered, or appointed;
6. Furnish any false information about the applicant, or any other person in connection with any examination, registration, appointment, application, or request to be examined, registered, or appointed;
7. Make known or assist in making known to any applicant for examination any question to be asked on such examination.

No applicant shall assist any other applicant during the taking of an examination; nor shall any applicant personally or through another person solicit favor from any member of the Commission, its staff, or an appointing officer. Any applicant in any examination found to be using any means of information other than that provided in the examination itself, such as memoranda, pamphlets, or books to assist in answering the questions shall have the examination papers taken up and filed with a zero marking when the circumstances justify such action.

Protests regarding the conduct of the examiners, the securing of unlawful assistance by a competitor, or other circumstances in connection with an examination as would call for an investigation by the Civil Service Commission may be submitted to the Commission, the Commission secretary, or any other person designated by the Commission. All

protests must be submitted in writing unless circumstances require that the information submitted be given in confidence; however, the confidentiality of such information cannot be guaranteed.

(H) Visitors at Examination

No visitors shall be admitted to the examination room during any examination except by special permission of the test administrator.

(I) Postponement and Cancellation

The Commission may postpone or cancel any examination because of an inadequate number of applicants or for any other just and sufficient cause. The Commission may alter the qualifications for admission to a postponed examination to secure an adequate number of applicants; however, these alterations shall be adequately publicized. Notice shall be given to all applicants when an examination is postponed or canceled and such additional announcements and publications as needed shall be issued to notify the public.

(J) Method of Grading

The total grade attainable in each examination, except for special credits, shall be one hundred (100). In examinations composed of more than one part, the method of scoring shall be:

1. Each part of the examination shall be separately rated and the proficiency of each competitor determined on the basis of a scale of one hundred (100) for maximum possible attainment.
2. Each part shall be assigned a weight based on the relative value of the part to that of the entire examination.
3. The earned grade of each examinee in each part of the examination shall be multiplied by the weight assigned to the part and the sum of the totals shall be the earned grade for the participant.
4. In addition to the Military ("Uniformed") Service credit provided for in these Rules, the Commission shall have the authority and the discretion with respect to examinations, other than promotional and noncompetitive examinations, to award additional credit points to an applicant's earned passing grade on an examination ("Additional" credit points). The total credit points to be awarded to one applicant, including Military ("Uniformed") Service credit points, shall not exceed ten (10) credit points. Additional credit points, if provided for by the Commission, shall be for educational or work-related experience that the Commission in its sole discretion determines to be related to the position which is the subject of the examination. The criteria for Additional credit points and the procedure for

applying for these credit points shall be clearly established by motion of the Commission and set forth in the publicized examination notice. The required proof of eligibility to be awarded Additional credit points, in the event the applicant achieves a passing grade on the examination, shall be established by a date and time prior to the commencement of the examination.

(K) Credit for Military ("Uniformed") Service

Any person who has completed service in the uniformed services and who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service may file with the Commission a certificate of service or honorable discharge, and, upon this filing, the person shall receive an additional five (5) points credit, to be added to the applicant's earned passing grade resulting from the examination.

Requests for additional credit for uniformed service shall be filed with the Commission, along with the application preferably, but in no event later than the day of the examination. Credit for uniformed service will not be given if the request for such credit is received by the Commission after an eligible list for any examination has been established.

This credit shall not apply to any promotional or noncompetitive examination. When holding a combined open competitive and promotional examination for Chief of Police, no credit for uniformed service will be given to any applicant, either applicants currently in the City service or applicants outside the City service.

As used in these Rules, "service in the uniformed services" and "uniformed services" have the same meaning as the "Uniformed Services Employment and Reemployment Rights Act of 1994,..." 38 U.S.C.A. 4303" which meaning shall be:

The Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or a full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in the time of war or national emergency.

(L) Examination Papers

No grades given in any examination shall be changed after the posting of an eligible list, except that the Commission may correct clerical errors at any time before the expiration of such lists. An applicant, upon request to the Commission, may be permitted to inspect the applicant's own examination papers and the markings thereof at any time within sixty (60) calendar days after such eligible list is posted, except examinations wherein the test developer will not allow the key to be published or retained. No note-taking, video reproduction, recording, or other form of reproduction will be permitted during such inspection.

(M) Method of Filling Promotional Vacancies

Vacancies in authorized positions above the lowest classifications in the classified service shall be filled, as far as practicable, by promotions. (Promotional ranks within the Police Department shall be filled in compliance with Section P of this Rule). The Commission shall determine in each case whether or not it is practicable to fill a vacancy by promotion, and from what classification or classifications such promotion shall be made and the type of examination to be used for the promotion. The type of examination may include written, oral, performance, or assessment center tests.

Eligibility for a promotional examination shall be limited to permanent employees who have satisfactorily completed their probationary period in a lower class.

Whenever there are three or more persons in a proper lower class eligible and willing to compete for a vacancy in a higher position, the Commission may, if it deems a satisfactory appointee can be obtained in this manner, hold a promotional examination open only to persons in that class/classes, in which case the names of the three persons having the highest passing ratings shall be certified to the appointing authority. If a promotional examination is not held and/or there are fewer than three persons eligible and willing to compete, the Commission may:

1. Hold an open competitive examination to fill the vacancy.
2. Hold a combined open competitive and promotional examination to fill the vacancy.
3. Permit the appointing authority to nominate one of such eligible persons for promotion without competition as an exceptional appointment, but in all cases of promotion without competition, the appointing authority shall submit a written statement showing that the duties performed by the person nominated are a natural preparation for the higher position, and that such person is entitled to promotion by reason of length of experience and effective performance.
4. Permit the appointing authority to underfill by provisionally appointing to the position an employee who has less than the minimum qualifications for the position. During the probationary period, which shall be three (3) months, the appointing authority shall designate training for the position. If the employee proves unsatisfactory during the probationary period in the sole discretion of the appointing authority, the employee may be reduced to the former rank.

(N) Grading of Promotional Examinations

Promotional examinations shall be graded in accordance with Section (J) of this Rule. Promotional applicants who receive a passing grade shall be granted additional credit points for seniority, which shall determine the final score. No additional credit shall be given for Efficiency Points or efficiency. The maximum number of additional credit points available shall be ten (10) percent of the maximum examination test score.

Seniority credit shall be given based on continuous service with the City as follows: one point is added for each of the first four years of an applicant's service and six-tenths of a point is added for each year of service for the next ten years of service. No credit is given for any years of service beyond fourteen years. For any half year of service, half of the foregoing credit shall be given. For purposes of the subsection (N), "continuous service" shall mean uninterrupted service with the City of Medina at the time of scoring of the examination, except for interruptions of continuous service caused by mandatory service in the "uniformed services" as defined in Rule VI(K). In promotional examinations for sworn officers of the Medina Police Department, credit for seniority shall be based only on continuous service in the Medina Police Department as a full-time sworn officer. Any applicant taking an examination for the position of Chief of Police shall not be given seniority points.

Efficiency Points or efficiency ratings will not be considered when determining the final scores on examinations for the positions of Chief of Police or Chief of Fire.

When a tie exists after calculation of the final score, including seniority credit, then seniority in the classification from which the promotion is sought shall determine the order of the scores. If a tie still exists, then seniority in the department shall determine the order of the scores. Seniority used to break ties shall be total service in the department, not continuous.

(O) Grading of Combined Open Competitive and Promotional Examinations

When the Commission holds a combined examination, promotional applicants who receive passing grades shall be ranked on the eligible list ahead of the open competitive applicants regardless of final passing grade. Open competitive applicants who have received passing grades shall receive uniformed service credit in addition to the test score in accordance with Section (K) of this Rule. Promotional applicants who have received passing grades shall be granted additional credit points for seniority in accordance with Section (N) of this Rule.

(P) Police Promotions

Vacancies in positions above the rank of Patrol Officer and below the rank of Chief shall be filled by promotion from among persons holding positions in a rank lower than the position to be filled. No person shall be appointed to such position without having first completed a competitive promotional examination and serving at least two years in the Medina Police Department in the next lower rank (service for the purpose of this section shall mean cumulative, as opposed to continuous, service). If there are fewer than two

persons holding positions in the next lower rank than the position to be filled who are eligible and willing to compete, the Commission shall allow persons holding positions in the next lower rank who are eligible and willing to compete to take the promotional examination. Promotional tests may include oral components as well as written. No additional credit shall be given on a promotional examination in the Police Department for Efficiency Points or efficiency.

Pursuant to the Medina Charter, promotional appointments in the Police Department shall be made in accordance with the provisions of Ohio Revised Code Sec. 124.44 except as follows:

1. The Civil Service Commission shall certify to the appointing authority the names of the three persons on the eligible list having the highest passing rating. The appointing authority shall fill such position by appointment of one of the three persons certified.
2. In the case of a vacancy in the position of Chief, the appointing authority may admit two additional candidates to the examination provided those candidates possess the job-related qualifications specified by the Commission.

(Q) Fire Service Promotion

Pursuant to the Medina Charter, promotional appointments in the Fire Department shall be made in accordance with the provisions of Ohio Revised Code Sec. 124.45 except as follows:

1. The Civil Service Commission shall certify to the appointing authority the names of the three persons on the eligible list having the highest passing rating. The appointing authority shall fill such position by appointment of one of the three persons certified.
2. In the case of a vacancy in the position of Chief of the Fire Department, the appointing authority may admit two additional candidates to the examination provided those candidates possess the job-related qualifications specified by the Commission.

No additional credit shall be given on a promotional examination in the Fire Department for Efficiency Points or efficiency.

(R) Police Lateral Transfer Hires

Experienced peace officers from other jurisdictions who have obtained and maintained Basic Ohio Peace Officer Certification may be eligible for lateral transfer appointment as a Patrol Officer. Applicants appointed as lateral transfer hires shall only be appointed to the rank of Patrol Officer. Police Lateral Transfer candidates shall be entitled to the Credit for Military ("Uniformed") Service to be added to their examination score as

provided for in part K of this Rule and any other credits to their examination scores as established by the Commission pursuant to this Rule VI.

RULE VII
ELIGIBLE LISTS

(A) Posting of Lists

From the results of each competitive examination, the Commission shall prepare and keep open to public inspection a list of the persons whose grade in any examination meets or exceeds the established passing grade and who are otherwise eligible. Such persons shall take rank upon the eligible list in the order of their respective grades. An eligible list for a noncompetitive examination will consist of an alphabetical listing of qualified applicants.

The eligible list for lateral transfer Police Patrol Officers shall be kept separately from the eligible list for original appointment Police Patrol Officers. The Commission shall have the sole discretion to determine the duration of any eligible list for lateral transfer Police Patrol Officer and may provide for a continuing eligible list with no expiration date and with eligible candidates being placed on the eligible list according to their test scores and credit points that are established at any time.

(B) Duration of Lists

Eligible lists created by the Commission shall remain in force not longer than one (1) year; however, the Commission may, at its discretion, extend the eligible list for a total period not to exceed two (2) years or may abolish any list that has been in force for more than six (6) months and hold a new examination whenever, in its judgment, the interest of the public service so requires. No name shall remain on a list longer than two (2) years.

All persons whose names appear on an existing list that is to be abolished before the regular expiration date shall be notified and given an opportunity to compete in the new examination process.

Eligible lists resulting from unassembled examinations shall remain in effect for one (1) year from date of examination and, insofar as possible, notification of the expiration date will be sent to those persons being removed from the list.

(C) Breaking Tied Grades

In the event two (2) or more applicants receive the same grade on an open competitive examination, priority in the time of filing the application with the Commission shall determine the order in which their names shall be placed on the eligible list; applicants eligible for uniformed service credit shall receive priority in rank on the eligible list over non-veterans on the list with a rating equal to that of the veteran. Ties among applicants receiving military service credit shall be decided by which application was filed earlier

with the Commission. (See Section (N) of Rule VI for breaking tied grades on promotional examinations.)

(D) Transfer

At the discretion of the Commission, any eligible may at any time, by written request, be transferred to the eligible list for a lower class in the same series requiring qualifications of the same general character, ranked according to the eligible's original grade.

(E) Change of Address

Each person on an eligible list shall file with the Commission a written notice of any change of address, and failure to do so may be considered sufficient reason for not certifying the eligible's name to the appointing authorities for consideration for appointment.

(F) Investigation and Disqualification of Eligibles

Upon the establishment of an eligible list, and except as otherwise prohibited by law, the Commission may conduct or authorize an investigation as to whether the eligibles possess the necessary standards of fitness, physical attributes, mental soundness, or other qualifications required to perform the duties and responsibilities of the position sought. The eligibles may be investigated before certification.

The investigation may include physical fitness examination, medical examination, psychological and/or psychiatric examination, polygraph examination, background investigation, personal interview, drug testing, or any other method necessary to ascertain the applicant's qualifications and abilities, as determined by the Commission.

If an eligible is found during the investigation to be unqualified or unsuitable for the position, the Commission shall remove the person's name from the eligible list. If the Commission removes a name from an eligible list, the person shall be promptly notified by certified mail (return receipt requested) or personal service or Fed-Ex (with signature requested) or substantially, similar, commercial mailing system of the removal and advised that an appeal may be filed within seven (7) calendar days after issuance of the notice; however, no appeal may be made for reinstatement to an eligible list that has expired or been revoked.

The Commission may reinstate the person to the eligible list upon a showing of just cause. The Commission may dismiss the appeal if the person does not appear at the scheduled hearing. If testimony is heard concerning the appeal, the Commission shall have the witnesses placed under oath or affirmation of truthfulness, shall permit cross-examination, and shall announce its conclusions of fact.

Where the Commission is unable for practical or legal reasons to conduct examinations to determine whether applicants have medical or psychiatric conditions that would prevent satisfactory performance of all essential functions of the position, the Commission's certification of an eligible shall not signify that the person meets all requirements for the position relating to physical and psychological abilities.

(G) Revocation of List

An eligible list may be revoked and another examination ordered when the Commission deems revocation to be advisable for reasons of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All eligible applicants in the first examination shall be notified and shall be eligible to participate in the rescheduled examination without filing a separate application; however, if the eligible list has been in place for six (6) months or longer before being revoked, all applicants shall pay the required filing fee. The revocation of any list and the reasons therefore shall be entered in the minutes of the Commission, and any person on the list at the time of revocation shall be so notified by mail.

RULE VIII
APPOINTMENTS

Permanent appointments to all positions in the classified service that are not filled by promotion, transfer, or reduction shall be made from those persons whose names are certified to the appointing authority in accordance with the Civil Service Laws of the City and the Rules of the Commission.

(A) Number of Names to Be Certified; Appointment from Other Appropriate Lists

1. The appointing authority of the department in which the position in the classified service is to be filled shall notify the Commission of the fact, and, except as set forth below, the Commission shall certify to the appointing authority the names and addresses of the five (5) candidates standing highest on the eligible list for the class or grade to which the position is classified. In the event that an eligible list becomes exhausted through inadvertence or otherwise, and until a new list can be created or when no eligible list for such position exists, names may be certified from eligible lists that the Commission determines appropriate for the group or class in which the position to be filled is classified.
2. In cases where there are fewer than five (5) names on an eligible list appropriate for certification to any vacancy, such names shall be certified, and the appointing authority may make selection from such certification or may reject the certification of fewer than five (5) names.
3. The number of names to be certified shall be determined in the following manner:
 - a. For 1 through 4 vacancies, add 4 names to the number of vacancies.
 - b. For 5 through 8 vacancies, add 8 names to the number of vacancies.
 - c. For 9 through 12 vacancies, add 12 names to the number of vacancies.
 - d. For 13 through 16 vacancies, add 16 names to the number of vacancies.
4. Notwithstanding these provisions, the Commission shall certify the names of the highest ten (10) eligible candidates for a position as Patrol Officer.

The appointing authority shall have the option to hire from either the certified eligible list for original appointment Patrol Officers or the certified eligible list for lateral transfer Patrol Officers. In the event there is no eligible list in effect for original appointment Patrol Officer, the Commission shall not be required to certify an eligible list for lateral transfer Patrol Officer to the appointing authority unless requested to do so by the appointing authority.

If the Director of Public Safety seeks to fill more than one Patrol Officer position, the Commission shall certify sufficient names to allow each appointment to be selected from

a group of ten (10) eligibles. (For example, for 1 through 4 Patrol Officer vacancies, add nine (9) names to the number of vacancies, for 5 through 8 Patrol Officer vacancies, add eighteen (18) names to the number of vacancies.)

(B) Certification Not More Than Three Times

A person certified from the same eligible list three (3) times to the same appointing authority may be omitted from future certifications unless the appointing authority has specifically requested certification of that person. A person is "certified," for purposes of this section, each time an appointment is made from a certified list containing that

person's name; however, if a person is certified when more than one (1) position is to be filled, that person shall remain eligible through up to five (5) appointments from that particular certified list. If fewer than five (5) appointments are made from that certified list, the person shall be eligible for future certification until the person has been considered for appointment five (5) times.

(C) Names Not to Be Certified for Appointment

The name of any person appearing on an eligible list who:

1. fails to report or arrange within seven (7) calendar days for an interview with the appointing authority;
2. fails to respond to a notice from the Commission within seven (7) calendar days;
3. declines an appointment without reasons satisfactory to the Commission;
or
4. cannot be located by the postal authorities

shall not thereafter be certified to any appointing authority as eligible for appointment unless a thoroughly satisfactory explanation of the circumstances is made to the Commission. A person removed from eligibility in this manner shall be notified by written notice sent by certified mail (return receipt requested), personal service, or Fed-Ex (with signature requested) or substantially, similar, commercial mailing system to the last address provided by the applicant. Where an eligible person's name appears on more than one (1) list, appointment to a position in one (1) class shall be considered a waiver for appointment from other eligible lists for classes of equal or lower salary.

(D) Objection by Appointing Authority

When an objection is made by an appointing authority that any person certified:

1. is unable to perform the essential functions of the position;
2. is currently a user of drugs of abuse;
3. has been guilty of infamous or notoriously disgraceful conduct;

4. has been convicted of a felony or of a misdemeanor involving moral turpitude or moral delinquency;
5. has been dismissed from a position in the civil service and removed for cause or did not resign in good standing;
6. has made a false statement of any material fact or practiced or attempted to practice any deception or fraud in an application or examination concerning employment by the City or the City Schools;
7. has a record of excessive traffic citations and/or chargeable accidents, and the position the individual is applying for requires driving; or
8. is unable to meet the Commission's qualification standards

the Commission shall, if such objection is shown to be well taken, vote to strike the name of such person from the eligible list and certify another name. Before striking the name of such person from the eligible list and/or certifying another name, the Commission shall notify such person by certified mail (return receipt requested) or by personal service, or by Fed-Ex (with signature required) or other substantially, similar, commercial mailing system. The applicant may appeal such objection to the Commission within seven (7) calendar days after issuance of notification. If the person fails to appear for the hearing, or upon being heard, fails to show just cause why the Commission should reinstate the person's name to the eligible list, removal will stand and another name will be certified.

(E) Appointment from Certified List

Upon receipt from the Commission of a certified list of eligibles for appointment to a position, the appointing authority shall fill such position by appointment of one (1) of the five (5) persons certified. The appointing authority shall promptly report to the Commission the name of the appointee, the title of the position, the duties and responsibilities of the position, the salary or compensation of the position, and such other information as the Commission may require in order to keep its roster.

(F) Waiver of Certification

An eligible may waive certification by written notification to the Commission. A waiver of certification shall remain in effect until withdrawn in writing, at which time the eligible is reinstated to the position originally held on the eligible list. A waiver may not exceed six (6) months, and may not be used more than two (2) times. After two (2) waivers, or after six (6) months have passed on a waiver, the eligible's name shall be removed from the eligible list. Whenever one (1) or more of the eligibles who have been certified waive certification or fail to respond to notice of certification, the Commission shall supplement the certification from the eligible list by an equal number of additional names.

(G) Rejection of Appointment

An eligible who has declined appointment to a permanent position shall be removed from the eligible list and shall not thereafter be certified for the same position from that eligible list, unless a reason for declining the appointment is approved as satisfactory by the Commission.

(H) Promotional Appointments

The appointing authority of the department in which a vacancy is to be filled by promotion shall notify the Commission of the fact. If there is an eligible list for such position, the Commission shall immediately certify to the appointing authority the names of the three (3) persons standing highest on such list. The number to be certified shall be determined in the following manner:

1. For 1 through 4 vacancies, add 2 names to the number of vacancies.
2. For 5 through 8 vacancies, add 4 names to the number of vacancies.

3. For 9 through 12 vacancies, add 6 names to the number of vacancies.

If there is no such list and the position that is vacant is deemed to require a competitive examination, the Commission shall, within sixty (60) calendar days after notification, conduct a competitive promotional examination for the position and shall certify to the appointing authority the names of the persons heading the eligible list established as the result of such examination.

Upon certification to the appointing authority, appointment shall be made within thirty (30) calendar days. If the number of names eligible for certification is less than the number provided for in this Section, the appointing authority shall make the appointment from the number certified.

(I) Temporary Promotional Appointment

If a vacancy occurs in a higher position for which there is no eligible list, a temporary promotion may be made from among the employees in the next lower classification upon the request of the appointing authority and approval by the Commission; however, no such temporary promotion shall become permanent or shall continue beyond the establishment of an appropriate eligible list and an appointment therefrom.

(J) Temporary, Exceptional, and Provisional Appointments

1. Temporary Appointment

An appointing authority may appoint a qualified person for a temporary period of service when the usual procedure of requisition and certification is not suitable and when the need of service is urgent and necessary to prevent the loss of public property, serious inconvenience to the public, or damaging delay to the public service. The temporary appointment shall not exceed nine hundred sixty (960) hours worked in a calendar year and shall not be counted as a part of the probationary service in the event of subsequent appointment to a permanent position.

Temporary appointments made necessary by reason of sickness or disability shall not continue beyond such period of sickness or disability.

2. Exceptional Appointment

In case of a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by a selection of some designated person of high and recognized attainments in such qualities, the Commission may waive the Rules, but no waiver shall be general in its application.

3. Provisional Appointment

a. Procedure for Appointment

Whenever there are urgent reasons to fill a vacancy and the Commission is unable, upon requisition, to certify eligibles from an eligible list, the Commission shall notify the appointing authority, who may then appoint a person to fill the vacancy. The appointing authority shall send notice of such appointment, with complete data for the official roster, to the Commission.

b. Tenure

Regardless of the length of service by a provisional appointee, a provisional appointment shall continue in force only until a permanent appointment can be made as a result of a certification by the Commission. No provisional

appointment is valid once a certification can be made from an appropriate eligible list, regardless of whether the employee holding the provisional appointment may be eligible for permanent employment as hereinafter provided. A provisional employee shall serve a probationary period and may also be removed for cause.

c. Procedure upon Establishment of an Eligible List

The Commission shall remove any provisional appointee who does not take the examination held for the position, or who takes the examination and does not pass, from the position within fifteen (15) working days after the establishment of the eligible list for the position. Immediately upon establishing the eligible list, the Commission shall notify the employee and the appointing authority for the position of the termination of the provisional appointment.

Before establishment of an eligible list by the Commission, it shall certify for appointment as a permanent employee any provisional appointee who satisfactorily completed the probationary period or at least six (6) months of service, whichever is longer, before the examination was held for the position and who passed the examination. The employee shall have all the rights of a permanent employee and shall not be required to complete an additional probationary period.

The Commission shall place on the eligible list and certify for consideration by the appointing authority in the normal manner any provisional appointee who had not completed the probationary period or six (6) months of service, whichever is longer, by the time of examination for the position and who passed the examination. In the event of a tied grade, however, the Commission shall consider the candidate's length of provisional service in the position before considering priority of filing application. Regardless of whether the provisional employee is eligible for inclusion in a certification upon establishment of the eligible list, the Commission shall notify the employee and the appointing authority that the provisional appointment shall be terminated within fifteen (15) working days of establishment of the eligible list and issuance of a certification of eligibles.

4. Substitute Employees

A substitute employee may work in place of a permanent or provisional employee who is ill or on vacation, leave of absence, or personal leave. The name of the permanent or provisional employee for whom the substitute employee is working shall be designated on the payroll. A substitute employee acquires no rights with respect to the position being filled.

5. *Police Patrol Officer Lateral Transfer Hires*

Seniority for lateral transfer Patrol Officers shall be based on the date of hire by the City. Seniority for promotion or lay-off purposes for lateral transfer Patrol Officers shall also begin with the date of appointment as a Patrol Officer with the City Police Department.

(K) Probation

1. Purpose

The probationary period shall be regarded as an integral part of the examination process and shall be used to closely observe the employee's work, to give the employee full opportunity to demonstrate successful performance on the job, and to remove any employee whose performance does not meet required work standards. No appointment or promotion shall be deemed final until the appointee has satisfactorily served the probationary period.

2. Probationary Period

All original appointments, including provisional appointments, shall be for a probationary period, from first work day, of not less than six (6) months (sixty (60) days for City Schools Civil Service employees) except that the following original appointments shall serve a probationary period of one (1) year or period stated in the collective bargaining agreement, in force at time of hire, for any individual stated below who is a member of a union:

1. Appointees to Patrol Officer in the Police Department
2. Appointees to Secretary to the Civil Service Commission
3. Appointees to Police Communication/Records Supervisor
4. Appointees to Police Communications Operator
5. Appointees to Police Records Clerk

Service as a provisional employee in the same or similar class shall be included in the probationary period. Time spent on approved leave, including jury duty, shall not be counted as part of the probationary period.

Lateral transfer Patrol Officers shall serve a probationary period of one (1) year. Following successful completion of the probationary period, employees selected through the lateral transfer process shall be entitled to all other rights attributed to the classified service.

At the request of the appointing authority, the Commission may extend an employee's probationary period, provided that the request is submitted at least one (1) week before the expiration of the probationary period and that the employee agrees in writing to the extension; however, the Commission shall not extend the probationary period for longer than six (6) months. If a timely request for extension is denied and the

probationary period has by that time expired, the time deadline for the appointing authority to act during the probationary period shall be stayed and the appointing authority shall immediately complete the final probationary evaluation.

A provisional appointee's probationary period cannot be extended past the date scheduled for the examination for the appointee's position.

3. Probationary Period for Promotional Appointments

All permanent promotional appointments in the classified service shall serve a probationary period of forty-five (45) calendar days from the date of such promotion (thirty (30) days for City Schools Civil Service employees), except that the following promotional appointment shall serve a probationary period of one (1) year:

1. Appointees to Police Lieutenant
2. Appointees to Police Chief
3. Appointees to Fire Lieutenant
4. Appointees to Fire Captain
5. Appointees to Fire Operations Captain
6. Appointees to Fire Assistant Chief
7. Appointees to Fire Marshall
8. Appointees to Fire Chief
9. Appointees to Secretary to the Civil Service Commission

If, during that period, the service of the employee so appointed is not satisfactory, the employee may be reduced to the position from which the promotion was made.

4. Probation Reports

All classified employees shall be evaluated during the probationary period. On a form furnished by the Commission, the probationary employee will be evaluated at a point halfway through the first half of the probationary period, at the halfway point, and within the last thirty (30) calendar days of the probationary period.

The probationer will receive a copy of each evaluation.

On the final probationary evaluation, the appointing authority shall indicate acceptance or rejection of the employee. This report must be delivered to the Commission by the end of the probationary period, but subject to the probation extension, denial, and exception provisions of paragraph 2 above. If no such report is submitted, the employee's appointment automatically becomes permanent.