

# Civil Service Commission

Rules and Regulations



Revised December 16, 2020



**RULES AND REGULATIONS OF THE  
NORTH CANTON CIVIL SERVICE COMMISSION**

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## **RULE I – GENERAL PROVISIONS**

### **SECTION 1.01 DESIGNATION; CITATION; HEADING**

(a) All rules and decisions of a permanent and general nature of the Municipality relating to Municipal Civil Service as revised, codified, rearranged, renumbered, and consolidated into component rules and sections shall be known and designated as the Rules and Regulations of the Civil Service Commission of North Canton, Ohio, for which designation "Civil Service Rules" may be substituted. Rule and section headings do not constitute any part of the law as contained in the Civil Service Rules.

(b) All references to rules and sections are to such components of the Civil Service Rules unless otherwise specified. Any component Rule may be referred to and cited by its number, such as "Rule 1". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 1.01".

### **SECTION 1.02 GENERAL DEFINITIONS**

As used in the Civil Service Rules, unless another definition is provided, or the context otherwise requires:

(a) "Applicant" means a person who has formally applied for a Position within the City of North Canton Classified Service.

(b) "Appointing Authority" means a person, board, Commission, or other body having the power of appointment to or removal from a Position in the Classified Service.

(c) "Certification" means the act of supplying names from an eligible list to the Appointing Authority for the purposes of employment selection.

(d) "Charter" means the Charter of the City of North Canton, Ohio.

(e) "City" means the City of North Canton, Ohio.

(f) "Civic Center" means the Civic Center of the City of North Canton located at 845 W Maple St. North Canton, Ohio 44720.

(g) "Civil Service" means offices and Positions of trust or employment in the service of the City of North Canton, Ohio.

(h) "Class" means a group of Positions with the same descriptive title having similar duties and responsibilities and requiring similar qualifications and which can be distinguished from other groups of Positions. There may only be one Position in a particular Class.

(i) "Class Series" means as adopted by the Commission two or more Classes which are similar as to type of work but which differ as to degree of responsibility and difficulty and which have been arranged in a ladder of steps in a normal line of promotion. (i.e. Police 1, Police 2, Police 3, etc.)

(j) "Class Title" means an official designation or name of the Class as adopted by the Commission.

(k) "Classification" means the process of determining the Class to which a Position belongs.

(l) "Classified Service" means all those Positions identified pursuant to Charter Section 3.07(1) and covered by Civil Service provisions as stated in the Civil Service Rules.

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(m) “Commission” means the Civil Service Commission of the City of North Canton, Ohio.

(n) “Continuous Service” means employment with the City without interruption. Absence from work because of authorized leave, military service, sickness, pregnancy, or temporary reduction of workforce are not considered as interruptions and do not affect Continuous Service.

(o) “Council” means the City Council of the City of North Canton, Ohio.

(p) “Demotion” means reassignment of an Employee from one Class to a lower Class within a Class Series involving a change in rate of compensation.

(q) “Department” means a Department, bureau, office, Commission, or other identifying body used to administratively organize Employees of the City of North Canton, Ohio

(r) “Dismissal” means release or discharge of an Employee from employment with the City.

(s) “Employee” means an individual employed by the City of North Canton, Ohio.

(t) “EMS” means emergency medical service(s)

(u) “EMT-P” means emergency medical technician – paramedic

(v) “Entrance Examination” means any Open Examination conducted for a Class ranked “1”.

(w) “Filing Period” means period of time established by the Commission wherein applications for an examination shall be accepted.

(x) “Final Score” means a combinations of an Applicant's Test Score and any additional credit received for a single examination.

(y) “Lay-Off” means a termination of employment at the will of employer. Such termination may be temporary, caused by seasonal or adverse economic conditions, or permanent.

(z) “Position” means any office, employment, or job calling for the performance of certain duties and the exercise of certain responsibilities by one individual. A Position may be vacant or occupied.

(aa) “Probationary Period” means the initial time period of employment set by the Commission during which a new, Transferred, or promoted Employee must prove or show that he or she is capable of performing the required duties of the job or Position before he or she will be considered as permanently employed in such Position.

(bb) “Promotion” means reassignment of an Employee from one Class to a higher Class within a Class Series involving a change in rate of compensation.

(cc) “Provisional Employee” means an interim Employee filling a duly authorized Position without competitive examination pending the establishment of an eligible list.

(dd) “Reclassification” means a change in the Classification of a Position from one Class to another.

(ee) “Suspension” means temporary release, discharge, withdrawal, or cessation of employment.

(ff) “Temporary Employee” means an Employee appointed for a specified period or a special project or one who is replacing a permanent Employee for the duration of a permanent Employee's leave.

(gg) “Test Score” means the score received by an Applicant on any competitive examination prior to the addition of, or without, any additional credit.

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(hh) “Total Score Attainable” means one hundred percent (100%) of a perfect score in all parts of a competitive examination excluding additional credit.

(ii) “Transfer” means a reassignment of an Employee from a Position in one Department to another within the same Class in the same or a different Department.

(jj) “Unclassified Service” means all those Positions of employment within the City of North Canton, Ohio not covered by Civil Service provisions.

### SECTION 1.03 RULES OF CONSTRUCTION

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(b) Singular and Plural; Gender; Tense. As used in the Codified Ordinances, unless the context otherwise requires:

(c) The singular includes the plural, and the plural includes the singular.

(d) Words of one gender include the other genders.

(e) Words in the present tense include the future.

(f) Calendar; Computation of Time.

(1) Definitions.

(A) "Week" means seven consecutive days.

(B) "Year" means twelve consecutive months.

(2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

(3) The time within which an act is required to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

(4) When a public office, in which an act required by law is to be performed, is closed to the public for the entire day or closes before its usual closing time on such day, and this day constitutes the last day for doing such act, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.

(5) In all cases where these Rules and Regulations shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

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(g) Authority. When these Rules and Regulations require an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(h) Exceptions. The rules of construction shall not apply to any rule or regulation which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

### SECTION 1.04 CONFLICTING PROVISIONS

(a) If there is a conflict between figures and words in expressing a number, the words govern.

(b) In the event any section, subsection, sentence, clause, phrase, or portion of these Rules and Regulations is in conflict with State statutes the language herein shall prevail. In the event these Rules and Regulations are silent on any matter referred to in a State statute, then said State statute shall govern.

### SECTION 1.05 SEPARABILITY OF SECTIONS

If any section, subsection, sentence, clause, phrase, or portion of these Rules and Regulations shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of these Rules and Regulations nor the context in which such section, subsection, sentence, clause, phrase, or portion so held invalid may appear, except to the extent that an entire section, subsection, sentence, clause, phrase, or portion may be inseparably connected in meaning and effect with the section, subsection, sentence, clause, phrase, or portion to which such holding shall directly apply.



**RULE II – ORGANIZATION AND ADMINISTRATION**

**SECTION 2.01 AUTHORITY OF COMMISSION**

(a) Members of the Commission shall be appointed pursuant to the Charter and legislation of the City of North Canton, and shall not hold any other Office in North Canton City government.

(b) The Commission shall provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotions in the service of the City, as required by the Charter and the Constitution of the State of Ohio, and for appeals from actions of Transfer, reduction or removal for personnel Classified under Civil Service.

**SECTION 2.02 COMMISSION MEMBERS**

(a) Oath of Office. Each member of the Civil Service Commission shall, before entering upon his or her official duties, take an Oath of Office to support the Constitution of the United States of America, the Constitution of the State of Ohio, the Charter of the City of North Canton and an oath that he or she will faithfully, honestly and impartially discharge the duties of Office.

(b) Commission Responsibility. It shall be the duty of each member of the Commission to attend meetings of the Commission and to devote as much time as is necessary to the management of the business and affairs of the Commission.

**SECTION 2.03 COMMISSION OFFICERS AND EMPLOYEES**

(a) The Commission shall elect one of its members as Chairperson and one member as Co-Chairperson who shall serve until a new member is appointed and qualified. At such time as a new member is appointed, a majority of the Commission may request an election be held to elect a new Chairperson and Co-Chairperson.

(b) Chairperson. The Chairperson shall:

- (1) Preside over Commission meetings and public hearings and therein preserve order and decorum;
- (2) Confine debate to the question under discussion;
- (3) Decide all points of order;
- (4) Sign the minutes of all actions taken by the Commission;
- (5) Execute warrants or orders for the payment of money in excess of \$1,000.00 from the accounts and funds of the Commission, and;
- (6) Supervise the Secretary and any other Employees of the Commission.

(c) Vice Chairperson. The Vice Chairperson shall exercise the full authority and responsibility of the Chairperson in the absence of the Chairperson.

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(d) Secretary. The Commission shall employ a suitable person to act as Secretary of the Commission who shall:

- (1) Attend the meetings of the Commission;
- (2) Keep all minutes of the meetings of the Commission;
- (3) Keep in the form of minutes a record of the official actions of the Commission;
- (4) Be at the office of the Commission during the prescribed hours that such office is open;
- (5) Accurately and properly keep all the records of the Commission, keep all files in proper order, prepare and deliver or cause to be delivered notices and other communications ordered by the Commission;
- (6) Properly furnish appointing authorities with eligible lists;
- (7) Maintain an official roster;
- (8) Handle such correspondence as the Commission shall determine;
- (9) Execute all warrants or orders for payment of money in the amount of \$1,000.00 or less on behalf of the Commission;
- (10) Promulgate notice of all meetings of the Commission pursuant to the requirements of Section 121.22 of the Ohio Revised Code; and
- (11) Perform such other duties as may be required by the Commission.

(e) The Commission shall appoint or employ other professional and clerical Employees as necessary to carry out its duties.

### SECTION 2.04 COMMISSION MEETINGS

(a) The Commission shall meet as necessary to transact the business and affairs of the Commission upon call of the Chairperson or upon written request of the other two members of the Commission.

(b) The Commission shall meet at such City facility as may be designated from time to time by the Commission.

(c) Quorum. Two members of the Commission shall constitute a quorum at any meeting of the Commission, and it shall require the affirmative vote of at least two members to adopt any motion or resolution.

(d) Agenda. The order of business for meetings of the Commission shall be:

- (1) Roll Call
- (2) Disposition of unapproved minutes
- (3) Reports
- (4) Unfinished business
- (5) New business
- (6) Adjournment

(e) Notice of Meetings. Pursuant to Ohio Revised Code Section 121.22 the Secretary shall post at a prominent place in the North Canton City Hall, the time, date, and place of all

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meetings of the Commission which notice shall include the time, place, and purpose of such meeting.

### SECTION 2.05 AMENDMENT

The Commission may, by a majority vote, amend these Rules and Regulations in accordance with the Charter of the City of North Canton and the Constitution of the State of Ohio and the Constitution of the United States.

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**RULE III – CLASSIFICATION**

**SECTION 3.01 CLASSIFIED AND UNCLASSIFIED SERVICE**

(a) All municipal Employees identified pursuant to Charter Section 3.07 shall be placed in, and constitute, the Classified Service. All other municipal Employees shall be placed in, and constitute, the Unclassified Service.

**SECTION 3.02 POSITION CLASSIFICATIONS**

(a) Classification. Positions in the Classified Service shall be Classified by the Commission in accordance with a compensation plan established by Council and the duties and/or qualifications of each position.

(b) Whenever a new Position is established in, or added to, the Classified Service the Commission shall meet to classify such position within thirty (30) days of its placement in the Classified Service by Council or the Charter.

(c) Review of Classification.

- (1) Beginning in January of 2025, and every five years thereafter, the Commission shall review all classifications for accuracy and appropriateness.
- (2) Upon request of the Appointing Authority for a position the Commission shall review the classification of a position.

(d) Class Series. Classes in the Classified Service shall be placed by the Commission into an appropriate Class Series to group Classes of similar duties and establish a promotional ladder. Classes denoted “1” shall constitute the lowest rank in a given series. Current Class Series are:

- (1) Police;
- (2) Fire/EMS; and
- (3) Dispatch

(e) Schedule 3.02(c) Classifications in the Classified Service. The following schedule lists all those Classes and Positions currently in the Classified Service by their Classification.

<b>Class</b>	<b>Class Title</b>	<b>Positions Included in Class</b>
<b>Police 4</b>	Chief of Police	Chief of Police
<b>Police 3</b>	Lieutenant	Police Lieutenant
<b>Police 2</b>	Sergeant	Police Sergeant
<b>Police 1</b>	Police Entry	Police Patrolman
<b>Fire/EMS 4</b>	Chief of Fire/EMS	Chief of Fire/EMS
<b>Fire/EMS 3</b>	Battalion Chief	Fire/EMS Battalion Chief
<b>Fire/EMS 2</b>	Captain	Fire or EMS Captain
<b>Fire/EMS 1</b>	Fire Entry	Firefighter/EMT or Fire Inspector
<b>Dispatch 2</b>	Lead Radio Dispatcher	Lead Radio Dispatcher
<b>Dispatch 1</b>	Radio Dispatcher A&B	Radio Dispatcher A and B

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## **RULE IV – NOTICE AND APPLICATIONS**

### **SECTION 4.01 NOTICE OF EXAMINATIONS**

(a) Notice of all examinations shall be given through public notices specifying the Class the examination is for, the pertinent qualifications, salary range, application requirements, application Filing Period, passing grade, date and time of examination, and other pertinent information the Commission may require posted in City Hall, the Police Department, the Fire/EMS Department, the Office of the Commission, and on the Commission's webpage not less than two (2) weeks prior to such examination.

(b) Examinations may be otherwise advertised at the discretion of the Commission when necessary to recruit an adequate pool of Applicants.

### **SECTION 4.02 NOTICE OF JOB VACANCY**

(a) Whenever a Position in the Classified Service is or becomes vacant and an eligible list for the Class for which the Position is allocated does not exist, has expired, or has been exhausted, the Secretary shall notify the Commission that such vacancy exists and that an examination must be conducted to produce an eligible list.

(b) Whenever the Commission is so notified the Commission shall, within sixty (60) days of notification of such vacancy, hold an examination to fill the vacancy.

### **SECTION 4.03 REGISTRATION FOR EXAMINATION**

(a) Applicants for admission to competitive examinations must register for the examination and file a completed application with the Commission within the prescribed Filing Period as established for that examination by the Commission and stated in the notice of examination unless received outside of the Filing Period through a special recruitment program approved by the Commission.

(b) To be considered completed applications must:

- (1) be filled out in ink or typewritten;
- (2) be accompanied by all required supporting paperwork; and
- (3) be signed by the Applicant and sworn to before a notary public.

(c) The Commission may establish an application fee to be charged to Applicants which fee shall be paid at the time an application is filed with the Commission. Such fee shall only be refunded if the applicable examination is canceled by the Commission.

(d) Failure to file a completed application or to pay the specified application fee shall result in the Applicant being barred from sitting for that examination.

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### SECTION 4.04 GENERAL REQUIREMENTS

- (a) Applicants for employment in municipal Classified Service must
- (1) be Citizens of the United States unless waived by the Commission;
  - (2) be at least 18 years of age unless otherwise specified in Class requirements;
  - (3) hold a high school diploma or equivalency; and
  - (4) hold a driver's license valid in the State of Ohio.

(b) Whenever in the judgement of the Appointing Authority it is deemed advisable Applicants shall be required to take some or all of the following prior to appointment.

- (1) Polygraph Test
- (2) Drug Test
- (3) Psychological Examination
- (4) Physical and or Agility Assessment
- (5) Basic Medical Examination
- (6) Personality Assessment
- (7) Other pre-hire assessments pursuant to department policies

### SECTION 4.05 DISQUALIFICATION OF APPLICANTS

(a) Applicants may be rejected from consideration, refused admittance to an examination, disqualified, or removed from an eligible list for, but not limited to, the following reasons:

- (1) The individual is found to lack any of the established minimum requirements for the Position;
- (2) The individual fails to provide any required documentation within the time limits prescribed by the Commission;
- (3) The individual fails to pass any additional assessment as may be required in Section 4.04(b);
- (4) The individual fails to report for the examination, interview, or other step in the selection process as directed by the Commission or Appointing Authority;
- (5) The individual has made a false statement of material fact in the application or examination process;
- (6) The individual has practiced, or attempted to practice, deception or fraud in the application, examination, or appointment process;
- (7) The individual has used, threatened to use, or attempted to use political influence to secure employment, reemployment, or promotion;
- (8) The individual has been convicted of a felony or job-related misdemeanor;
- (9) The individual has been dismissed or resigned in lieu of termination from prior employment;
- (10) The individual has a poor traffic record and is applying for a Position which requires an operator's license and involves driving; or
- (11) The individual cannot speak, read, or write the English language and the work requires such.



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(b) In the event an individual is rejected, refused, disqualified, or removed from an eligible list pursuant to Section 4.05(a)(3) the individual may be precluded from reapplication for one (1) year at the discretion of the Commission.

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**RULE V – EXAMINATIONS**

SECTION 5.01 GENERAL EXAMINATION PROVISIONS

(a) All examinations shall be scheduled, and may be postponed or cancelled, at the discretion of the Commission.

(1) If an examination as scheduled is postponed or cancelled, the Secretary shall cause notice to be sent to all accepted Applicants of the change and any additional information as needed.

(b) There shall be two types of examinations: Open Examinations and Promotional Examinations

(1) Open Examinations shall be open to all Applicants who meet the minimum requirements for the Class being tested

(2) Promotional Examinations shall be open only to current municipal Employees who meet the minimum requirements for the Class being tested and are in such Class which has status to be eligible or within their Continuous Service has such status as to be eligible.

(c) Examinations for a Class ranked “1” shall be considered entrance examinations.

(d) Competitive examinations shall consist of a written test which relates to those matters which fairly test the relative capacity and qualifications of the Applicant to discharge proficiently the duties of the Class to which the individual seeks appointment and such other assessment measures as the Commission may deem appropriate.

(e) All examinations shall be conducted under the direction of the Commission or members of its staff.

(f) Examination Procedures. During an examination:

(1) No Applicant shall:

(A) Be admitted without presenting proper photo identification at the time of the exam;

(B) Be admitted to an examination subsequent to the advertised time for beginning the examination; or

(C) Be permitted to take notes during the examination.

(2) No visitors shall be admitted.

(g) Examination Results. After receiving the results of an examination the Commission shall forward notification by First Class mail and email to the email address provided by the applicant at the time of registration to each Applicant who took said examination indicating the Test Score they received, their Final Score after the addition of any additional credit, and the date the inspection and challenge period expires as provided in Section 5.01(a).

(h) Passing Score. A Test Score of seventy percent (70%) shall be considered a passing score on all examinations.

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(i) Inspection and Challenge. Each Applicant shall have the right to inspect his or her examination papers and the rating key within ten (10) days of the date of mailings pursuant to Section 5.01(f)(2) excluding Saturdays, Sundays, and City holidays.

- (1) The following procedures shall be followed for Applicants reviewing the examination and rating key:
  - (A) Only one Applicant may review the examination and rating key at a time;
  - (B) Applicants shall be monitored by Commission Employees at all times; and
  - (C) Applicants shall not be permitted to bring in anything with them except paper provided by Commission staff and a pen.
- (2) After review of test materials Applicants may file a challenge of their grade or of any test question with the Secretary before the end of the ten (10) day period provided for above. All such challenges shall be reviewed and considered by the Commission and any warranted changes made within five (5) days of the end of the challenge period and prior to the Certification of an eligible list.

(j) Confidentiality. All applications and examination papers are the property of the Commission and shall be treated as confidential records to the maximum extent allowed by law.

(k) Reference Materials. The reference material for any competitive examination, as cited in the examination notice, shall be kept on file by the Commission and shall be made available to applicants during any protest or inspection and challenge periods applicable to the examination. Review of reference materials shall follow the same procedures as set forth in Section 5.01(i)(1).

### SECTION 5.02 OPEN EXAMINATIONS

(a) No Applicants who have taken an open examination shall be permitted to be reexamined for the same Classification within one hundred and eighty (180) days from the date of the examination unless the Commission failed to approve an eligible list for the original examination or a substantially different form of examination is used.

(b) In the event two or more Applicants receive the same passing score on an open examination preference shall be given first to current Employees of the City and then by the date and time the individuals' applications were filed with the Commission to determine the order of names on the eligibility list.

### SECTION 5.03 PROMOTIONAL EXAMINATIONS

(a) In addition to the notice of examination requirements established in Section 4.01 notices of promotional exams must also include a list of eligible individuals and may, at the discretion of the Commission, be sent directly to eligible individuals not less than forty-five (45) days prior to the examination.

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(b) For promotional examinations a list of appropriate reference material for study shall be provided by the testing agency and shall be included in the notice of examination.

(c) Protest Period. After a written portion of a promotional examination is held and prior to the grading of such written portion there shall be a ten (10) day Protest Period from the date of the examination's written portion exclusive of Saturdays, Sundays, and holidays during which time applicants may file, in writing, with the commission a protest to any question on the test for errors in accuracy or appropriateness. All such protests shall be reviewed and considered by the Commission and any warranted changes made within five (5) days of the end of the protest period and prior to the grading of the examination.

(d) For promotional examinations Applicants may execute a release waiving their right to both a ten (10) day protest period and a ten (10) day inspection and challenge period as established in Section 5.01(i) and Section 5.03(c).

(e) No Applicants who have taken a promotional examination shall be permitted to be reexamined for the same Classification within one hundred and eighty (180) days from the date of the examination unless the Commission failed to certify an eligibility list for the original examination or a substantially different form of examination is used.

(f) In the event two or more Applicants receive the same passing score on a promotional examination preference shall be given by the date and time the individuals' applications were filed with the Commission to determine the order of names on the eligibility list.

### SECTION 5.04 EXAMINATION REQUIREMENTS BY CLASS

The following are specific standards, rules, and qualifications for certain Classes and are in addition to the criteria and standards set forth in Section 4.04.

(a) Police Generally. For all police Classes Applicants must:

- (1) Be a certified Ohio Peace Officer or furnish proof of enrollment in a certified Police Academy to be completed prior to employment.

(b) Fire/EMS Generally. For all Fire/EMS Classes Applicants must:

- (1) Be a certified Ohio EMT-P; and
- (2) Hold Ohio firefighter level II Certification or proof of enrollment in Class to be completed prior to employment.

(c) Police 4. Examinations to fill any vacancy in Class Police 4 must first be conducted as a promotional examination prior to conducting an open examination. Applicants for Police 4 Positions must:

- (1) Currently hold a Position Classified Police 3 or 2 with at least three (3) years of combined consecutive service in either class; or

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- (2) For Open Examinations, have five (5) or more years of service in a rank(s) with equivalent duties to those of Police 3 or higher in another law enforcement agency prior to the date of examination.

(d) Police 3. Examinations to fill any vacancy in Class Police 3 must first be conducted as a promotional examination prior to conducting an open examination. Applicants for Police 3 Positions must:

- (1) Currently hold a Position Classified Police 2 with at least three (3) years of consecutive service; or
- (2) For Open Examinations, have five (5) or more years of service in a rank(s) with equivalent duties to those of Police 2 or higher in another law enforcement agency prior to the date of examination.

(e) Police 2. Examinations to fill any vacancy in Class Police 2 must first be conducted as a promotional examination prior to conducting an open examination. Applicants for Police 2 Positions must:

- (1) Currently hold a Position Classified Police 1 with at least three (3) years of consecutive service; or
- (2) For Open Examinations, have five (5) or more years of service in a rank with equivalent duties to those of Police 1 or higher in another law enforcement agency prior to the date of examination.

(f) Police 1. Examinations to fill any vacancy in Class Police 1 must be conducted as open examinations.

(g) Fire/EMS 4. Examinations to fill any vacancy in Class Fire/EMS 4 must first be conducted as a promotional examination prior to conducting an open examination. Applicants for Fire/EMS 4 Positions must:

- (1) Currently hold a Position Classified Fire/EMS 3 with at least one (1) year of consecutive service;
- (2) Have three (3) or more years of consecutive service in a Position Classified Fire/EMS 2 prior to the date of examination; or
- (3) For Open Examinations, have five (5) or more years of service in a rank(s) with equivalent duties to those of Fire/EMS 4 or higher in another Fire Prevention and/or EMS agency prior to the date of examination.

(h) Fire/EMS 3. Examinations to fill any vacancy in Class Fire/EMS 3 must first be conducted as a promotional examination prior to conducting an open examination. Applicants for Fire/EMS 3 Positions must:

- (1) Currently hold a Position Classified Fire/EMS 2 with at least two (2) years of consecutive service;
- (2) Have five (5) or more years of consecutive service in a Position Classified Fire/EMS 1 prior to the date of examination; or
- (3) For Open Examinations, have five (5) or more years of service in a rank(s) with equivalent duties to those of Fire/EMS 3 or higher in another Fire Prevention and/or EMS agency prior to the date of examination.

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(i) Fire/EMS 2. Examinations to fill any vacancy in Class Fire/EMS 2 must first be conducted as a promotional examination prior to conducting an open examination. Applicants for Fire/EMS 2 Positions must:

- (1) Currently hold a Position Classified Fire/EMS 1 with at least two (2) years of consecutive service; or
- (2) For Open Examinations, have five (5) or more years of service in a rank(s) with equivalent duties to those of Fire/EMS 1 or 2 or higher in another Fire Prevention and/or EMS agency prior to the date of examination.

(j) Fire/EMS 1. Examinations to fill any vacancy in Class Fire/EMS 1 must be conducted as open examinations. If the vacancy is for a Fire Inspector position, applicants must successfully complete Ohio Firefighter 1A, and Ohio Fire Academy Course “Fire Safety Inspection 1” prior to employment.

(k) Dispatch 2. Examinations to fill any vacancy in Class Dispatch 2 must first be conducted as a promotional examination prior to conducting an open examination. Applicants for Dispatch 1 Positions must:

- (1) Currently hold a Position Classified Dispatch 1 with at least three (3) years of consecutive service; or
- (2) For Open Examinations: Have five (5) or more years of service in a rank(s) with equivalent duties to those of Dispatch 1 or higher in another law enforcement agency prior to the date of examination.

(l) Dispatch 1. Examinations to fill any vacancy in Class Dispatch 1 must be conducted as open examinations.

### SECTION 5.05 ENSURING COMPETITIVENESS

(a) For any Class for which examination must first be conducted as a promotional examination if there are fewer than three (3) current City employees who: would qualify to apply, apply to take the examination, or pass the examination, then the Commission may choose to: cancel the examination or not certify an eligibility list.

- (1) The commission may instead reexamine for the Class allowing all current City employees in up to two classes below the Class being tested for, regardless of years of service, to apply.

(b) If, for a reexamination as described in subsection (a), there are fewer than three (3) current City employees who: would qualify to apply, apply to take the examination, or pass the examination, then the Commission may choose to: cancel the examination or not certify an eligibility list.

- (1) The Commission may instead reexamine for the Class as an open examination open to all current City employees in up to two Classes below the Class being tested for, regardless of years of service, and outside applicants who meet the class requirements as stipulated in Section 5.04.

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(c) For any open Examination conducted pursuant to this Section applicants shall still be eligible for seniority additional credit as if it were a promotional examination.

### SECTION 5.06 ADDITIONAL CREDIT

(a) The following additional credit may be awarded provided an Applicant receives a passing score prior to the award of any additional credit and provides sufficient proof to satisfy the listed requirements.

- (1) Military Service Credit. Applicants for Entrance Examinations shall be granted an additional credit of five percent (5%) of the Total Score Attainable for each year served in the armed forces of the United States either in combat or on active duty as confirmed by a form DD214 or equivalent.
- (2) Educational Credit. Applicants for Entrance Examinations shall be granted an additional credit of five percent (5%) of the Total Score Attainable for each year full year, defined as thirty (30) credit hours, of accredited college programs completed. The Applicant shall contact the Registrar's Office of the applicable institution of higher education and request that a transcript be sent directly to the Commission. Transcripts will only be accepted if received directly from the issuing institution.
- (3) Prior Service Credit. Applicants for Entrance Examinations shall be granted an additional credit of twenty percent (20%) of the Total Score Attainable for having one (1) or more continuous years of service as a part-time, auxiliary, special, volunteer, or otherwise provisional Employee of the City Department of the Class being tested for. Prior Service Credit is not limited by the additional credit cap established in Section 5.06(b).
- (4) Seniority Credit. Applicants for promotional exams shall be granted an additional credit of one percent (1%) of the Total Score Attainable for each of the first four consecutive years of service in the City Department of the Class being tested for and six-tenths of a percent (0.6%) of the total attainable score for each additional consecutive year of service.

(b) Limitations. No individual on any examination may receive more than a total of twenty percent (20%) of the Total Score Attainable from additional credit.



## **RULE VI – ELIGIBLE LISTS**

### **SECTION 6.01 ESTABLISHMENT**

(a) After the receipt of test results and the expiration of the inspection and challenge period pursuant to Section 5.01(i) the Commission shall establish a list of Eligible Applicants to fill the vacancy herein after referred to as a “eligible list”.

(b) As used in this Rule, “Eligible Applicant” means an Applicant who, having taken an examination, received a passing score prior to receiving any additional credit.

### **SECTION 6.02 FORMAT OF ELIGIBLE LIST**

(a) Eligible lists shall:

- (1) List all Eligible Applicants in rank order based on Final Score pursuant to the provisions of Section 5.02(b), Section 5.03(f), Section 9.07, and Section 9.08(c);
- (2) Include the name, identification number, Test Score, and Final Score of each Eligible Applicant; and
- (3) Be posted in City Hall, the Commission Office, the Police Department, the Fire/EMS Department, on the Commission’s webpage and any other location designated by the Commission for at least two weeks following the acceptance of the list by the Commission.

### **SECTION 6.03 EFFECTIVE DATE AND DURATION**

(a) Eligible lists shall become effective immediately upon their approval by the Commission and shall be in effect for one (1) years unless otherwise specified by the Commission.

(b) Upon request from the Appointing Authority the duration of Eligible list may be extended for six (6) months provided that not list receive more than two (2) six-month extensions.

### **SECTION 6.04 REMOVAL FROM ELIGIBLE LIST**

(a) An Applicant’s name may be removed from an eligible list by:

- (1) An action of the Commission;
- (2) The Applicant accepting or declining an offer of employment from the City for a Position covered by the eligible list; or
- (3) At the request of the Applicant.

(b) The Commission may remove an Applicant from any eligible list on which they appear for any reason identified in Section 4.05(a).

(c) Notice of Removal. In the event the Commission makes a determination that an Applicant should be removed from the eligible list pursuant to Section 6.04(b), the Commission

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shall notify the Applicant by First Class mail or email to the email address provided by the applicant at registration of their removal and the reason for their removal.

### SECTION 6.05 REVOCATION OF ELIGIBLE LIST

(a) During the effective duration of any eligible list, the list may be revoked and a new examination ordered when, in the judgement of the Commission, such action is deemed advisable by reason of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination.

(b) In the event an eligible list is revoked the following procedure shall be followed:

- (1) The Commission shall issue a public notice stating the reasons for such revocation;
- (2) Written notice shall be sent by first Class mail and email to all Applicants appearing on the eligible list at the time of revocation; and
- (3) All Applicants appearing on the eligible list at the time of revocation shall be permitted to participate in the new examination without reapplying.

## **RULE VII – CERTIFICATION**

### **SECTION 7.01 NOTIFICATION OF VACANCY**

(a) When an Appointing Authority determines that a vacancy in the Classified Service is to be filled, the Appointing Authority shall immediately notify the Secretary of that fact and request the Secretary certify names of eligible individuals for said Position(s), whether the Position is temporary or permanent.

(b) If temporary, the Appointing Authority shall provide the duration of employment, and any additional requirements of the Position that may be deemed necessary by the Commission.

### **SECTION 7.02 CERTIFICATION FROM ELIGIBLE LIST FOR ENTRANCE EXAMMINATIONS**

(a) Upon receipt of a request for Certification from the Appointing Authority for a position in a Class ranked “1” the Commission shall certify to the Appointing Authority thereof the names and addresses of the ten (10) Applicants ranked highest on the eligible list except as otherwise provided in Section 9.07.

(b) The secretary shall certify to the Appointing Authority the name and address of the Applicant or Applicants next in rank on the eligible list, thereby maintaining a Certification of ten (10) Applicants, upon notification from the Appointing Authority that:

- (1) An appointment has been declined by a certified Applicant;
- (2) Five (5) or more of the certified Applicants are deemed unqualified for the Position; or
- (3) Any or all of the certified Applicants request to be removed from the eligible list.

### **SECTION 7.03 CERTIFICATION FROM ELIGIBLE LIST FOR PROMOTIONAL EXAMMINATIONS**

(a) Upon receipt of a request for Certification from the Appointing Authority for a position in a Class above rank “1” the Commission shall certify to the Appointing Authority thereof the names and addresses of the five (5) Applicants ranked highest on the eligible list except as otherwise provided in Section 9.07.

(b) The secretary shall certify to the Appointing Authority the name and address of the Applicant or Applicants next in rank on the eligible list, thereby maintaining a Certification of 5 (5) Applicants, upon notification from the Appointing Authority that:

- (1) An appointment has been declined by a certified Applicant;

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- (2) Three (3) or more of the certified Applicants are deemed unqualified for the Position; or
- (3) Any or all of the certified Applicants request to be removed from the eligible list.

### SECTION 7.04 EXPIRATION OF CERTIFICATION

Certified lists shall expire concurrently with the eligible list from which they are drawn or upon the acceptance of an appointment by a certified Applicant.

**RULE VIII – APPOINTMENT**

**SECTION 8.01 PERMANENT APPOINTMENT**

(a) A “Permanent Appointment” is the appointment of an Applicant to a Position regularly established without limitation as to the length of such service subject to a probationary period as established in Section 8.02(b).

(b) An Appointing Authority shall conduct investigations and appoint one of the Applicants certified by the Commission within 30 days of receipt of a list of certified Applicants from the Commission. The Commission may grant additional time.

(c) Upon appointing an Applicant the Appointing Authority shall report to the Commission, in writing, the name of the appointee and such other information as the Commission may require.

**SECTION 8.02 PROBATIONARY PERIOD**

(a) No permanent appointment is final until the appointee has satisfactorily completed his or her probationary period. If during the probationary period the Employee is unsatisfactory he or she may be removed at any time.

(b) The Probationary Period shall be one (1) year for all Class 1 Positions and ninety (90) days for all other Positions unless otherwise specified in an appropriate collective bargaining agreement agreed to by the City of North Canton.

(c) For permanent appointments, provisional service, but not temporary service, in the same or similar Position shall be counted as part of the probationary period.

**SECTION 8.03 PROVISIONAL APPOINTMENTS**

(a) If an eligible list does not currently exist for the Class covering any Position a provisional appointment may be made upon consent of the Commission.

(b) Upon appointing an Applicant the Appointing Authority shall report to the Commission, in writing, the name of the appointee and such other information as the Commission may require.

(c) No provisional appointment shall continue for a period of more than sixty (60) days after the establishment of a suitable eligible list.

(d) Any provisional Employee who does not take the examination when one is offered for the applicable Class, or who fails such examination shall be removed from the Position within thirty (30) days of the establishment of the eligible list covering such Position.

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### SECTION 8.04 TEMPORARY APPOINTMENTS

(a) Temporary appointments may be made by an Appointing Authority from proper eligible lists for periods not to exceed 120 days.

(b) Upon appointing an Applicant, the Appointing Authority shall report to the Commission, in writing, the name of the appointee and such other information as the Commission may require.

(c) Acceptance or refusal of temporary appointment shall not affect an individual's standing on the eligible list.

(d) At the expiration of the 120 days, the employment of a temporary appointee shall be terminated immediately unless the Appointing Authority finds it necessary to continue a temporary Position.

- (1) If such extension is deemed necessary, the Appointing Authority shall request approval from the Commission no later than 14 days in advance of the extended period start date.
- (2) Such extended period is not to exceed an additional 120 days.
- (3) Only one extension may be granted.

## **RULE IX – TRANSFERS, REDUCATIONS, AND SEPARATIONS**

### **SECTION 9.01 GENERAL LIMITATIONS**

No Person in the Classified Service shall be laid-off suspended, demoted, removed, or otherwise discriminated against by any Department head or Appointing Authority on the basis of race, religions, sex, disability, marital status, military status as defined in Section 4112.01 of the Ohio Revised Code, national origin, ancestry, or any other reason not connected with job performance or unsuitable conduct for a public Employee.

### **SECTION 9.02 TRANSFERS**

(a) Intradepartmental. Any officer or Employee in the Classified Service who has completed the probationary period may be Transferred by the Appointing Authority or Department head to another Position in the same Class if the Position is in the same City Department.

(b) Interdepartmental. The Commission may, upon the request of the appointing authorities involved, authorize the Transfer of an Employee in the Classified Service from one Position in one Department to another Position in the same Class but a different Department.

(c) Lateral Extra-Municipal Transfer. To encourage experienced police and fire personnel from other qualified agencies to participate in recruit procedures for prospective employment with the City the Commission will recognize the lateral transfer of experienced police and fire personnel into entry level positions of employment with the City without a competitive examination in accordance with the following requirements:

- (1) Only those candidates from police and fire agencies currently employing full-time police and fire personnel, eligible for state incentive pay, shall be eligible for lateral entry.
- (2) Prior to appointment the appointing Authority must submit in writing to the Commission for approval a Lateral Transfer request.
- (3) Newly hired personnel under lateral transfers shall be appointed into entry level positions including Police 1, Dispatch 1, and Fire/EMS 1.
- (4) Prior years of service in an outside department shall not apply to continuous service or other benefits related to seniority such as promotional examination eligibility or promotional seniority points.
- (5) All hiring processes of the appointing authority must be consistent regarding lateral entry and non-lateral entry hiring, including the city's employment and selection process and applicable provisions contained within police and fire labor agreements.
- (6) Lateral entry police and fire applicants shall be subject to the standard probationary period consistent with the provisions of these rules.

### **SECTION 9.03 REDUCTION IN PAY**

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(a) Reductions in the pay of Employees in the Classified Service may only be made pursuant to the provisions of Ohio Revised Code Section 124.34.

### SECTION 9.04 DEMOTION

(a) Reductions in the Class or rank of Employees in the Classified Service may only be made pursuant to the provisions of Ohio Revised Code Section 124.34.

### SECTION 9.05 SUSPENSION

(a) Paid or unpaid Suspensions of Employees in the Classified Service may only be ordered pursuant to the provisions of Ohio Revised Code Section 124.34.

### SECTION 9.06 REMOVAL

(a) An Employee may be removed pursuant to the provisions of Ohio Revised Code Section 124.34.

### SECTION 9.07 LAYOFF PROCEDURE

Whenever it becomes necessary because of a material change in duties, a reorganization, or a shortage of work or funds to reduce the number of full-time Employees in any Department of the City in the Classified Service, the changes shall be made in accordance with the following:

(a) Changes in positions covered by Collective Bargaining Agreements shall be governed by the appropriate agreement.

(b) Changes in the Police or Fire and Emergency Medical Service Department not covered by a Collective Bargaining Agreements shall be made in accordance with Ohio Revised Code Section 124.37.

(c) For all other Departments:

- (1) The least senior Employee in the affected Department and Class for the Position abolished or made unnecessary shall be Laid-Off first.
- (2) When a Position in a Class above rank “1” in any Class Series is abolished or made unnecessary and the incumbent had been permanently appointed and completed their probationary period he or she shall be demoted to the next lower Class and the least senior individual in that Class shall be demoted, and so on, until the least senior person in the lowest Class has been reached, who shall be Laid-Off.
- (3) The persons whose Positions in the Classified Service have been abolished or made unnecessary shall be offered the opportunity to be placed, by the Secretary, at the top of the eligible list for the Class which they held at the time of separation for a period of one year or until the applicable eligible list expires whichever is longer.
- (4) Whenever a vacancy in such a Class occurs the Secretary shall first certify only those individuals who had been previously Laid-Off and whose



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names appear on the eligible list as a result of such to the Appointing Authority for consideration.

- (5) Only once all individuals whose names appear on the eligibility list and who were previously Laid-Off have declined employment, been deemed unqualified, or requested their names be removed may the Secretary certify additional names to the Appointing Authority.

### SECTION 9.08 RESIGNATIONS

(a) Unless the Appointing Authority consents to a shorter notice, an Employee in the Classified Service who wishes to leave the service in good standing shall file with the Appointing Authority a written resignation giving at least two weeks' notice. Such resignation and acceptance thereof by the Appointing Authority shall be forwarded immediately to the Commission.

(b) Without written approval of the Appointing Authority, no resignation may be withdrawn by an Employee after its effective date or after it has been accepted.

(c) Any permanently appointed Employee who at the time of separation was in good standing pursuant to Section 9.08(a) may, upon request of the individual, be added to the top of the eligible list for the Class of the Position they held at the time of their separation at any time within one (1) year from the date of such separation provided their name appears below any 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 addition shall be sent to the Appointing Authority for its approval.

### SECTION 9.09 NOTICE

(a) In any case of Transfer, reduction, Demotion, Suspension, layoff, or resignation the Appointing Authority shall furnish such Employee, the Department head, and the Commission, with notice of such which notice shall state the individual affected, the reason for the occurrence, the effective date, and the Department(s) involved.

- (1) The Transfer, reduction, Demotion, Suspension (of 5 or more working days), or removal of an Employee shall not become effective until such Employee has been sent a written notice by First Class Mail or has been personally served with said notice and a copy of the notice has been received by the Commission.

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**RULE X –LEAVE OF ABSENCE**

SECTION 10.01 LEAVE OF ABSENCE

(a) Leaves of absence are provided for by Chapter 155 of the Codified Ordinances of the City of North Canton as enacted by City Council and Employees in the Classified Service shall be governed by the same with the addition that Employees in the Classified Service shall be granted leave in order to participate in promotional examinations offered by the Commission.

(b) For employees covered under Collective Bargaining Agreements leave of absence shall be governed by the appropriate agreement.

SECTION 10.02 ABSENCE WITHOUT LEAVE

(a) Absence from duty without leave for any time or failure to report if leave has expired, shall be considered "neglect of duty" and cause for removal.

(b) Absence from duty without leave for three (3) consecutive days shall be deemed a resignation by the absentee upon report of such absence by the Appointing Authority and the resignation shall be reported to the Commission.

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## **RULE XI – APPEALS AND HEARINGS PROCEDURE**

### **SECTION 11.01 FILING OF AN APPEAL**

(a) Within ten (10) days following the forwarding of the notice of Transfer, reduction, Demotion, Suspension, or removal as set forth in Section 9.09, the department head, officer or Employee may file an appeal, in writing, with the Commission.

(b) In the event such an appeal is filed, the Commission shall forthwith notify the Appointing Authority and shall hear such appeal within thirty (30) days from and after its filing with the Commission, giving the appellant and Appointing Authority not less than ten (10) days written notice of the time, date and place of said hearing. The decision of the Commission shall be rendered not more than ten (10) days from the conclusion of the hearing. An appeal from the decision of the Commission may be taken to the Court of Common Pleas pursuant to Section 124.34 of the Ohio Revised Code.

### **SECTION 11.02 GENERAL PROVISIONS**

(a) No Amendment to Notice Permitted. On the hearing of an appeal for a Transfer, reduction, Demotion, Suspension, or removal, the Commission shall confine its consideration to the charges and specifications set forth in the notice of Appointing Authority, as received by the Commission and no substantial amendment of nor addition to the said charges and specifications will be permitted or considered by the Commission.

(b) Administering Oaths. Any Commission member shall have the power to administer oaths and affirmations to witnesses and to take testimony concerning any matter which the Commission has authority to investigate.

(c) Subpoena Powers. The Commission shall have the power to subpoena and require the attendance of witnesses and the production of documents pertinent to the investigation.

(d) Recording of Hearings. All hearings and related proceedings before the Commission shall be recorded and transcribed verbatim for permanent retention in the record of proceedings of the Commission.

(e) Public Hearings. Hearings shall be public except upon the Employee's request that the hearing be closed, in which case the Commission shall order the hearing closed to the general public.

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### SECTION 11.03 APPEARANCES.

#### (a) Appearances Generally.

- (1) An appellant may represent himself or may be represented at any hearing before the Commission by any representative whom he authorizes to appear on his behalf.
- (2) The Appointing Authority may represent himself or may be represented by the Director of Law or Assistant Director of Law at any hearing before the Commission.
- (3) Provided a party has not been subpoenaed and has authorized his representative to represent him in all facets of a hearing before the Commission, that party is not required to personally appear at any hearing.
- (4) Representatives shall enter their appearances in writing.
- (5) One who has entered an appearance as the representative of a party is that party's representative of record unless and until a written withdrawal is filed with the Commission.

#### (b) Substitution of Parties.

- (1) If an appellant dies during the pendency of an appeal, the executor or administrator of his or her estate shall, upon motion, be substituted for him or her. An appeal shall be held open for a reasonable time to permit substitution of an executor or administrator.
- (2) If the Appointing Authority changes during the pendency of an appeal, the new Appointing Authority is automatically substituted and no formal motion or order is required.

### SECTION 11.04 CONSOLIDATIONS.

If two or more appeals involve substantially identical issues of act and law, the Commission may consolidate them into a single hearing.

### SECTION 11.05 RULES OF PROCEDURE

(a) The Commission may determine the order in which any hearing shall proceed.

(b) The Commission may require or limit opening statements, closing arguments and rebuttal evidence.

(c) Procedural orders, affecting only procedure in an appeal, may be issued by the Commission at any time prior to the issuance of a final decision. If a party fails to comply with a procedural order, the Commission may dismiss the appeal or grant appropriate relief to the opposing party.

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(d) Prehearings. At any time prior to a record hearing, the Commission may, on its own motion or upon motion of any party, direct the parties or their representative to participate in a prehearing.

- (1) Prehearings may be held for the following purposes:
  - (A) Simplification or clarification of issues;
  - (B) Obtaining stipulations and admissions;
  - (C) Agreements limiting the number of witnesses;
  - (D) Disclosure of evidence expected to be introduced at a record hearing;
  - (E) Exchange of documents and witness lists; and
  - (F) Discussion of any other matters tending to expedite the proceedings.
- (2) Final Commission notices, procedure notices and reports and recommendations may be issued based upon information obtained at a prehearing.

(e) Motions.

- (1) All motions shall state, with particularity, both the relief sought by the moving party and the basis for granting such relief.
- (2) All motions, together with supporting documentation, if any, shall be served on the opposing party.
- (3) Motions to dismiss an appeal shall be supported by affidavits, made on personal knowledge setting forth facts as would be admissible in evidence. Affidavits shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers referred to in an affidavit shall be attached thereto. When a motion is made and supported as provided in this Rule, an adverse party may not rest upon mere allegations or denials. An adverse party's response, by affidavit or otherwise, shall set forth specific facts showing there is a genuine issue in dispute.
- (4) Procedural motions, not determinative of the final outcome of an appeal, may be acted upon at any time after receipt by the Commission without awaiting a response from the opposing party. A party adversely affected by such action of the Commission may move for appropriate relief.
- (5) Within ten (10) calendar days of service of a non-procedural motion, a party shall serve a written response on the opposing party and file a copy of that response with the Commission. The Commission may rule on any nonprocedural motion once the time to respond has run. Upon motion of the affected party, the Commission may extend the time to reply to a nonprocedural motion.
- (6) The Commission may rule on any non-procedural motion at a record hearing, even if ten (10) calendar days have not elapsed since service. Provided the time for response to a non-procedural motion has not run, an oral response is acceptable at a record hearing.

(f) Briefs.

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- (1) At any time prior to the issuance of a final decision in an appeal, the Commission may require briefs from the parties. Briefs shall address questions put to the parties by the Commission and shall be filed within the time limits set by the Commission.
- (2) The Commission may limit both the number of reply briefs and the time for their preparation and filing.
- (3) If a party fails to submit a brief within the time limit, the Commission may exclude his brief from its consideration of an appeal.
- (4) Upon motion, the Commission may hold the record open for receipt of briefs.

### SECTION 11.06 SERVICE AND FILING OF DOCUMENTS

#### (a) Service.

- (1) Any document required by these rules to be served upon a party may be served either personally or by mail. When a party is represented by a representative who has entered an appearance, service shall be made upon that representative. Service is complete on the date mailing or personal transmission of the document occurs.
- (2) All motions and briefs shall contain the name, address, and telephone number of the person submitting the motion or brief.
- (3) A motion shall be considered by the Commission only if a certificate of service appears on it. Any statement, signed by either the moving party or his representative, is an acceptable certificate of service so long as it contains all of the following information.
  - (A) Date of service,
  - (B) Method by which service was made,
  - (C) Address where service was made, and
  - (D) Name of the person or authority who was served.

#### (b) Filing.

- (1) A document is filed when it is received and time stamped in the Office of the Commission.
- (2) Either an original or a legible copy of any document required to be served by these rules shall be filed with the Commission not more than three (3) calendar days after service.

(c) Communications to Representative of Parties. Communications from the Commission shall be sent to only one representative of the party. If more than one person enters an appearance as a party's representative, communications shall be sent as follows:

- (1) If one of the representatives entering an appearance has been designated, in writing, to receive communications from the Commission, all communications shall be sent to him.
- (2) If no representative has been designated to receive communications from the Commission, all communications shall be sent to the representative who last entered an appearance.



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- (3) If it is impossible to determine who last entered an appearance, all communications from the Commission shall be sent to the representative whose name is first in alphabetical order.

### SECTION 11.07 COMPUTATION AND EXTENSION OF TIME.

(a) The date of occurrence of the event causing time to run is not counted in the computation of any time limit under these rules. The last day of the period is included in the computation of the time limit. If the last day of a period is not a regular business day, the time period runs through the end of the next regularly scheduled business day.

(b) The Commission may extend the time for filing or responding to motions and briefs.

- (1) Requests for extension of time shall be made, in writing, prior to the expiration of any time limit.
- (2) Requests for extension of time shall be directed to the Commission.

(c) Continuances. Upon its own motion or the motion of any party, the Commission may continue a hearing.

- (1) Requests for continuance shall be addressed to the Commission.
- (2) Requests for continuance should be made in writing, at least five (5) calendar days prior to the scheduled date.
- (3) Each party shall contact all of the witnesses he or she has subpoenaed and inform them of any continuance.
- (4) Any appeal, based upon incidents which results in a criminal prosecution, shall be continued on motion of the affected Employee until a verdict is rendered. Similar continuances shall be granted an Appointing Authority only if the affected Employee consents in writing.
- (5) Absent compelling circumstances, hearings shall not be continued due to the unavailability of a subpoenaed witness. The Commission may hold the record open or accept a testimonial deposition in lieu of oral testimony. The cost of testimonial depositions taken under this Rule shall be borne by the party calling the witnesses.

### SECTION 11.08 BURDEN OF PROOF

(a) The Appointing Authority shall prove, by a preponderance of the evidence, the factual allegations in a disciplinary notice. Failure to prove such of the allegations contained in a notice does not, as a matter of law, require disaffirmance of a notice.

(b) The Appointing Authority shall demonstrate both the authenticity of the signature on a notice and the authority of any signer, unless these issues are waived.

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### SECTION 11.09 RULES OF EVIDENCE.

(a) The rules of evidence prevailing in civil actions in the Ohio courts of general jurisdiction are adopted for use in hearings before the Commission, except as modified by these rules.

(b) The Commission may permit the introduction of evidence otherwise excludable as being hearsay. A foundation, establishing both the reliability of the testimony and its necessity, shall be laid before hearsay may be admitted.

(c) Cumulative Testimony. The Commission may limit cumulative testimony.

(d) Prior Discipline. Evidence of prior discipline is inadmissible to prove the existence of any incident alleged in a Notice except that the Commission may admit evidence of prior discipline if it is to prove either:

- (1) That an Employee received prior notice that particular conduct is unacceptable; or
- (2) That a continuing problem exists justifying harsher discipline than might otherwise be the case.

(e) Questionnaire.

- (1) At any time prior to a hearing, the Commission may order evidence taken in the form of questionnaires.
- (2) The Commission may require questionnaires to be submitted at a hearing or to be returned by mail.
  - (A) Questionnaires shall be treated as admissions and may be completed with the advice of a party's representative.
  - (B) All questionnaires shall bear the oath or affirmation of the party completing them.
- (3) Questionnaires may be used as the sole basis for deciding any appeal brought before the Commission.

(f) Stipulations.

- (1) Stipulations shall be accepted by the Commission only when both parties consent to the stipulation.
- (2) Stipulations not involving the jurisdiction of the Commission are binding upon both the parties and the Commission.

(g) Witnesses.

- (1) All witnesses at any hearing before the Commission shall testify under oath or affirmation.
- (2) A witness may be accompanied and advised by legal counsel. Participation by counsel is limited to protection of his or her client's rights. Counsel for a nonparty witness may neither examine nor cross-examine any witness.

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- (3) Should a witness refuse to answer a question, abide by rules proper at a hearing or disobey a subpoena, the Commission may institute contempt proceedings.
- (4) Either party may call the opposing party as if on cross-examination.

### (h) Conviction of a Crime.

- (1) Conviction of any crime in a court of competent jurisdiction is conclusive evidence of the existence of all of the elements of that crime.
- (2) A conviction can be established only through certified copies of the original journal entry from the court in which the conviction was obtained.
- (3) Evidence of conviction of a crime is inadmissible unless identity is established between the crime and the particulars alleged in the Notice.

(i) Best Evidence. A duplicate may be admitted to prove the content of a document, recording, or photograph unless:

- (1) A genuine question is raised as to the authenticity of the original; or
- (2) In the circumstances it would be unfair to admit the duplicate in lieu of the original.

### (j) Exchange of Documents and Witness Lists.

- (1) Upon written request of the opposing party, a party shall supply a list of both the witnesses and the documents he intends to introduce at a hearing within seven (7) calendar days of receipt of the request.
- (2) Within seven (7) calendar days of receipt of a written request, a party shall permit the opposing party to view and copy, at their own expense, any documents intended to be introduced at a hearing.
- (3) If a party fails, without good cause, to comply with paragraphs (A) and (B) of the within Section, such testimony or documents shall, upon motion of the adversely affected party, be excluded from a hearing before the Commission.
- (4) The Commission shall determine whether a party has complied with this rule.
- (5) Failure to serve requests for lists or the examination of documents at least ten (10) calendar days before the first scheduled record hearing waives all right to exclude such evidence under the Section 16.31.
- (6) The Commission may continue hearings to permit discovery under the within Section 16.31.

### (k) Depositions.

- (1) The Commission may order depositions upon motion of any party.
  - (A) Motions to take depositions shall be filed, in writing with the Commission at least ten (10) calendar days prior to a record hearing. The Commission may continue hearings to take depositions.
  - (B) The cost of such depositions shall be borne by the party requesting the deposition.

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- (2) The Commission may, on its motion, order depositions taken at a time and place of its choosing. Such depositions may be recorded electronically and may be used in the resolution of an appeal.

### (l) Motion to Make Definite and Certain.

- (1) An appellant may move to make definite and certain any factual allegations contained in a Notice. Such motions shall specify what information is sought and shall not be enforced if they are overly vague. Provided such motions cite the within Section 16.33, they are automatically granted.
- (2) The appellee shall serve a written response to the appellant, not more than seven (7) calendar days after receipt of the motion to make definite and certain.
- (3) The Commission shall, upon proper motion, determine the adequacy of appellee's response.
- (4) The Commission may extend the time to respond to a motion to make definite and certain, continuing the case if necessary.
- (5) If an appellee fails to adequately respond to a motion to make definite and certain, the Commission shall, upon motion, exclude all evidence which is the subject of the motion. Failure to serve a motion to make definite and certain at least ten (10) calendar days prior to the first scheduled record hearing waives all right to exclude evidence under the within Section 16.33.

### (m) Physical and Mental Examination of Persons.

- (1) Order for Examination: When the mental or physical condition is in controversy, the Commission may order the party to submit himself to a physical or mental examination. The order may be made only on motion for good cause shown and upon notice to the person to be examined and shall specify the date, time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.
- (2) Examiner's Report: If requested by the party against whom an order is made, or the person examined, the party causing the examination to be made shall deliver to such party or person a copy of the detailed written report submitted by the examiner to the party causing the examination to be made. The report shall set out the examiner's findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition. After delivery, the Commission shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows that he is unable to obtain it. The Commission may make an order against a party to require delivery of a report on such terms as are just. If an examiner fails or refuses to make a report, the Commission may order, at the expense of

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the party causing the examination, the taking of the deposition of the examiner if his testimony is to be offered at trial.

- (3) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privileges he or she may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him or her in respect of the same mental or physical condition.

### SECTION 11.10 RESOLUTIONS OTHER THAN BY DECISION OF THE COMMISSION

(a) Failure to Appear.

- (1) If neither the appellant nor his authorized representative appears at any hearing, the Commission may dismiss the appeal.
- (2) If neither the appellee nor its authorized representative appears at any hearing, the Commission may grant appropriate relief.
- (3) If neither party appears at a hearing, the Commission may, based upon the information available to it, resolve the appeal in the manner it deems appropriate.

(b) Settlements and Withdrawals.

- (1) An appellant may withdraw its appeal any time prior to the issuance of a final decision of the Commission. All withdrawals shall be written and shall be signed by either the appellant or its representative.
- (2) An appeal may be settled by the parties thereto any time prior to the issuance of a final decision of the Commission. The Commission may accept signed settlement agreements and incorporate them into its final decision. All settlement agreements shall be written and shall be signed by all the affected parties or their representatives.

(c) Resignation Before Final Decision. The acceptance by an Appointing Authority of the resignation of a person whose appeal is pending, before the final decision 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 thus resigning shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

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## **RULE XII – REPORTING REQUIREMENTS**

### **SECTION 12.01 PERFORMANCE RATINGS**

(a) Each Appointing Authority shall, at the request of the Commission, provide the Commission with performance ratings for the Appointing Authority's Employees on forms prescribed by the Commission.

(b) Any Employee in the Classified Service whose performance is so rated shall be provided with a copy of the Employee's performance rating as submitted to the Commission.

(c) Without the express approval of the Employee and the Commission, performance ratings shall remain confidential unless their disclosure is required by law.

### **SECTION 12.02 ANNUAL REPORTING**

(a) In order for the Commission to maintain proper records and reporting standards as required by the Ohio State Personnel Board of Review, the Secretary shall by December 15 of each year for that year request from each Appointing Authority or Department head responsible for the appointment or supervision of Employees in the Classified Service a prompt and complete report, in writing, to the Commission of the following:

- (1) All appointments made by the Appointing Authority or in the Department including temporary, provisional, or permanent;
- (2) All Transfers made within or between Departments;
- (3) All disciplinary actions taken that resulted in the addition of documentations to the affected Employee's personnel file;
- (4) All separations from service;
- (5) Creation, merger, or abolition of any Position; and
- (6) Any material change in the duties or responsibilities of a Position that may affect its Classification.