

# **RULES AND REGULATIONS**

**of the**

## **MEDINA CIVIL SERVICE COMMISSION**

The following rules and regulations were adopted in accordance with the authority conferred upon the Medina Civil Service Commission by the Charter of the City of Medina, Section 10 of Article XV of the Constitution of the State of Ohio, Section 124.40 of the Ohio Revised Code, and Resolution 85-81 passed August 10, 1981, by Medina City Council (effective September 10, 1981).

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RULE I		
	ADMINISTRATION . . . . .	1
RULE II		
	POWERS AND DUTIES OF THE COMMISSION . . . . .	4
RULE III		
	DEFINITION OF TERMS . . . . .	6
RULE IV		
	CLASSIFICATION PLAN . . . . .	11
RULE V		
	APPLICATION FOR EXAMINATION . . . . .	14
RULE VI		
	EXAMINATIONS . . . . .	17
RULE VII		
	ELIGIBLE LISTS . . . . .	25
RULE VIII		
	APPOINTMENTS . . . . .	28
RULE IX		
	TRANSFERS, LAYOFFS, REINSTATEMENTS, AND RESIGNATIONS . . . . .	36
RULE X		
	REDUCTIONS, SUSPENSIONS, AND REMOVALS . . . . .	41
RULE XI		
	APPEAL HEARINGS, PROCEDURES . . . . .	45
RULE XII		
	SAVING CLAUSE . . . . .	49
RULE XIII		
	SCOPE OF RULES, MISCELLANEOUS PROVISIONS . . . . .	50
	<u>GUIDELINES FOR APPEALS TO THE CIVIL SERVICE COMMISSION . . . . .</u>	<u>51</u>

RULE I  
ADMINISTRATION

(A) Appointments to the Commission

The municipal Civil Service Commission of Medina, Ohio, hereinafter referred to as “the Commission,” shall be composed of three persons who shall be appointed and serve in the manner provided for in the Charter of the City of Medina, Article V, Section 8, Administrative Departments and Commissions. It shall be the duty of each Commission member to attend all meetings of the Commission and to devote as much time as is necessary to the management of the business and affairs of the Commission.

(B) General Duties of Commission Members

The Commission shall administer and enforce the rules and regulations herein prescribed, the civil service provisions of the Charter, and, where applicable, the civil service laws of the State of Ohio relative to civil service in the City of Medina and the Medina City School District.

(C) Commission Chairperson

One of the members of the Commission shall serve as its Chairperson. The position shall be filled annually by rotation among the Commission members. If the order of rotation cannot be otherwise determined, it shall be based upon seniority of service on the Commission; however, as between members with equal seniority, the member who has not served as the Chair or has less recently served as the Chair shall be selected. Further ties shall be broken by coin flip. It shall be the duty of the Chairperson to call meetings of the Commission as are necessary to transact business and affairs of the Commission, to preside at all Commission meetings, and to sign the minutes of all actions taken by the Commission.

The Co-chairperson shall be selected in the same manner from the remaining two members. In the absence of the Chairperson, the Co-chairperson shall assume all duties and responsibilities of the Chairperson.

(D) Meetings

The Chairperson, on the Chair’s own initiative or that of any member, may call a special Commission meeting to be held not later than ten (10) calendar days from the date of notice of such meeting.

A special meeting shall not be held unless at least twenty-four (24) hours advance notice is posted at the City Hall and given to the news media, except in the event of an emergency requiring immediate official action. In such event, the person calling the meeting shall promptly cause such notice to be made.

The time and place of all meetings may be obtained by calling the Commission office. Meeting notices shall also be posted promptly on the City's cable television channel and Internet website.

Two members of the Commission shall constitute a quorum at any meeting of the Commission. The affirmative vote of at least two Commission members shall be required to adopt any motion or resolution.

(E) Operating Procedures

The Commission may adopt, amend, and rescind operating procedures for its meetings and other business that are not in conflict with the Charter or these Rules and Regulations, and, with regard to the civil service of the Medina City School District, the Commission may adopt operating procedures that are not in conflict with Chapter 124 of the Ohio Revised Code. Any proposed operating procedures shall be posted for a minimum of one week prior to adoption. The Commission's Secretary shall provide for the posting at municipal bulletin boards and such other locations as the Secretary deems appropriate. The Commission's operating procedures shall be maintained as a single compilation. The Commission's operating procedures shall not confer substantive rights and may be waived by a majority vote of the Commission.

(F) Secretary to the Commission

The Commission shall employ a suitable person to act as Secretary to the Commission. The Secretary shall be chosen according to merit and fitness to perform the required tasks.

The Secretary shall attend all the meetings of the Commission and keep the minutes thereof; shall keep in the form of minutes a record of the official actions of the Commission; shall be at the office of the Commission during the prescribed hours that such office is open; shall attend hearings at the request of the Chairperson and keep minutes thereof; shall accurately and properly keep all records of the Commission; shall keep all files in proper order; shall prepare and deliver, or cause to be delivered, notices and other communications ordered by the Commission; shall at the direction of the Commission arrange for the preparation, administration, and grading of examinations for the establishment of eligible lists for positions in the classified service; shall properly furnish appointing authorities with eligible lists; shall maintain an official roster of City employees; shall certify payrolls; shall handle such correspondence as the Commission shall determine; shall administer a system of annual performance evaluations, by the appropriate appointing authorities, for all employees who have completed their probationary periods; and shall perform such other duties as may be required by the Commission.

(G) Meeting Agenda

The order of business for meetings of the Commission shall be:

1. Roll call
2. Disposition of unapproved minutes
3. Unfinished business
4. New business
5. Adjournment

RULE II  
POWERS AND DUTIES OF THE COMMISSION

The Commission shall exercise such powers and perform such duties as are set forth in the Charter or the enactments of the Council, and shall exercise the powers and perform the duties conferred upon the Director of Administrative Services and the State Personnel Board of Review set forth in Section 124.40 of the Ohio Revised Code, including but not limited to the following:

- (A) To hear appeals, as provided by law or these rules, of employees in the classified service from final decisions of appointing authorities relative to reduction in pay or position, job abolishment, layoff, suspension, or discharge. The Commission may affirm, disaffirm, or modify the decision of the appointing authorities;
- (B) To appoint a secretary and such other employees necessary for the exercise of the powers and performance of the duties and functions that the Commission is authorized and required to exercise and perform, and to prescribe the duties of such secretary and employees;
- (C) To maintain a journal that shall be open to public inspection, in which it shall keep a record of all of its proceedings and of the vote of each of its members upon every action taken by the Commission;
- (D) To adopt operating procedures relating to the administration of the laws that the Commission has authority or duty to administer and for the administration of these Rules, and for the purpose of invoking the jurisdiction of the Commission in hearing appeals of employees in matters set forth in paragraph (A) of this Rule;
- (E) To issue subpoenas requiring the attendance and testimony of witnesses and the production of books, papers, public records, and other documentary evidence pertinent to any matter touching the enforcement and effect of the civil service provisions of the City Charter and of these Rules, or any applicable state civil service law, and concerning the general condition of the civil service of the City or the Medina City School District;
- (F) To prepare, conduct, and grade all competitive examinations for positions in the classified service;
- (G) To prepare, conduct, and grade all noncompetitive examinations for positions in the classified service;
- (H) To prepare eligible lists containing the names of persons qualified for appointment to positions in the classified service;
- (I) To prepare or amend specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the various classifications of positions in the municipal service;

- (J) To keep records of its proceedings and records of all applications for examinations and all examinations. These records shall be available for public inspection upon proper application to the Commission, except as follows: Records exempt from public inspection shall include records pertaining to physical or psychiatric examinations, adoption, examinations including answer keys, inquiries to and responses from former employers, and such other records as may be exempted by state or federal law from public disclosure. Inspection and copying of public records, including the time, manner, and costs of inspection or copying, shall conform to applicable law and City policies. The Commission may permit the disclosure of public information requested by telephone, such as place of City or City Schools employment, dates of City or City Schools employment, job classification, and verification of current pay grade;
- (K) To prepare, maintain, and keep in the office of the Commission a complete roster of all persons in the classified service, showing in reference to each person his or her name, address, the date of appointment to or employment in the civil service, the salary or compensation, the title of the person's position or office, the nature of the duties of the position or office, and, in the case of separation from the service of the City, the date of the termination of such service;
- (L) To investigate allegations of abuse or violation of these Rules;
- (M) To prepare reports as may be necessary by law, these Rules, resolution of Council, or Civil Service Commission procedure.

RULE III  
DEFINITION OF TERMS

As used in these Rules and Regulations, the following words and terms shall each have the meaning indicated below. These definitions shall apply to the City of Medina, which is referred to as the “City,” and the Medina City School District, which is referred to as the “City Schools.”

Applicant: A person who has made formal application for a position with the City or the City Schools.

Appointing Authority: The officer, commission, board, or body having the power of appointment to and suspension or removal from positions in the classified service, limited to:

Mayor  
Director of Finance  
Public Service Director  
Civil Service Commission  
Medina City Board of Education  
Any other officer, commission, board, or body designated by Charter or Council

Appointment: The act of selecting and hiring an individual to a position in the employment of the City or the City Schools.

Authorized Position: Positions that have been authorized and approved by Council or the Board of Education.

Certification: The act by which the Commission sends to the Appointing Authority a list of names of applicants eligible for a specific position.

Civil Service: A term that refers to and includes all offices and positions of trust or employment in the service of the City and the City Schools.

Classification (Class): A position or group of positions having similar duties and responsibilities, requiring similar qualifications that can be properly designated by one title and equitably compensated by the same salary range.

Classification Series: Any group of classification titles that have the identical name but different numerical designations, or identical titles except for designated levels of supervision, and any group of classification titles designated by the Commission as a series.

Classified Service: All positions in the civil service not specifically included in the unclassified service.

Continuous Service: The time a person has been continuously employed, including time served as a full-time, provisional, or probationary employee where there has been a continuation of

employment without any break in service. Time served as a part-time or temporary employee is not included in calculating continuous service. Time spent on approved leaves of absence, such as uniformed service leaves (as defined in Rule VI(K)), medical leaves, and FMLA leaves does not constitute interruptions of continuous service.

Demotion: The movement of any employee from a position in one class to a position in another class having a lower maximum salary rate due to incapacity to perform the work, inefficiency, or unsatisfactory work performance or any other appropriate cause or disciplinary reasons, or by the approved request of the employee.

Efficiency Points: A calculation based upon semi-annual performance evaluations of permanent and provisional employees by their appointing authorities.

Eligible: A person who has made formal application for a position with the City or the City Schools, and has been placed on an eligible list, or who has qualified to be placed on an eligible list.

Eligible List: A list of names of persons found qualified through examination or other means to fill vacancies in the classified service.

Employee: One who serves the City or the City Schools in the classified or unclassified civil service.

Employee Status: A term utilized to describe an employee's title, salary range, and type of employment (temporary, seasonal, permanent, etc.)

Examination (Test): Method or procedure used by the Commission to assess the relative capability of applicants to perform the duties and responsibilities of the position sought. Examinations may consist of one or more of the following:

Entrance Examination: An examination administered to determine those applicants who qualify to fill appointment to the lowest level position in a classification series.

Open Examination: An examination to which persons not in the City or the City Schools service, as well as those in such service, are admitted.

Competitive Examination: An examination given for the purpose of determining the relative rank of those qualifying and establishing an eligible list arranged in the order of merit.

Noncompetitive Examination: An examination either open or promotional, given to determine those qualified to fill appointments to positions requiring peculiar and exceptional qualifications of a scientific, professional, educational, or managerial character. The resultant eligible list consists of an alphabetical listing of those examinees who have passed the examination, from which any one may be selected.

Promotional Examination: An examination to which only persons in the City or the City Schools service who meet the qualifications for the examination are admitted.

Assembled: An examination given to a number of candidates gathered in the examination center(s) at a designated time and date.

Unassembled: An examination in which applicants are subject to only general controls as to the manner in which required materials are submitted for review and rating, usually not involving the calling of all applicants together at a set date, place, and time.

Job Specification: A written summary of the duties and responsibilities of a position.

Municipal Service: Those positions in the classified service of the City.

Permanent Employee: An employee in the classified service who, following certification, has completed the applicable probationary period and occupies a duly authorized position.

Position: A group of currently assigned and generally defined duties and responsibilities requiring the full- or part-time employment of one person.

Promotion: A vertical movement to a higher class within a class series, involving a change in grade and rate of compensation.

Provisional Employee: A qualified person selected by the appointing authority when it is necessary to fill a vacancy and the Commission is unable, upon requisition, to certify a list of persons eligible for appointment after a competitive examination. Such provisional appointment shall continue in force only until a regular appointment can be made pursuant to examination.

Rules: The Rules and Regulations of the Medina Municipal Civil Service Commission.

Schematic List of Classes: The numerical roster of all classes of full-time positions within the City of Medina as established by City Council.

School Service: Those positions in the classified service of the Medina City School District.

Temporary Employee: An employee appointed for a specified period, or a special project, or one who is replacing a permanent employee on leave.

Unclassified Service:

A. Positions in the City of Medina

1. All elected officials
2. Appointments by the Mayor or administration as set by Charter or Ordinance
3. Members of Boards and Commissions

4. Law Department personnel
5. Planning Director
6. Clerk of Council
7. Deputy Clerk of Council
8. Employees of the City legislative authority as are engaged in legislative duties and whose positions have been authorized by Council
9. When authorized by Council, no more than three clerical and administrative support employees for each of the following:
  - a. Mayor
  - b. Director of Finance
  - c. Public Service Director
10. When authorized by Council, a deputy or assistant for each of the following:
  - a. Mayor
  - b. Director of Finance
  - c. Public Service Director
11. Municipal Court employees except as otherwise provided by the Ohio Revised Code.
12. Those positions not requiring specific education or experience and for which the Civil Service Commission finds it not practical to ascertain the merit and fitness of appointees because of the nature of the work, the limited hours to be worked, or the transient nature of the position, including:
  - a. Persons employed part-time (not having a regular work schedule or who are regularly scheduled to work no more than thirty-five (35) hours per week) in a classified position
  - b. Persons employed in a position that is considered seasonal
  - c. Temporary appointees
  - d. Exceptional appointees

Within sixty (60) calendar days after taking office, each elective officer and each principal appointive officer, board, commission, or body having the power of appointment to, or removal from, positions in any office, department, commission, or board shall designate the position for which exemption from the competitive classified service is claimed. Thereafter no change in the designation of exemptions claimed under this provision shall be made during the incumbency of such officer, board, or commission, except after the filing of a statement of reasons for the proposed change satisfactory to the Commission. If exemptions have not been designated within the allowed time period, the previously designated exemptions shall be considered the exemptions claimed.

Whenever a position is changed from the classified to the unclassified service, if the position is occupied by a classified employee, and the employee is displaced as a result of such change, the employee shall be treated as if his/her position were abolished, and the layoff procedures shall be followed as directed in Rule IX. If the incumbent employee is not displaced as a result of the change, the employee shall nonetheless be considered as having a new appointment. If a position no longer qualifies as an unclassified position, the Commission shall incorporate the position within the Position Classification Plan pursuant to Rule IV.

The Commission shall keep a list of the actual positions (working titles may be used for clarification) designated as unclassified on file in the Commission office.

Positions in the unclassified service shall be exempt from all testing and the Rules and Regulations of the Medina Civil Service Commission.

B. Positions in the Medina City School District

Offices and positions in the Medina City School District shall be identified by the Commission as unclassified or not based upon Ohio Revised Code Section 124.11 and other applicable state law.

RULE IV  
CLASSIFICATION PLAN

(A) Definitions

1. A position is a group of currently assigned duties and responsibilities requiring the full- or part-time employment of one person. A position may be occupied or vacant.
2. A class is a group of positions (or one position) that (1) have similar duties and responsibilities; (2) require like qualifications; and (3) can be equitably compensated by the same salary range.
3. The class title is the official designation or name of the class as stated in the class specification, and it shall be used on all personnel records and actions. Working or office titles may be used for purposes of internal administration.

(B) Position Classification Plan

The Position Classification Plan shall consist of all classes of positions included in the “Schematic List of Classes.” The Civil Service Commission, with the approval of the Mayor, shall be responsible for administering the Position Classification Plan.

The Civil Service Commission shall be responsible for maintaining on file an official copy of the Position Classification Plan. The official copy shall include regulations for administration, schematic list of class titles, and class specifications plus all amendments thereto. A copy of the official Plan shall be available for inspection by the public under reasonable conditions during office hours.

(C) Maintenance of Plan

1. Each time a vacancy occurs, the appointing authority shall complete and submit a position description to the Commission and to the Mayor for a review of the allocation of the position. The Commission may waive this requirement if changes in the duties and responsibilities of a position have not occurred and are not currently anticipated.
2. Each time a department or division is reorganized, the appointing authority shall submit position descriptions for all affected employees to the Commission and to the Mayor for review.
3. The Commission may require departments or employees to submit position descriptions on a periodic basis or any time the Commission has reason to believe that there has been a change in the duties and responsibilities of one or more positions, or at the Mayor’s request.

4. Each time a new class is established, a class specification shall be incorporated in the existing Plan. The class title shall be added to the schematic list of titles. Likewise, an abolished class shall be deleted from the Position Classification Plan by removing the class specification and eliminating the class title from the Schematic List of Classes.
5. The Position Classification Plan shall be reviewed at Council's discretion.

(D) Interpretation of Class Specifications

The class specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions that shall be allocated to the classes established. In a series of classes such as the Police classes, the specifications for all classes should be reviewed as a unit.

(E) Allocation of New and/or Additional Positions

When the duties and responsibilities for a proposed position are basically the same as those of an established class, the department head shall request City Council's approval to establish such additional position at the applicable pay grade.

If the duties and responsibilities for the proposed position are different from any previously established class, the department head shall complete a job description indicating general duties, responsibilities, and qualifications. The Civil Service Commission shall then prepare a class specification sheet, a code number, and a suggested pay grade to be submitted by the department head with the request to City Council to establish the new position. If approved, City Council shall decide the proper pay grade and allocate the position to it.

(F) Automatic Certification

When a position has been reclassified on account of additional duties and responsibilities or to correct original errors in classification, the incumbent of the former position shall be appointed to the new position without examination provided it is shown to the Commission's satisfaction that this person has fully performed the additional duties and assumed the responsibilities for which reclassification was allowed for an acceptable period of time and is fully qualified to fill the position. The employee's retention points in the new position shall be calculated at the time of reclassification.

(G) Annual Performance Appraisals

All classified employees not on probationary status will be evaluated once a year in March. An employee with permanent status must be at least sixty (60) days beyond the end of probation to be included in the annual evaluation process.

(Ord. 205-10)

The appointing authority will submit the completed, original evaluation form to the Commission office within two weeks of receipt from the Commission. The Commission's secretary will forward a copy of the form to the evaluated employee and will file the original in the employee's personnel file, where it will remain for a period of five (5) years.

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.

(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.

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.

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.

(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 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.

(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.

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.

(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. 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.

(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:

- a. Appointees to Patrol Officer in the Police Department
- b. Appointees to Secretary to the Civil Service Commission
- c. Appointees to Police Communication/Records Supervisor (Ord 45-06)
- d. Appointees to Police Communications Operator
- e. 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.

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:

- a. Appointees to Police Lieutenant
- b. Appointees to Police Chief
- c. Appointees to Fire Lieutenant
- d. Appointees to Fire Captain
- e. Appointees to Fire Operations Captain
- f. Appointees to Fire Assistant Chief
- g. Appointees to Fire Marshall
- h. Appointees to Fire Chief
- i. 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.

5. Probationary Removal

The appointing authority may remove a probationer for unsatisfactory probationary service at any time within the probationary period with no right of appeal. The Commission shall have no jurisdiction to review an appointing authority's determination that a probationary appointee's service was unsatisfactory.

RULE IX  
TRANSFERS, LAYOFFS, REINSTATEMENTS, AND RESIGNATIONS

(A) Transfers

A person holding a position in the classified service may be transferred, with the consent of the Commission, to a similar position in another office, department, or institution having the same pay and similar duties, but no transfer shall be made to a position in another class nor to a position for which original entrance requires an examination involving essential tests or qualifications different from those required for original entrance to the position held by such person. No transfer shall be made to a position carrying a salary different from that of the position from which the transfer is requested except as stated herein.

An employee may waive the salary provisions of the preceding paragraph and request a transfer to a position that carries an annual salary lower than that of the position from which the transfer is requested, provided the request is made voluntarily and the employee is able to satisfactorily pass the examination for the transfer position.

(B) Layoff Procedures

Whenever it becomes necessary in any office or department, other than the Police and Fire departments (see Section G of this Rule) to reduce the workforce due to lack of work or funds, the procedure outlined in this section shall be followed. The appointing authority shall determine the job classes and the number of employees in each class to be laid off. Any layoff within a classification must proceed by laying off in the following order:

1. Within each department, intermittent, then seasonal, and then part-time employees, in inverse order of appointment.
2. Full-time employees serving under provisional appointment who have not completed their probationary period.
3. Full-time employees serving provisionally who have satisfactorily completed their probationary period, in order of the least seniority points.
4. Full-time employees appointed by certification who have not completed their probationary period after appointment, in inverse order of appointment or seniority points, if applicable.
5. Full-time employees appointed by certification who have satisfactorily completed their probationary period after appointment and who have the least seniority points.

A laid-off employee in the classified service has the right to displace the employee with the least seniority points in a lower classification in the same classification series. A classification series is any group of classification titles that have the identical name but different numerical designations. Any employee displaced by an employee shall have the right to displace another employee in a lower classification of the same classification series if the displacing employee has more seniority points. This procedure shall continue, if necessary, until the employee with the least seniority points in the lowest classification of the classification series of the same appointing authority has been reached and, if necessary, laid off.

Whenever it becomes necessary, due to lack of work or funds, to reduce the number of employees in a job classification in the Medina City Schools, the procedure accepted and adopted by the Medina City Board of Education through negotiations with OAPSE will be followed.

For purposes of this Rule IX, "lack of funds" means the appointing authority has a current or projected deficiency of funding to maintain current, or sustain projected, levels of staffing and operations. This Rule does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn.

(C) Seniority Points for Purposes of Layoffs

For purposes of layoff procedures, the Commission shall assign seniority points reflecting systematic consideration of seniority for all employees. Seniority points will be determined as follows:

1. Employees shall be assigned one (1) seniority point for each thirteen (13) weeks of continuous service with the appointing authority affected by the layoff. These seniority points shall be added to a base factor of one hundred (100) points, thus yielding total seniority points.

(D) Notification of Layoff, Displacement, and Recall

The appointing authority shall give advance written notice of a layoff to each employee to be laid off. The written notice shall be hand delivered to the employee (personal service) or sent by certified mail (return receipt requested), or delivered by Fed-Ex (with signature required) or other substantially, similar, commercial mailing system to the last address on file with the appointing authority. If hand delivered, such notice shall be given fourteen (14) calendar days before layoff, and the day of the hand delivery shall be the first day of the fourteen- (14) day period. If mailed, such notice shall be given seventeen (17) calendar days before layoff, and the day of posting shall be the first day of the seventeen- (17) day period.

Each notice of layoff or displacement shall contain the following information:

1. The reason for layoff or displacement
2. The date layoff or displacement becomes effective
3. The employee's seniority points
4. The right of such employee to file a written objection to the layoff or displacement with the Civil Service Commission and the time within which to file an objection
5. A statement advising the employee of the right to displace another employee and the length of time within which the employee may displace (bump) another employee
6. A statement advising the employee of the right to reinstatement or reemployment
7. A statement that, upon request by the employee, the appointing authority will make available a copy of rules regarding layoffs

Each employee recalled from layoff shall be notified of the offer of reinstatement or reemployment by certified mail (return receipt requested) or by personal service. The notice of reemployment shall contain a statement that refusal of reemployment shall result in removal of such employee's name from the jurisdictional layoff list. Each recalled employee shall be allowed ten (10) calendar days from the date of receipt of the letter to return to work, and such time limit shall be explained to the employee in the notification of recall letter. In the event of extenuating circumstances (e.g., illness, injury, absence from city or state, or other good cause as determined by the Commission) preventing the employee from returning within the above time limit, the employer shall grant a reasonable extension, not to exceed sixty (60) calendar days. In the absence of extenuating circumstances, any employee not accepting or declining reinstatement or reemployment within ten (10) calendar days shall be deemed to have declined reinstatement or reemployment for purposes of removal from eligibility under these rules.

For purposes of recall, it shall be the employee's responsibility to have a current address on file with the appointing authority.

(E) Objection to Layoff or Displacement

A laid off or displaced employee may file with the Commission a written objection to the layoff or displacement no later than ten (10) calendar days after receipt of notice of layoff or displacement. The Commission shall promptly notify the appointing authority of the objection and shall review the objection submitted and take whatever action is deemed appropriate.

(F) Establishment of Layoff Lists

The Commission shall place the names of persons holding permanent positions in the classified service that have been abolished or made unnecessary on an appropriate layoff list in order of seniority points and shall certify these names to all appointing authorities for a period of up to one (1) year. Whenever discontinued positions are reestablished by an appointing authority and a request is made for certification of eligibles, former employees in the department in question who have been laid off and whose names appear on the layoff list shall be first to receive appointment.

(G) Police and Fire Layoffs

Layoffs or reductions in the Police or Fire Department through lack of work or funds, or for other causes to reduce the force in such department, shall be made in accordance with the provisions of Ohio Revised Code Sec. 124.37.

(H) Resignations, Reinstatements

Upon receipt of a written notice of resignation from any employee in the classified service, the employee's appointing authority may make written acceptance at any time before the effective date of the resignation, which will cause the resignation to be irrevocable. The appointing authority shall forward a copy of such acceptance to the Commission. If the employee's appointing authority has not already made written acceptance, a resignation may be withdrawn in writing by the employee at any time before the effective date. If no action is taken by either the appointing authority or the employee, the resignation will become effective on the date specified by the employee in the original notice of resignation.

Any permanently appointed employee who has resigned without delinquency may be reinstated, without requisition upon the Civil Service Commission, by an appointing authority at any time within one (1) year from the date of such separation provided there are no former employees of the department who have been laid off and whose names appear on the eligible list for the class. A notice of such reinstatement shall be sent to the Commission for its approval.

(I) Leave of Absence

With notification to the Commission, an appointing authority or elected official may grant leave of absence to an employee in the classified service for up to six (6) months. Upon the expiration of such leave of absence, the employee shall be reinstated; however, if the employee is a provisional appointee, the leave of absence, if granted, is subject to the establishment of an eligible list for the position and terminates automatically if an eligible list for the position is established during the period of leave of absence. The Commission is to be notified promptly of all such leaves of absence granted by appointing authorities.

With the approval of the Commission, an appointing authority may extend a leave of absence for an additional period, up to six (6) months, for good cause.

Failure to report after a leave has expired or has been disapproved, revoked, or canceled by the Commission may be considered neglect of duty and cause for discharge under the procedures set forth in Rule X.

(J) Absence Without Leave, Reinstatement

Absence from duty without leave for any time will be considered neglect of duty and good cause for discipline, including dismissal, in accordance with the procedures in Rule X.

RULE X  
REDUCTIONS, SUSPENSIONS, AND REMOVALS

(A) Discrimination Prohibited

No person in the classified service of the City shall be reduced in rank or compensation, suspended, removed, or illegally discriminated against by an appointing authority because of race, gender, religion, age, disability, veteran's status, sexual orientation, national origin or ancestry, or for political reasons or affiliations.

(B) Tenure

A non-probationary employee may be reduced in rank or compensation or suspended or removed by the appointing authority for neglect of duty; absence without leave; incompetency or inefficiency in work; incapacity; conduct unbecoming an employee in the public service; substance abuse; offensive conduct or language toward fellow employees, superiors, or the public; providing false information on a civil service application; willful violation of any of the provisions of law governing the civil service or rules and regulations of the Commission; violation of any policy or work rule of the appointing authority or the appointing authority's designee; conviction of a felony or of a misdemeanor involving moral turpitude; negligence or willful damage to public property; wasteful use of public supplies or equipment; failure of good behavior that is detrimental to the service; violation of a last chance agreement; or for any act of misfeasance, malfeasance, or nonfeasance in office.

For purpose of this Rule, "last chance agreement" means an agreement signed by both the appointing authority and an employee that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the employee without the right of appeal to the Commission. However, in an appeal of a removal order based upon a violation of a last chance agreement, the Commission or Trial Board may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

(C) Predisciplinary Conference

Discipline may include (1) written warning; (2) written reprimand; (3) suspension; (4) reassignment; or (5) termination and each offense is cumulative. Any written form of discipline for any matter is considered in determining a greater level of discipline for any subsequent offenses. All discipline must be imparted within ten (10) work days after the employer notifies the employee of the misconduct. Before an appointing authority may issue an order of suspension, reduction, or removal for disciplinary reasons to an employee in the classified service, the employee shall be notified that disciplinary action is being considered and the reasons, and offered a reasonable opportunity to meet with the appointing authority or the appointing authority's representative to respond. The employee may be accompanied by a representative. All discipline shall be carried out in a private and business-like manner.

If the employee cannot be notified personally of the predisciplinary conference, notice may be delivered to the employee's last known place of residence. The employee will be asked to sign a disciplinary form acknowledging notice was received explaining the nature of the occurrence and the action being taken by the appointing authority or the appointing authority's representative. The employee must sign the form at that time, and note their statement of the situation on the form if they so desire. If an employee refuses to sign the form, they will be suspended without pay until the form is signed acknowledging explanation and notice was received.

When the conduct of the employee necessitates that he or she be immediately relieved of duty, the employee should be offered an opportunity for a predisciplinary conference within three (3) working days, if disciplinary action is contemplated by the appointing authority.

(D) Disciplinary Procedure

An appointing authority may suspend an employee, including employees of the Police or Fire Department, for a period not to exceed three (3) working days for purposes of discipline without the right of appeal to the Commission. Notice of such suspension shall be filed with the Commission.

More than one (1) suspension, reduction, or dismissal shall not be allowed if arising from the same incident or occurrence; however, a criminal conviction or penalty arising from an incident or occurrence for which discipline has been ordered may be the basis for additional charges if it affects the employee's ability to perform the requirements of the job.

The appointing authority may, at the appointing authority's discretion, place an employee on administrative leave without pay with no limitation as to the period of time of such unpaid leave if the employee has been charged with a violation of law that is punishable as a felony or as a misdemeanor which misdemeanor reasonably calls into question the safety of other employees or persons if the employee would not be placed on leave. If the employee subsequently does not plead guilty to or is not found guilty of a felony with which the employee is charged, or any other felony, or a misdemeanor as described above, the appointing authority shall pay the employee at the employee's base rate of pay, plus interest at the current State of Ohio statutory rate, for the period the employee was on the unpaid administrative leave.

The appointing authority may, at the appointing authority's discretion, place an employee on administrative leave with pay at the employee's base pay pending final disciplinary action.

In the case of reduction, suspension for more than three (3) working days, or removal, the appointing authority shall furnish such employee with a copy of the order of reduction,

suspension, or removal, stating the reasons for the disciplinary action. The disciplinary order shall be filed with the Commission.

Within ten (10) calendar days of receipt of notification of such an order, the employee may file an appeal, in writing, with the Commission. The Commission shall hear, or appoint a Trial Board to hear, such appeal, and it may affirm, disaffirm, or modify the judgment of the appointing authority.

The Mayor has the exclusive right to suspend the Chief of the Police Department or the Chief of the Fire Department for incompetence, gross neglect of duty, gross immorality, substance abuse, failure to obey orders given by the proper authority, or for any other reasonable and just cause. If either the Chief of the Police Department or the Chief of the Fire Department is so suspended, the Mayor forthwith shall certify such fact, together with the cause of suspension, to the Commission. Within five (5) working days from the date of receipt of the notice, the Commission shall proceed to hear such charges and render judgment, which may affirm, disaffirm, or modify the judgment of the Mayor.

If an employee becomes aware in the course of employment of a violation of City, state or federal ordinances, statutes, rules or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the procedures for the employee to report the violation or misuse and the procedures for any disciplinary matters related thereto shall be governed by Ohio Revised Code Section 124.341 as such section exists on the effective date of this paragraph (June 26, 2008).

(E) Police Procedure

The Chief of Police shall have the exclusive right to suspend any officer, member, or employee of the Police Department for incompetence; gross neglect of duty; gross immorality; substance abuse; failure to obey orders issued by proper authority; violation of the department's Rules, Regulations, Policies and Procedures as established by the Chief of Police; or for any other reasonable and just cause. If any such employee is suspended, the Chief of Police shall forthwith certify such fact, in writing, together with the specific cause of suspension to the Safety Director. If the case warrants, this certification may also include the recommendation that the Safety Director institute procedures for reduction in grade or dismissal.

When practical and prudent, the Chief of Police may permit the suspended employee to work out the suspension within a specified length of time by working without compensation for a time equal to the time of suspension.

The Safety Director shall, within five (5) working days of receipt of such certification, review and inquire into the cause of such suspension and render judgment, which may be a reversal of the suspension, a modification of the terms of suspension, a reduction in grade, or dismissal from the department.

The Safety Director shall cause the Chief of Police and the affected employee to receive written notice of the judgment within the five- (5) day period. The Safety Director shall also forthwith advise, in writing, the Civil Service Commission of the action taken and the specific cause, and shall also forthwith advise the Finance Director in writing of the effective dates of suspension, reduction in grade, or dismissal.

The affected employee or the Chief of Police may file a written appeal with the Civil Service Commission within ten (10) calendar days of receipt of notification of the Safety Director's judgment, where the judgment involves a suspension of more than three (3) days, a reduction in grade, or dismissal. Suspensions of three (3) days or less shall not have the right of appeal.

(F) Notice

An employee will be deemed to have received a notice regarding a disciplinary order or decision on the earliest of the following dates: the date that the notice is delivered to the employee personally or delivered to the residence address last provided by the employee by Fed-Ex (with signature required) or other substantially, similar, commercial mailing system; or on the date that the notice or return receipt is signed for as certified mail directed to the residence address last provided by the employee; or three (3) calendar days (Sundays and federal holidays excepted) after the notice is placed in the United States mail directed to the residence address last provided by the employee. With the consent of the employee, a notice can be faxed to a number provided by the employee, which shall be considered as personal service. Records shall be kept of the manner of service, and any receipts of service shall also be kept.

RULE XI  
APPEAL HEARINGS, PROCEDURES

(A) Time of Hearing, Notifications

Upon receipt from an employee or officer in the classified service of the City of a timely appeal from an order of removal, reduction in pay or position, or suspension, the Commission shall set a time and place to hear such appeal, which shall be not sooner than ten (10) calendar days and not longer than thirty (30) calendar days from the filing of the appeal, and shall so notify the appropriate appointing authority, as well as the employee and the employee's attorney, if known. Notification shall include a copy of the "Guidelines for Appeals to the Civil Service Commission."

Where the employee involved is a member of the Police Department, the Commission shall send any notices required in this Rule to both the Safety Director and the Chief of Police.

(B) Amendment to Orders

Amendments to the orders of removal, reduction in pay or position, or suspension may be made by the appointing authority at any time, provided the employee and the employee's attorney, if any, receive copies of the amended order at least ten (10) calendar days before the time set for the hearing as herein provided.

(C) Hearing Procedure

The following rules and order of procedure shall govern the hearing of such appeals. The Commission may enact additional procedural regulations, consistent with these provisions, as necessary to provide for just and efficient disposition of appeals, which shall be included in the Commission's Operating Procedures and in the "Guidelines for Appeals to the Civil Service Commission."

1. When one (1) or more members of the Commission cannot hear an appeal, the available members of the Commission may appoint additional persons to create a Trial Board that shall hear such appeal. Such Trial Board shall not exceed three (3) persons. The decision of a Trial Board shall have the same force and finality as a decision of the Commission. The presiding member of the Trial Board shall supervise the appeal hearing proceedings, including the provisions regarding notices to the employee, the appointing authority, and their counsel.
2. The employee has the right to be represented by counsel.
3. The Commission Chairperson or the Chair's designee may convene a prehearing conference of the parties and/or their counsel to promote the orderly presentation of evidence at the hearing. The conference may include requirements for the

parties to submit witness lists, exhibit lists, or other materials that will assist the Commission or Trial Board in its adjudication.

4. The employee or appointing authority has the right to request the Commission to issue subpoenas for witnesses or documents.
5. The hearing will be conducted as an executive session unless a hearing at a public meeting is requested by the employee. In a hearing in a public meeting, an executive session may be called for the taking of confidential evidence as permitted by law.
6. The Commission shall provide for a complete stenographic record to be taken of hearings. The cost of transcription by the court reporter shall be borne by the party requesting the transcript.
7. All witnesses will be placed under oath.
8. The parties or their counsel have the right to cross-examine all witnesses at the hearing.
9. The appointing authority shall present evidence in support of the charges and specifications. The appointing authority must establish the soundness of the charges by a preponderance of the evidence.
10. The employee may present evidence to refute such charges.
11. The appointing authority may offer evidence in rebuttal.
12. Only evidence concerning the charges listed on the disciplinary notice can be considered as to the soundness of the charges. For example, if insubordination is listed, evidence of inefficiency cannot be considered; however, if a specific instance of insubordination is listed, the Commission or Trial Board may consider evidence of similar items of insubordination that are not specifically listed in the notice. Notwithstanding this limitation, the appointing authority may rebut evidence offered by the employee specifically to contest the degree of discipline ordered by the appointing authority.
13. The Commission or Trial Board may, at its discretion, hear arguments or ask for written submission on briefs of law.
14. Decisions of the Commission or Trial Board must be by majority vote.

(D) Rules of Evidence

Evidentiary matters in the hearing of appeals and the Commission's or Trial Board's decision thereof shall be guided in general by the rules of evidence applied by courts in civil cases.

(E) Waiver of Hearing

A full hearing before the Commission or Trial Board on an appeal can be waived if all parties agree. The employee and the appointing authority must each submit a written consent to the waiver and brief summary of the critical issues for disposition of the appeal. If the members of the Commission or Trial Board find the evidence submitted is sufficient to arrive at a fair and impartial judgment, they will affirm, disaffirm, or modify the action of the appointing authority and will entertain no further appeals. The written documents and the opinion rendered will become part of the permanent record of the appeal.

If the members of the Commission or Trial Board find the evidence submitted is insufficient to assure a fair and impartial judgment, the parties will be so notified within a reasonable amount of time and a date set for a formal Appeal Hearing.

(F) Resignation Before Final Action

The acceptance by an appointing authority of the resignation of a person discharged, before the final action by the Commission, will be considered a withdrawal of the appeal. Notice of such resignation shall be submitted immediately to the Commission. The separation of the employee resigning shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

(G) Failure to Appear

If the appellant, the appointing authority, or the appointing authority's authorized representative fails to appear at the appeal hearing, the Commission or Trial Board may render its decision upon the documents previously submitted or may hear evidence offered by a party attending the hearing and render its decision.

(H) Opinion and Official Entry

The Commission or Trial Board shall affirm, disaffirm, or modify the decision on appeal. The Commission or Trial Board may render its decision immediately, or may take the matter under advisement and render its decision within a reasonable time.

The Commission or Trial Board may conduct its deliberations in private.

The Commission or Trial Board may adopt findings of fact supporting its decision and may request that any party submit proposed findings of fact.

When the Opinion and Official Entry has been written and signed by the members of the Commission or Trial Board, it shall be sent to the two (2) principal parties and their counsel by certified mail (return receipt requested) or by Fed-Ex (with signature required) or other substantially, similar, commercial mailing system, or by personal service. All other interested parties may be notified by regular mail or hand delivery.

(I) Disposition of Appeals

If the Commission determines that an appeal has not been timely filed or that jurisdiction is lacking for some other reason, the Commission's determination shall be noted in the minutes, and the Commission shall notify the employee and the appointing authority in the same manner as for an Opinion and Official Entry. These procedures shall also apply to any appeal that is dismissed at the request of the appellant or through resignation before the Commission's determination of the merits of the appeal.

Subject to certain restrictions, either the appointing authority, the officer, or the employee may appeal from the decision of the Commission or Trial Board to the Medina County Court of Common Pleas.

RULE XII  
SAVING CLAUSE

If any section or part of a section of these Rules is held by any court to be invalid or unconstitutional, the same shall not invalidate or impair the validity, force, and effect of any other section or part of a section of these Rules unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held invalid or unconstitutional.

RULE XIII  
SCOPE OF RULES, MISCELLANEOUS PROVISIONS

With respect to the Civil Service and the Civil Service Commission of the City of Medina, these Rules are intended to supercede the provisions of the general law to the extent permitted by law, except as specifically limited by the Charter. Furthermore, in conflicts between these Rules and Regulations and applicable provisions of the Ohio Revised Code, the Rules and Regulations of the City of Medina Civil Service Commission shall govern.

Insofar as the Commission is required by law to serve as the Civil Service Commission of the Medina City School District, the Commission may apply these Rules or may enact other procedures for the administration of school district matters as may be necessary to fulfill the Commission's duties.

When a time limit is established by these Rules for the commencement of a hearing, the Commission or hearing officer shall have discretion to grant an extension of time.

The Commission shall conduct an investigation when, upon written complaint or on its own motion, it has reason to believe that an officer of the City is abusing the power of appointment, layoff, removal, reduction, or suspension or otherwise violating these Rules. The Commission shall determine the procedures for conducting such investigations; however, the investigation proceedings shall not be quasi-judicial and shall not result in a final order that might be the subject of an administrative appeal. If the Commission finds that a violation of the civil service laws of the City has occurred, it shall make a report to the Mayor, the City Council, and the Law Director.

## **GUIDELINES FOR APPEALS TO THE CIVIL SERVICE COMMISSION**

This summary is published by the Medina Civil Service Commission as a convenience to employees and others who may be interested in an overview of the appeal procedures. These Guidelines are intended to give an overview of the appeal procedures that apply to most appeal hearings; however, all procedures and situations are not necessarily addressed in these Guidelines. The law and regulations concerning appeals are contained in the Rules of the Medina Civil Service Commission and any operating procedures adopted by the Commission, along with the Medina Charter and any applicable statutes or constitutional provisions, not these Guidelines. If you need more detail about a procedure or if you have any questions about your appeal, you should contact the Commission or your legal counsel.

### ***Types of disciplinary action that can be appealed.***

An employee who has been discharged, demoted, or reduced in rank for disciplinary reasons or who has been suspended for more than three (3) days may file a written appeal with the Civil Service Commission.

### ***Time limits for filing an appeal.***

If a written appeal is not received by the Commission in time, the Commission cannot hear the appeal.

An employee's appeal from a disciplinary action must be received by the Civil Service Commission within ten (10) calendar days of the day that the employee is notified of the disciplinary decision. The employee is considered to have been notified of the disciplinary action on the earliest of the following: delivery of the notice to the employee personally or to the employee's residence address by Fed-Ex (with signature required) or other substantially, similar, commercial mailing system; the date that the notice is signed for as certified mail directed to the employee's residence address; or three (3) days (Sundays and federal holidays excepted) after the notice is placed in the United States mail, postage prepaid. For example, if a disciplinary notice is given to the employee at work and also mailed to the employee's home the same day, the ten (10) days will be counted from the day that the employee was given the notice personally, since that occurred first.

If the Commission's office is not open on the tenth (10<sup>th</sup>) day after notification, then an appeal received the next day that the Commission's office is open for business will be considered to have been filed on time. For example, if an employee received the disciplinary notice on a Monday, the appeal request must be received by the Commission no later than Thursday of the following week; if an employee received the disciplinary notice on a Wednesday, the appeal request must be received by the Commission no later than the Monday that falls twelve (12) days later, unless a City-recognized holiday intervenes.

### ***Before the hearing.***

*Scheduling the appeal hearing.* After the Commission receives a timely appeal, it will set a date for a hearing. The hearing, before the Commission or a Trial Board appointed by the Commission, should be held more than ten (10) days but not more than thirty (30) days after the appeal is filed. Efforts will be made to contact the parties to schedule the hearing at a mutually agreeable time. If the employee will be represented by an attorney in the appeal procedures, it is the employee's obligation to give the Commission the name, address, and telephone number of the attorney.

*Prehearing conference.* The parties to an appeal hearing may be required to participate in a prehearing conference. The purpose of a prehearing conference is to help the parties and the Commission be prepared for the hearing. For the prehearing conference, parties or their attorneys may be required to submit lists of witnesses and/or exhibits that will be presented at the hearing. In some instances, the parties may be asked to address legal issues. The Commission or its Trial Board may place reasonable limitations on the number of witnesses or other types of evidence to be presented at a hearing. Additionally, a party that does not comply with requirements for the prehearing conference might, as a consequence, be restricted in the evidence that can be presented at the hearing.

*Subpoenas.* A party may ask the Commission to issue subpoenas for witnesses or documents. It is the party's responsibility to arrange for a subpoena to be served on the witness or record custodian and to certify service of the subpoena by notifying the Commission in writing as to when, where, and by whom the subpoena was served. For each subpoena issued, the party will give the Commission a deposit of twenty dollars (\$20.00). This will be used by the Commission to pay the witness fee (twelve dollars (\$12.00) per day) and travel expenses (paid at the mileage rate specified in the City of Medina Salaries and Benefits Code) of any person who appears pursuant to the subpoena. If the person does not appear for the hearing or if the witness fee and mileage total less than twenty dollars (\$20.00), the unused balance will be refunded.

### ***The hearing.***

The appointing authority presents evidence supporting the disciplinary decision to the Commission or its Trial Board first; then the employee may present evidence refuting the decision; then the appointing authority may offer rebuttal evidence. The parties or their counsel may cross-examine the other side's witnesses. Testimony will be given under oath or affirmation, and stenographic record will be made of the proceedings. Any party wishing to have a copy of a hearing transcript must pay for the copy of the transcript.

### ***The decision on the appeal.***

By a majority vote, the Commission or Trial Board will affirm, disaffirm, or modify the disciplinary decision. The Commission or Trial Board may render its decision at the close of the hearing or within a reasonable time after the hearing. The Commission's decision or Trial

Board's decision is final when its Opinion and Official Entry is signed by the Commission or Trial Board.

The Commission or Trial Board may adopt findings of fact supporting its decision and may request that any party submit proposed conclusions of fact.

Any party to the appeal may appeal the final decision to the Medina County Court of Common Pleas, in accordance with the procedures established by law for such appeals.

***Other types of hearings and reviews.***

If a candidate for appointment is removed from an eligible list and files an appeal pursuant to Rule VII or Rule VIII, the Commission will notify the appellant and the appointing authority, if applicable, as to when the appeal will be heard. If the appellant or the appointing authority intends to submit testimony, the Commission may require the parties to follow the hearing procedures established for disciplinary appeals.

If the Commission rejects an application for examination and the applicant files a written complaint pursuant to Rule V, the Commission will inform the complainant as to when the complaint will be addressed by the Commission, but no quasi-judicial proceeding will be held, and the complainant will not have the right to present evidence or to cross-examine witnesses. The Commission's review of the complaint is not an appeal hearing.

An employee who has filed an objection to layoff or displacement (Rule IX) will be informed by the Commission as to when the objection will be addressed, but no quasi-judicial proceeding will be held, and the employee will not have the right to present evidence or to cross-examine witnesses. The Commission's review of the complaint is not an appeal hearing.