

**CIVIL SERVICE COMMISSION**

**of the**

**CITY OF BROOKLYN, OHIO**

**RULES AND REGULATIONS**

Adopted by Civil Service Commission: \_\_\_\_\_

Prepared by:

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## **PREAMBLE**

The following rules and regulations are adopted in accordance with the authority conferred upon the Municipal Civil Service Commission of the City of Brooklyn, Ohio, under the authority of Articles XV and XVIII and other provisions of the Constitution of the State of Ohio, the Charter and ordinances of the City of Brooklyn, Ohio, and Chapter 124 and other provisions of the Ohio Revised Code.

Inquiries regarding civil service matters or rules should be addressed to the Civil Service Commission, City of Brooklyn, 7619 Memphis Avenue, Brooklyn, Ohio 44144.

## **CIVIL SERVICE COMMISSION**

Daniel Enovitch, Chairman

Sonia Brown, Commissioner

Deborah Gamble, Commissioner

Dennis Kennedy, Secretary

JoAnn Haig, Acting Secretary

**RULE I**  
**APPLICABILITY OF RULES**

**Section 1. Scope of Rules.** These rules shall be applicable to all civil service matters except to the extent that the same are superseded or preempted by the specific terms, provisions, and contents of a collective bargaining agreement entered into by and between the City and a public employee collective bargaining representative, or the Brooklyn City School District and a collective bargaining representative, pursuant to Chapter 4117 of the Ohio Revised Code, to the extent that said preemption is permitted by law.

Except as otherwise provided herein, these rules shall apply to all positions and employees in the classified service. Certain of these rules will also apply to the unclassified service as the rule or context indicates; for example, where it is necessary to identify who is in the unclassified service as opposed to the classified service. A reference to the “classified service” in certain instances in these rules shall not indicate an intent to apply the remaining rules to the unclassified service. Classified employees appointed to and classified positions created by any program developed and funded by federal legislation shall be covered by these rules to the extent these rules are not in conflict with federal legislation and/or guidelines. If these rules conflict with applicable federal legislation and/or guidelines, then the federal legislation and/or guidelines shall control. Where such federal legislation and/or guidelines require that these rules be extended to unclassified employees or positions where the rules would not normally apply, the rules will be so extended only to the extent necessary to ensure the receipt of the funding or to comply with the federal mandate.

These rules should be construed so as to carry out their purposes as determined from both the literal reading of the rules and their context.

**Section 2. Construction.** These rules are to be construed so as to carry out their purposes as determined from both the literal reading of the rules and their context. The rules should be construed and applied in a manner that is consistent with the laws of the State of Ohio, except to the extent that the letter or context of the City Charter and/or City ordinances indicates that the City intended to supersede, preempt, or otherwise override state law through a valid exercise of Home Rule. The rules should not be construed so as to limit the City’s power to exercise Home Rule, nor should the rules be construed in a way that limits the Civil Service Commission’s power to interpret and apply the rules within the scope of their lawful authority. For the convenience of the Commission and the public, certain of these rules indicate instances where the City has elected to supersede state law.

The term “ordinance” in these rules is meant to include formal ordinances, resolutions, or any other actions of Council that are sufficient to carry out exercises of Home Rule or

other powers of Council. References to “rules” and “regulations” are interchangeable, unless indicated otherwise.

The Rules of the Director of Administrative Services, also known as OAC 123:1-1-02, *et seq.*, shall have no applicability to the City of Brooklyn. Whenever any section of Chapter 124 makes reference to such rules, the statute will be construed as referring to the City of Brooklyn Municipal Civil Service Commission Rules and Regulations.

## **RULE II** **POWERS OF THE COMMISSION**

**Section 1. General/Local Laws.** The Civil Service Commission of the City of Brooklyn shall have and exercise all the powers afforded to it under the general laws of Ohio and local ordinances of the City of Brooklyn.

**Section 2. Charter.** In addition to those powers derived from the general law and local ordinance, the Civil Service Commission shall:

- A. be the sole authority to determine the grade and classification of positions as to the duties and responsibilities in the classified service of the City of Brooklyn;
- B. provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion in the classified service of the City of Brooklyn;
- C. provide by rule for appeals from the action of the Mayor or Director of Public Safety in any case of transfer, reduction, or removal.

## **RULE III** **DEFINITIONS**

The terms herein specified, and as used in the rules and regulations of the City of Brooklyn, Ohio Municipal Civil Service Commission, or in the administration of the civil service laws, shall be defined as follows:

- A. “Appointing Authority” means the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, or board.
- B. “Authorized Position” means a position that has been created, funded, and filled by the appropriate legal entities having the power to do so (i.e., legislative body, appointing authority, City of Brooklyn Board of Education, etc.) within the civil service of the City of Brooklyn.

- C. "Available Vacancy" means an existing funded position not currently filled by an incumbent that the appointing authority desires to fill. The existence of vacant positions on an appointing authority's table of organization shall not mean that a position is an available vacancy.
- D. "Certification" means the process of providing to an appointing authority the names on an eligible list or layoff list.
- E. "Certified Eligible List" means a list issued to an appointing authority of individuals available for employment from an eligible list.
- F. "City" is the City of Brooklyn, Ohio.
- G. "Civil Service" includes all offices and positions of trust or employment in the service of the City of Brooklyn, Ohio and the Brooklyn City School District.
- H. "Classification Specifications" means the statement of duties and typical tasks of a classification.
- I. "Hearing Officer" is appointed in the event the Civil Service Commission declines to hear an appeal filed pursuant to R.C. § 124.34.
- J. "Classification" is a group of positions defined by a common statement of duties and typical tasks to which has been assigned an appropriate title. These duties are expressed in the form of a "specification" which is defined herein.
- K. "Classified Service" means those persons in the employ of the City of Brooklyn, Ohio, who are not exempted from the classified service through the operation of the codified ordinances of the City of Brooklyn, Brooklyn City Charter, or ORC 124.11(A). All other employees and positions shall be "unclassified."
- L. "Commission" means the Civil Service Commission of the City of Brooklyn, Ohio.
- M. "Days" means calendar days unless specified otherwise.
- N. "Eligible" means an applicant for appointment or promotion to a classification who has passed an examination and met other requirements for the classification, and who is willing to accept appointment.
- O. "Eligible List" means a list of names and test scores of individuals who, through testing and meeting the other qualifications of a position, have been found qualified for the same, and each of whom has been afforded a specific rank-- in the

competitive classes the list shows competitive rank by arrangement based on total scores achieved.

- P. "Employee" means any person holding a position subject to an appointment, removal, promotion, or reduction by an appointing authority.
- Q. "He" is a masculine pronoun which, whenever it or its derivatives are mentioned, shall include the feminine pronoun "she" and its derivatives.
- R. "Independent Medical Professional" is a licensed medical practitioner that is not related to nor has business relationship outside of the medical services being rendered to the individual.
- S. "Position," when used by itself, shall refer to any specified office, employment, or job, calling for the performance of certain duties, either full-time, part-time, temporary, seasonal, or other recognized status under the law or these rules and for the exercise of certain responsibilities by one individual.
- T. "Position Classification" refers to the arrangement of positions into classifications. Positions shall be classified in accordance with the duties and responsibilities of the position.
- U. "Promotion" means the act of placing an employee in a position, the classification for which carries a higher salary range or rate than that of the position previously held by the employee.
- V. "Rules" means the rules and regulations of the Civil Service Commission of the City of Brooklyn, Ohio.
- W. "Secretary" means the Secretary of the Civil Service Commission of the City of Brooklyn, Ohio.
- X. "Specification" means a general description of a job classification specifying or giving examples of the kinds of tasks expected to be performed by employees holding positions allocated to that classification; which may include classification title and number, a statement of job functions, a grouping of task statements by job duties (ranked by importance), approximate percentages of total job time required for the performance of each duty, worker characteristics or behaviors required for successful completion of all tasks within each duty, and minimum qualifications for competition for employment in the classification.
- Y. "Unclassified Service" means all offices and positions that are exempt from civil serviced examination and provide no civil service tenure under the law. The unclassified service of the municipality shall include all positions exempted by

operation of City Charter, City Ordinance, or Chapter 124.11(A) of the Ohio Revised Code. This includes all directors of departments, all division heads, the secretary to the Mayor, the Clerk of Council, and all other municipal officers and employees who are in the unclassified service under provisions of general law, City Ordinances, and City Charter.

- Z. “Unskilled Labor Class” means all those positions that by order of the City of Brooklyn Municipal Civil Service Commission and under the authority of R.C. 124.11(A)(12) are determined to be impracticable to include in the competitive classified service. Such exemption must be entered into the record of the Commission along with the reason for such exemption. Unskilled Labor Class also includes those positions in the classified service performing ordinary labor tasks under 124.11(B)(2) where no exemption has been made as set forth above.

#### **RULE IV** **ADOPTION, AMENDMENT, RESCISSION OF RULES**

**Section 1. Commission’s Power to Adopt, Amend, and Rescind Rules.** The Commission shall have power to change, revoke, or modify these rules, or any herein or any part thereof, by a majority vote of the Commission.

**Section 2. Adoption, Amendment, Rescission.** Unless otherwise indicated, these rules, and any amendment, revision, or rescission of the same shall be in full force and effect from and after their adoption by the Civil Service Commission of the City of Brooklyn, Ohio.

**Section 3. Publication/Notice.** No action of the Commission adopting a rule or regulation, or amendment, revision, or rescission of the same shall be effective until notice of the same along with a summary of its content has been prominently displayed on the bulletin board of the Office of the Civil Service Commission in the City of Brooklyn, Ohio, and the content of the same has been made available for public review.

**Section 4. New Rules.** The present rules of the Civil Service Commission of the City of Brooklyn, Ohio, shall continue in full force and effect until the amendments set forth hereinabove have been properly adopted. Upon the adoption of these amendments, the existing rules shall be rescinded, and these rules shall supersede and replace the same as the rules and regulations of the Civil Service Commission of the City of Brooklyn, Ohio.

#### **Section 5. Procedure for the Adoption, Amendment, or Rescission of Rules**

- A. Public notice as to the adoption, amendment, or rescission of any rule of the Civil Service Commission must be given to the local news media at least seven (7) days prior to the date set for hearing and consideration of the rule. Revisions following the initial notification are not subject to the seven (7) day notice requirement.

- B. The public notice must contain a statement of the Commission's intention to alter or adopt a rule, and a statement as to the subject matter of the rule to be affected. In addition, the notice must contain the date, time, and place set for the consideration of the rule change.
- C. Sections (A) and (B) above do not apply to an emergency rule, amendment, or rescission or to any rule, amendment, or rescission required by state or federal law or regulation.
- D. Civil Service Commission rules shall be adopted at an open meeting by a majority vote and entered into the minutes. Interested parties may provide input in writing, preferably in advance, or offer written or oral input at the meeting(s) called to consider the rules or rule changes. Copies of the rules or rule changes, together with the minutes of the Civil Service Commission adopting the change, will be kept by the Secretary of the Commission and made available to any person upon request.

## **RULE V** **ORGANIZATION AND STAFF**

**Section 1. Officers.** Upon the appointment of a new member, the Commission shall designate one of its members as Chairman. The member so designated shall serve as Chair until a successor is designated. In the absence of the Chair, the remaining members of the Commission shall designate one of their members to serve as the Temporary Chair of the Commission, who shall act in place of the Chair.

**Section 2. Secretary and Chief Examiner.** The Director of Finance/designee shall serve as the Secretary of the Civil Service Commission and shall serve as its chief administrative officer and chief examiner.

**Section 3. Special Hearing Officers, Examiners, Etc.** The Civil Service Commission may appoint hearing officers, special examiners, etc., make use of City resources, and/or contract for the preparation of administration of examinations and other services, as provided in within these rules.

**Section 4. Expenses and Salaries of the Commission.** The expenses and salaries, if any, of the Commission shall be appropriated by City Council.

**Section 5. Removal from the Commission.** Upon the receipt of a report from the State Personnel Board of Review, charging a member of the Civil Service Commission with violating or failing to perform the duties imposed by law, or willfully or through culpable negligence violating the law by failure to perform his duties as a member of said Commission, along with the evidence on which the report is based, the Mayor shall forthwith remove the member. In all cases of removal, an appeal may be made to the

Common Pleas Court of Cuyahoga County, Ohio, as provided by law. The Mayor may at any time remove any member of the Civil Service Commission for inefficiency, neglect of duty, or malfeasance in office, having first given the member a copy of the charges against him, and an opportunity to be publicly heard in person or by counsel in his defense.

**RULE VI**  
**GENERAL PROVISIONS**

**Section 1. General Duties of the Commission.** The Civil Service Commission shall:

- A. Prescribe, amend, and enforce rules for the classification of positions in the civil service of the City; for examinations for and resignations from positions; for appointments, promotions, removals, transfers, layoffs, suspensions, reductions, and reinstatements to those positions; and for standardizing positions and maintaining efficiency.
- B. Classify positions in the service of the City of Brooklyn, Ohio.
- C. Prepare, conduct, and grade or assign a person to prepare, conduct, and grade all examinations for positions in the classified service as necessary.
- D. Prepare and maintain eligible lists containing the names, scores, and rankings of all persons qualified for positions in the classified service.
- E. Maintain a journal of minutes which shall be open to the public for inspection, in which the Commission shall keep a record of all of its proceedings and of the vote of each of its members upon every action taken by it, along with a record of the Commission's final decisions pertaining to classification or reclassification of positions in classified service of the City and the assignment or reassignment of employees to specific position classifications.
- F. Keep and maintain the following records:
  - 1. a compilation and listing of all of the current and existing authorized positions within the civil service of the City (add to "authorized position" to definition section);
  - 2. a current description as to the duties and responsibilities of the same, and retain on file documents and records related to job and employment actions as to each such position;
  - 3. a record of all applications and all examinations conducted by the Commission for a five (5) year period;

4. service lists (i.e., official roster) of all persons in the civil service paid directly by the City, containing the information specified in Section 2 (J) below.
- G. Hear appeals provided for by law, including appeals of appointing authorities from decisions of the Civil Service Commission relative to classification or reclassification of any position in the classified service under the jurisdiction of that appointing authority; appeals of employees in the classified service from final decisions of the employee's appointing authority relative to reduction in pay or position, job abolishment, layoff, suspension, fine, or discharge; or final decisions of the appointing authority or the Civil Service Commission relative to assignment or reassignment to a new or different position classification or a refusal to reclassify the employee's position. However, adverse actions based on certain felony convictions may not be appealed, per R.C. Chapter 124; furthermore a party may not file a second appeal from a decision of the Commission that results from an appeal — although the Commission may allow motions for reconsideration.
  - H. Subpoena and require the attendance and testimony of witnesses and/or the production of books, papers, records, and other documentary evidence pertinent to any matter which the Commission has the authority to investigate, into which it has the authority to inquire, or which it has the authority to hear.
  - I. The Commission shall also make reports from time to time as the State Personnel Board of Review (SPBR) requests regarding the manner in which the law and the rules and regulations of the Commission have been and are being administered in the City. The Commission shall file its rules and an annual report with the SPBR.
  - J. Appoint such additional referees (including hearing officers), inspectors, examiners, clerks, assistants, and/or other employees as are necessary to assist and serve the Commission in its exercise of its duties, powers, functions, and responsibilities, and/or contract for such services (e.g., consulting services to assist with classification of positions per R.C. 124.14). Furthermore, the Commission may delegate any functions it performs as the City equivalent of the Ohio Director of Administrative Services to any other City administrative office, or make use of such personnel or services as the City shall provide to assist the Commission.
  - K. Exercise all other powers and perform all other duties with respect to the civil service of the City as prescribed in the City of Brooklyn Charter and Chapter 124 of the R.C. and conferred upon the Director of Administrative Services and the State Personnel Board of Review of the State of Ohio with respect to the civil service of the State of Ohio, except any powers or duties conferred upon or superseded by Home Rule.

**Section 2. General Duties of the Secretary.** The Secretary to the Commission or designee shall perform the following duties:

- A. sign all papers, vouchers, payrolls, and other documents for and on behalf of the Commission except such as are by law specifically required to be signed by the Chairman;
- B. attend meetings of the Commission and keep the minutes thereof;
- C. keep in the form of minutes, a record of the official actions of the Commission with regard to:
  - 1. All appointments to positions in the classified service and the titles thereof;
  - 2. Transfers, suspensions, removals, and reinstatements to eligible lists;
  - 3. Lists of all examinations with their dates;
  - 4. Results of all requests to regarding;
  - 5. Decisions on appeals of suspensions, demotions or dismissals, and the reason in brief for each;
  - 6. Classifications of positions and changes in classifications. Appointments of special examiners;
  - 7. Refusals to certify names on the payrolls and the reason therefore;
  - 8. Decisions in all hearings;
  - 9. Non-competitive tests and the reason therefore;
  - 10. Other official business transacted by the Commission.
- D. be available in the municipal administration building during regular business hours for the purpose of receiving calls, accepting service of filings, and providing access to Commission records;
- E. process all applications;
- F. accurately and properly maintain all of the records of the Commission;
- G. keep all files in proper order;

- H. prepare and deliver, or cause to be delivered, notices and other communications ordered by the Commission;
- I. properly furnish appointing authorities with eligibility lists;
- J. maintain an official roster and service lists for every person employed or performing duties in the classified service. This file shall show respecting every officer and employee the following facts:
  - 1. The name of the officer or employee;
  - 2. The address of the officer or employee;
  - 3. The title of the office or employment;
  - 4. The date and character of each appointment and every subsequent change in status;
  - 5. The date of examination and listing, the grade received, and rank on the eligible list;
  - 6. All changes in compensation;
  - 7. A separate file shall be kept of all unclassified employees.
- K. handle such correspondence as the Commission shall determine, including the preparation of the annual report to be filed with that State Personnel Board of Review (SPBR);
- L. on authorization from the Chair, sign all orders for the payment of money on behalf of the Commission;
- M. make available to the public those documents deemed to be public records under the terms of R.C. 149.43;
- N. perform other duties as assigned by the Commission.

**RULE VII**  
**MEETINGS AND OFFICE HOURS**

**Section 1. Meetings of the Commission.**

- A. Regular Meetings. The Commission shall meet on the second Wednesday in January each year to adopt its annual meeting schedule. Upon adoption, the

regular meeting schedule will be published. Special meetings will be conducted on an as needed basis according to these rules.

- B. All meetings of the Civil Service Commission are open to the public, except as set forth in R.C. 121.22 and this rule.
- C. Meeting Minutes. General minutes shall be taken at all Civil Service Commission meetings and shall be open to public inspection.
- D. Special Meetings. The Chair of the Commission may, on his own initiative, and shall, upon the request of the other two (2) members of the Commission, call a special meeting of the Commission to be held not later than fourteen (14) days from the date of notice of such meeting. 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 (2) members to adopt any motion or resolution.
- E. Meeting Notice. Twenty-four (24) hours advance notice of any meeting of the Civil Service Commission must be given to the local news media and to other media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the Chair, the members calling the meeting, or a designee must immediately notify the local news media concerning the time, place, and purpose of the meeting.
- F. Executive Session. An executive session may be held only after a majority of the members, by roll call vote, have approved such action. Such executive session may be convened to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a municipal employee, unless such employee requests a public hearing. The motion and vote to hold the executive session shall state which one or more of these purposes are the purposes for which the executive session is being held, but need not name the person who is to be considered during the session. Executive session may also be held for other reasons enumerated in R.C. 121.22 and the other laws and regulations incorporated therein. Minutes of any executive session shall be appropriate to the nature of such executive session.
- G. Order of Business. 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

**Section 2. Office Hours.** The regular hours during which the office of the Commission shall be open for the transaction of business shall be from 8:00 a.m. to 4:30 p.m. daily except Saturdays, Sundays, and legal holidays.

**RULE VIII**  
**CLASSIFIED AND UNCLASSIFIED SERVICE**

**Section 1. Division of the Civil Service into Classified and Unclassified Service.** The civil service of the City of Brooklyn, Ohio, shall be divided into the classified service and the unclassified service:

- A. Unclassified Service. The unclassified service of the municipality shall include all directors of departments, all division heads, the Director of Law, the Director of Finance, the Director of Public Service, and all other municipal officers and employees who are in the unclassified service under provisions of general law, under provisions of ordinances, or established by Charter. The unclassified service includes appointments of a temporary or intermittent nature as provided by R.C. 124.30(B).

Civil Service examinations shall not be required for the appointment of any member of a board or commission, or any head of a department, or any assistant to the Director of Law, or to the Director of Finance, or any Secretary to the Mayor or to the head of any department, or for the appointment to any other office or position requiring peculiar and exceptional qualifications. Any person wishing to take a Civil Service examination, and who qualifies under the laws of the State of Ohio and the Rules of the Brooklyn Civil Service Commission, may be eligible to take said examination. Any person who is serving in the capacity of a full time police officer or fire fighter as of the effective date of the Charter shall be retained in the same capacity without examination.

- B. Classified Service. The classified service shall comprise those positions not specifically included in the unclassified service.

**RULE IX**  
**JOB CLASSIFICATION PLAN**

**Section 1. Job Classification Plan.**

- A. The Civil Service Commission shall establish and may modify or repeal, by rule, a job classification plan for all positions, officers, and employment situations in the employ of the City of Brooklyn. The job classification plan shall reflect those classifications and positions established by the legislative body of the City of Brooklyn.

- B. Positions in the Civil Service of the City shall be classified in accordance with the classification plan, which shall provide that any and all positions whose duties, responsibilities, and necessary qualifications are sufficiently alike as to so warrant shall be allocated to the same class with a title which shall be descriptive of the duties performed, and which may allow for the assignment of pay ranges with equity.
- C. The Commission shall approve a classification specification for each job classification setting forth a class title, typical duties and responsibilities, and the necessary qualifications, as specified in Section 1(A). The Commission shall also, by rule, assign related classifications, which form a career progression, to a classification series. The Commission shall, by rule, assign each classification in the classification plan a five digit number, the first four digits of which shall denote the classification series to which the classification is assigned.
- D. Where particular licenses or attributes, such as insurability, are essential characteristics or functions of a position, the class series specification may be amended to so reflect. Such amendments may be requested by the appointing authority and reflected on the minutes of the Commission.

**Section 2. Job Reclassification and Job Audits.** Upon the request of the appointing authority, the Commission shall perform a job audit to review the classification of an existing position to determine whether the position is properly classified. The Commission shall give to the employee affected, if applicable, and to the employee's appointing authority a written notice of the Commission's determination whether or not to reclassify the position or to reassign the employee to another classification.

**Section 3. Classification Specifications.** Each classification that is part of the adopted or amended classification plan shall have a classification specification. The statement of duties and typical tasks of classifications, known as classification specifications, are hereby declared to have the following force and effect:

- A. They are descriptive only and not restrictive. They are intended to indicate the kinds of positions that should be allocated to the respective classifications as determined by their duties, responsibilities, and qualifications requirements. The use of particular expression or illustration as to duties, qualification requirements, or other attributes shall not be held to exclude others not mentioned.
- B. In determining the classification to which any position shall be allocated, the statement of duties and typical tasks of each classification shall be considered as a whole. Consideration is to be given to the general duties, specific tasks, responsibilities, described entrance qualifications, and the relationship to other classifications as affording together a picture of the employment that the classification is intended to embrace.

- C. The duties statement shall be construed as a general description of the kind of work involved in all positions that properly fall within a classification and not in any sense as prescribing what the duties of a position shall be nor as limiting the expressed or implied power of the authority now or hereafter vested with the right to prescribe or alter the duties of any position; provided, however, that where a substantial change of duties is made, except for a temporary period or by the addition of duties that are incidental to the main employment, such change shall be reported to the Commission.
- D. Typical tasks shall be construed as examples only, illustrative of the duties as outlined by the general statement. These examples are not intended to be complete or exclusive and the fact that all the actual tasks performed in a position do not appear therein shall not be taken to mean that the position is necessarily excluded from the classification, provided that the tasks constituting the main work or employment are duly covered by the general statement of duties. On the other hand, any one example of a typical task taken without relation to the general statement of duties shall not be construed as determining whether a position shall be included within a classification.
- E. Minimum entrance qualifications shall constitute a part of the description of definition of the kind of employment by expressing the minimum qualifications described in a new appointee. Although they may not be mentioned in the statement, such qualifications as should properly apply in common to all classifications, such as citizenship, suitable age, honesty, sobriety, and industry, are taken for granted.

**RULE X**  
**CLASSIFICATION/RECLASSIFICATION OF POSITIONS**

**Section 1. Classification of Existing Positions.** Every position in the civil service of the City of Brooklyn existing when these rules take effect, or when hereafter created, shall be placed into its appropriate job classification, or allocated into a new job classification, as may be applicable, and designated as belonging to the classified or unclassified service of the City. With input from the appointing authority, such allocation shall be made by the Commission.

**Section 2. Classification of New Positions/Reclassification of Existing Positions.** Whenever a new position is established or the duties of a position are so changed that the statement of duties and typical tasks of the classification to which it was originally allocated no longer applies, the appointing authority shall report such fact to the Commission and transmit a full statement of the circumstances and description of the duties. The appointing authority shall also transmit its recommendation to the Commission as to the appropriate classification that the position should now be placed, if applicable. The Commission shall thereupon, after investigation, determine the proper

classification of such position. The Commission shall from time to time make an investigation of all positions in the service to determine whether such positions are allocated to the proper classifications. The classification or reclassification in all such cases shall take effect immediately upon approval by the Commission unless the effective date is otherwise specified by the Commission.

**Section 3. Affect of Reclassification on Incumbents.** Wherever a position has been allocated to a new classification by virtue of merger, abolition, or division of classifications, or the creation of new classifications, the incumbent of such position, if a legal appointee, shall without examination receive the title of the new classification.

## **RULE XI** **APPLICATIONS**

**Section 1. Generally.** No person shall be permitted to enter an examination for position in the competitive or non-competitive classified classes unless he shall have (1) filed a written application on the forms prescribed by the Commission; (2) qualified in accordance with the minimum entrance qualifications for the examination; and (3) had his application approved in accordance with the rules of the Commission.

**Section 2. Filing of Applications.** Applications must be signed by the applicant on a form provided by the City. All applications shall be filed at the office of the Commission during office hours and within the time limit fixed in the official notice of examination or with such other employee or agent of the appointing authority as is indicated in the job notice.

The date of the receipt of each application shall be noted on the same. The Clerk of the Civil Service Commission shall maintain registers which contain the name of each applicant, the date of the receipt of the application thereof, and the documents which accompany same. No applications shall be accepted after the date for filing has passed.

**Section 3. Notice of Acceptance or Rejection of Application.** Whenever an application shows that an applicant is not qualified under these Rules for consideration for a position for which he has made application, or that the application is not in reasonable and substantial compliance with the same, the Commission shall reject the application, and the Secretary, forthwith thereafter, shall afford the applicant written notice of said action and of the reason for the same. Applicants whose applications are accepted shall be given written notice of the date, time, and place of examination. Such notice of acceptance shall be given at a reasonable time before the examination date, and shall apprise applicants that reasonable accommodations are available to disabled persons to afford them access to the examination process. A defective or incomplete application may be corrected by the applicant, and resubmitted by the filing deadline.

**Section 4. Rejection of Application or Applicant.** The completed application and requested documentation, information, and material requested therewith and secured in relation thereto shall be the sole criteria in determining an applicant's eligibility for an examination. Information showing that an applicant meets all of the minimum qualifications as stated in an examination announcement must appear on the application itself. No additional information will be accepted after the application filing deadline. The Commission may, for sufficient cause, reject an application prior to the date of the examination for which it is filed or after an examination has been conducted. In all cases of rejection, the applicant shall be notified of the rejection and the reasons therefore. Any of the following may be sufficient cause for rejecting an application:

- A. **Minimum Qualifications.** Failure of an applicant to indicate on his application the qualifications as to education, certification, licensing, or any other requirement shall be sufficient cause to exclude an applicant from examination.
  
- B. **Character and Fitness.** Satisfactory information produced at any time to the Civil Service Commission, either before or after examination, that an applicant has committed acts which demonstrate character traits which would be detrimental to the successful performance of the employment sought; or of his patterned poor work habits and performance with previous employers; or of his dismissal for good cause, including delinquency or misconduct, from any branch of public service; or for his conviction of a felony; or of his current illegal use of drugs; or of his infamous or notoriously disgraceful conduct; or that he, in relation to the application process, has made false statements of any material fact; or that, in relation to his application or examination, in establishing his eligibility, and/or in securing his appointment, the applicant has practiced, or attempted to practice, any deception or fraud shall justify the Civil Service Commission, before an examination, in refusing to permit the examination of an applicant, or, after testing, in refusing to certify the applicant as eligible for employment or appointment.

Certification of an individual to an eligible list who has not met all of the requirements of these rules shall not be considered a waiver of any requirements of the same, and shall not bar removal of the applicant from an eligible list by the Civil Service Commission as a result of said failure. Upon rejection of an application, any applicant shall have an opportunity to show cause to the Commission why his application should not have been rejected.

**Section 5. Minimum Qualifications.** The Commission shall establish for each open competitive or non-competitive examination minimum qualifications which shall be published in the official announcement of each examination and which shall include, among other things, requirements with regard to:

A. Age of Applicants. Prior to the publication of announcements of each examination, the Commission shall determine the age requirements for entrance to such examination. After publication of the notice of such examination, no change in age requirements shall be made except by action of the Commission, whereupon a new publication of the notice of such examination shall be made as hereinbefore provided. No modification of the age requirements as set forth in the published notice shall be made in the cases of individual applicants.

B. Police and Fire Minimum Age for Application and Maximum Age for Application and Appointment. Applicants for original appointment examination to the Police Department must have attained the age of twenty-one (21) years on or before the date of the written examination. No person may apply for or receive an original appointment as a police officer if that person has attained the age of thirty-five (35) years or older, and no person can be declared disqualified as over age prior to that time.

Applicants for original appointment examination to the Fire Department must have attained the age of eighteen (18) years on or before the date of the written examination. No person may apply for or receive an original appointment as a fire fighter if that person has attained the age of thirty-one (31) years or older, and no person can be declared disqualified as over age prior to that time.

This section does not prevent the City from establishing a police or fire cadet program or employing persons as police cadets or fire cadets at an age less than the original appointment minimum for the purposes of training them to become police officers or fire fighters.

C. Experience and Education. Educational requirements shall apply to positions for which education requirements are expressly imposed by a section of the Ohio Revised Code or federal requirement. Education requirements may also be established and utilized where the Commission determines that the requirements are job related. Minimum experience and education requirements shall reflect the criteria set forth in the classification specification for which the examination is being given.

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

E. Citizenship. No person shall be admitted to an examination who is not a citizen of the United States.

- F. Character References. Applicants may be required to furnish character references or letters of recommendation, from persons not relatives of the applicant and not holding any elective public office or position in a political party organization, each certifying that he has been personally acquainted with the applicant for at least one year last past and believes him to be of good moral character, of correct and orderly deportment, of temperate and industrious habits, and that such citizen is willing that his certificate shall be made public.

**Section 6. Fitness for Service.**

- A. Every applicant appointed to or employed in the civil service shall be physically and psychologically able, with or without reasonable accommodation, to perform the essential functions of the position to which he is appointed, or in which he is employed.
- B. Applicants to whom conditional offers of employment in positions within the Division of Police or Division of Fire of the City of Brooklyn have been tendered shall be required to undergo psychological evaluations, medical examinations, and drug testing administered by appropriate, licensed medical professionals selected and designated by the Commission, and to provide information as to their physical and psychological health which is relevant to their ability to perform the essential functions of the position in relation to which the conditional offer of employment has been tendered, with or without reasonable accommodation. The Civil Service Commission may order physical agility tests where applicable.
- C. The Commission may require that applicants to whom conditional offers of employment in positions within other divisions or departments have been tendered undergo such medical examination or testing, or provide such information, on the condition that such requirements are uniform as to all positions within an employment classification.

**Section 7. False Statements.** Fraudulent conduct or false statements by the applicant, or by others with his involvement, in any application or examination shall be deemed cause for exclusion of an applicant from any examination, or for removal of his name from an eligible list, or for discharge from service after appointment or employment, provided that the name of no person shall be removed from an eligible list, and no person shall be dismissed from service under this provision without an opportunity to be heard by the Civil Service Commission. Where an applicant is excluded from an examination, he shall be heard by the Secretary of the Civil Service Commission.

**Section 8. EEO Applicant Flow Information.** The Civil Service Commission may design and approve for use a form to be used in documenting EEO applicant flow statistics. If utilized, this EEO applicant information flow sheet shall be furnished to all applicants for employment or examination. The completion of the EEO applicant flow

information sheet by applicants for testing or employment shall be wholly voluntary, and no applicant shall be adversely affected in any way for having refused to complete such form. Once completed, EEO applicant flow information sheets shall be physically separated from the application and separately filed as a confidential EEO compliance record.

**Section 9. Application for Examination.** All applicants for positions in the classified service shall be subject to examination. Examinations shall be open and competitive, except as otherwise provided within these rules, and shall be comprised of two types:

1. Original appointment examinations
2. Promotional examinations

**Section 10. Residency Credit.** The Commission may, at its sole discretion, include as part of the scoring for an entry level Civil Service Examination a residency credit for those applicants who are bonafide residents of the City of Brooklyn and who desire to take an entrance level Civil Service examination. No credit for residency, if included, shall be given unless an applicant first attains a passing grade of seventy percent (70%), and the Commission shall determine the method of calculating residency credit, which shall not be greater than five points on any given exam. Should the Commission elect to include a residency credit, it shall be noted in the examination bulletin. Evidence of eligibility for credit must be submitted at the time of the filing of the application with the Commission and in the manner specified in the examination bulletin.

## **RULE XII** **EXAMINATIONS**

### **Section 1. General**

- A. All applicants for positions in the classified civil service shall be subject to examination, to all limitations set forth in these rules as to education, license, certification, habit, and moral character, and to the requirement that each applicant be able, with or without reasonable accommodation, to perform the essential functions of the position for which he has made application.
- B. Examinations may consist of one test, or of more than one test in combination. Tests may be written, oral, demonstration of ability to perform essential functions, or an evaluation of training and experience, and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods. Where minimum or maximum requirements are established for any examination, the same shall be specified in the examination announcement.

- C. Eligibility for Examination. No person or individual shall be eligible to sit for an examination unless, at the time of filing the application the applicant meets all of the eligibility requirements contained in the examination notice.

**Section 2. Types of Examinations.** There shall be two (2) types of examinations administered by the Civil Service Commission in accordance with these rules, to wit:

- A. Examinations for original appointments
- B. Examinations for promotion.

Examinations for original appointments shall be open to all individuals who otherwise qualify for appointment to or employment in a position under these rules. With the exception of positions that require peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character as identified by the Commission, examination for promotion shall be limited to members of the classified civil service who meet the requirements for promotion to a position under these rules.

**Section 3. Separate Examinations.** Separate examinations shall be given and separate eligible lists shall be maintained by the Civil Service Commission as to the respective appointing authorities within the jurisdiction of the Civil Service Commission, and as to separate positions and classifications within the service of the same. No person may be transferred from one list to the other, but a single test or combination of tests may be utilized to examine and evaluate applicants for similar positions or classifications in the service of the two appointing authorities. Appointments and promotions shall be effected only from the separate eligible lists which are applicable.

Similarly, separate examinations shall be given and separate eligibility lists maintained by the Civil Service Commission for original appointments to and promotions in the Police and Fire Divisions. No person may be transferred from one list to the other. Appointments and promotions in the divisions shall be only from the separate eligible lists maintained for each of the divisions. Transfers of personnel from one division to the other are hereby prohibited.

**Section 4. Examination Notices and Sites.**

- A. Examinations for original or promotional appointments shall be held at such times and in such places as the Civil Service Commission deems appropriate, and shall be administered in accordance with the applicable sections of ORC 124 and these regulations.
- B. The chief examiner shall prepare for the Commission's approval a notice for each competitive and non-competitive examination which shall contain, among other things, the date, time, place, and type of examination; the minimum entrance

qualifications; and statement of the duties and typical tasks for the classification. Such notice, after approval by the Commission, shall be published in at least two (2) consecutive issues of a newspaper of general circulation and shall be posted on the bulletin board in the office of the Commission. Wherever additional publicity is deemed necessary by the Commission, said examinations may be advertised in periodicals and daily newspapers. Notices may also be furnished to high schools, universities, libraries, and the headquarters of interested organizations. Copies of said notice shall also be sent by the Secretary of the Civil Service Commission to the Clerk of the Common Pleas Court of Cuyahoga County, Ohio, with the request that it be posted in a conspicuous place in the Cuyahoga County Courthouse, and posted by the Secretary of the Civil Service Commission. Notices shall also be posted electronically on the City Website by the Secretary of the Civil Service Commission. Notices must be in place at least two weeks preceding any examination.

- C. Notices of all examinations for original appointments in the classified service may also be distributed to such persons or organizations as may be interested in the positions to be filled.
- D. The Commission may take such additional steps as it deems appropriate and advisable to affect notice of an examination, and to secure qualified applicants from the same

**Section 5. Scope of Examination: Subjects/Study Materials.** Examinations for original appointment may include written testing. Written tests may be prepared, conducted, and graded by disinterested persons retained by the Civil Service Commission.

Examinations shall be practical in character and shall relate directly to those matters which will fairly test the relative capability of the person being examined to discharge the particular duties of the position for which appointment is sought.

The Commission shall prescribe the subjects of each examination and the relative weights to be assigned thereto, provided that any such determination must have been made prior to the date of such examination.

**Section 6. Contents of Examinations.** Examinations may consist of one test, or of more than one test in combination. Tests may be written, oral, demonstration of ability to perform essential functions, or an evaluation of training and experience, and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the person for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods.

**Section 7. Conduct of Examination.** All examinations shall be conducted under the direction of the Commission which may from time to time designate special examiners, interview boards, or other objective persons to assist in the testing process as may be required. Any applicant failing to appear for any part of an examination shall be excluded from further consideration in the establishment of the eligible lists. The individual parts of an examination shall be conducted in accordance with the examination announcement.

**Section 8. Original Appointment Exams: Police and Fire.**

- A. In relation to examinations for positions within the Division of Police or Division of Fire, examinations for original appointments include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods.
- B. No applicant shall be tested orally or participate in the assessment center unless he has completed the applicable written test.
- C. If oral examinations of qualified applicants are given, they shall be prepared, conducted, and graded by the Interview Board or other individual/entity designated by the Civil Service Commission. A minimum grade shall be identified by the test designer or the Civil Service Commission.
- D. Minimum Age Requirements for Examination Police Officers. No person shall be eligible to receive an original appointment to a police department, as a police officer, subject to the civil service laws of this state, unless the person has reached the age of twenty-one and has, not more than one hundred twenty days prior to the date of such appointment, passed a physical examination, given by an independent medical professional who is a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife, certifying that the applicant is free of cardiovascular and pulmonary diseases, and showing that the applicant meets the physical requirements necessary to perform the duties of a police officer as established by the civil service commission having jurisdiction over the appointment.
- E. Minimum Age Requirements for Fire Fighters. No person shall be eligible to receive an original appointment to a fire department, as a fire fighter, subject to the civil service laws of this state, unless the person has reached the age of eighteen (18) and has, not more than one hundred twenty (120) days prior to the date of such appointment, passed a physical examination, given by an independent medical professional who is a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife, certifying that the applicant is free of cardiovascular and pulmonary diseases, and showing that the applicant meets the physical requirements necessary to perform

the duties of a fire fighters as established by the civil service commission having jurisdiction over the appointment.

- F. Maximum Age Requirements for Police Officers. No person is eligible to receive an original appointment when the person is thirty-five (35) years of age or older, and no person can be declared disqualified as over age prior to that time.
- G. Maximum Age Requirements for Fire Fighters. No person is eligible to receive an original appointment when the person is thirty-one (31) years of age or older, and no person can be declared disqualified as over age prior to that time.

### **Section 9. Medical, Physical, Psychological, or Drug Testing.**

- A. General. Whenever physical or psychological qualifications are of special importance, the applicant may be required to pass a physical or psychological examination and be certified as qualified in such respect, whether before admission to the examination, or before being placed on the appropriate eligible list, or before certification for appointment, as the Commission may deem advisable.
- B. Controlled Substances. Such examinations shall include a screening for the use of controlled substances for applicants applying for a safety sensitive position.
- C. By Whom Conducted. Physical, psychological, or drug screening examinations, whenever required by the Commission, shall be made by a licensed or certified professional designated by the Commission, who shall furnish a certificate as to the applicant's fitness for duty, with or without reasonable accommodation.
- D. Results Confidential. The results of physical, psychological, or drug screening examinations shall be used solely to determine an applicant's eligibility to take an examination, or eligibility for appointment after an examination, and shall not become a part of the applicant's examination score. Records of such examinations shall be treated as confidential medical records to the extent required by law.
- E. Reasonable Accommodation. Any applicant or candidate who feels that he has been adversely affected by the physical element may request that a "reasonable accommodation" be investigated by the appointing authority. Requests for such accommodation must be filed as soon as reasonably possible, must be in writing, and must outline the accommodation requested. Such requests must be filed with the Commission and with the Appointing Authority. The Commission will then schedule an informal fact finding meeting to discuss the issue of accommodation and will release its finding within five (5) working days of the conclusion of the informal fact finding. Such meetings will be held in executive session.

**Section 10. Admission of Applicants to Examination**

- A. No applicant shall be admitted to any assembled examination after the advertised time of beginning such examination, nor after any applicant competing in any such examination has completed his work and left the examination room, except by special permission of the person in charge, who, in his discretion, may admit the applicant conditionally, subject to the final approval or disapproval of such admission by the Commission.
- B. Any applicant admitted to an assembled examination after its advertised time of beginning must complete the examination at the advertised ending time, and shall receive no extension of time, except as set forth in Section 12 below.

**Section 11. Identity of Examiners Concealed.** The identity of all persons taking competitive entry level assembled examinations shall be concealed by the use of an identification number which shall be used on all examination papers. Each applicant who is admitted to the examination shall be assigned a number by which that applicant shall be known during the examination and consideration process. Any examination bearing the name of the applicant or any other identification mark shall be rejected and the candidate so notified.

**Section 12. Extension of Time in Examination.** No applicant shall be given a longer time on any subject than has been prescribed by the Commission for the completion of an examination. Separate time limits may be established as a reasonable accommodation to a handicapped or disabled applicant. Requests for additional time, or accommodation, must be submitted with supporting documentation at the time of filing application for the examination.

**Section 13. Visitors at Examinations.** No visitors shall be admitted to the examination room during any examination except by special permission of the person in charge.

**Section 14. Postponement or Cancellation of Examination.** A scheduled examination may be cancelled or postponed by order of the Civil Service Commission for any adequate reason. Reasonable efforts shall be made to notify each qualified applicant of the cancellation or postponement and will include written notice to the applicant's last known post office address, except under circumstances which make written notice not practicable.

**Section 15. Waiver.** In the event an individual who has not met the requirements of these rules is permitted to take an examination, the same shall not be deemed to be a waiver of any requirements established by these rules.

## **Section 16. Promotional Examinations**

- A. Vacancies in positions in the classified service shall be filled insofar as practicable by promotions. Unless the Commission determines the position requires peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character, examination for promotion shall be competitive and limited to members of the classified civil service who meet the requirements for promotion to a position under these rules. Such testing may include written tests, oral tests, and/or assessment centers, and shall relate to those matters which test the ability of the person being examined to discharge the particular duties of the position sought.
- B. The identity of all examination applicants shall be concealed by the use of an identification number which shall be used on all examination papers. This identification number shall be used from the beginning of the examination until all the examination papers have been rated. Any papers bearing the name of the applicant, or any other identification mark, shall be rejected and the applicant so notified.

## **Section 17. Limitation on Original Promotional Appointments: Police and Fire.**

Positions in the classified service above the rank of police officer in the Division of Police or fire fighter in the Division of Fire may not be filled by original appointment, unless by operation of 124.30(A)(2) the Commission receives satisfactory evidence from the appointing authority that the position requires peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character, and that competition in this special case is impracticable because the vacancy could best be filled by a selection of some designated person of high and recognized attainments in those qualities. In such instances, the Commission shall conduct hearings and document the evidence that it considered and make a specific record of its action to suspend the applicable sections of the Revised Code.

**Section 18. Non-Competitive Examinations.** Where the Commission determines that an original or promotional examination for a classified appointment is to be non-competitive in nature, it shall do so in accordance with R.C. 124.11(B), 124.31, or 124.30. Non-competitive examinations shall be of such character as will determine whether or not the applicant possesses the requisite knowledge, ability and physical qualifications to enable him to perform the duties of the position; and he shall be required to attain a qualifying rating to be fixed by the Commission, in order to become eligible for the position for which he is taking, a non-competitive examination. Whenever the Commission deems it advisable, competitive examinations may be ordered for any position previously filled by non-competitive tests.

**RULE XIII**  
**GRADING, ADDITIONAL CREDIT, AND INSPECTION**

**Section 1. Minimum Passing Score.**

- A. The Civil Service Commission shall endeavor to ascertain the minimum passing grade, as determined by the compiler of any professionally prepared civil service test. When available in advance, this information will be included on test notices.
  
- B. Applicants must achieve the minimum passing score, excluding any additional credits provided by these rules, as a prerequisite for further consideration for employment or appointment, and for certification to an eligible list. If the test includes multiple portions, for example, the use of a written test plus an oral test, the Commission will score all portions of the test before determining that an applicant can receive extra credit that can only be granted to those achieving the minimum passing score.

**Section 2. Original Appointment Veteran's Credit and Veteran's Preference.**

Any applicant for original appointment who is a resident of Ohio, who is a veteran of military service as described in R.C. 124.23, who was honorably discharged or transferred to reserve duty with evidence of satisfactory service, and who otherwise meets the qualifications of that section, may file with the Commission a certificate of military service or honorable discharge for extra credit for military service. The applicant must submit proof of prior to participation in the examination. The Commission shall grant additional credit of 20% of the grade attained in the regular examination to any applicant who files for the extra credit and qualifies, provided that he has first received a passing grade on the examination.

Such requests for veteran's credit must be submitted to the Commission along with the application for examination and must, at that time, be accompanied by proof of military service as described above. Veteran's credit requested after the final date for test application will not be honored.

Applicants eligible for veteran's credit on original examination shall receive a priority in ranking over non-veterans who obtain an identical grade.

**Section 3. Promotional Seniority Credit- Fire Department.**

- A. In promotional examinations for positions above the rank of regular fire fighter, additional credit for seniority in the civil service of the City, the state, or any other political subdivision shall be added to the examination grade. No credit for seniority shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination, absent any extra credit.

Notwithstanding the previous sentence, no person who has resigned a classified position in a police department or a fire department will receive seniority credit for service prior to such resignation.

Furthermore, any person who has either been convicted of a felony within the meaning of R.C. 124.34 or removed from his position in connection with such a conviction or the underlying facts, is barred from receiving seniority credit, to the extent the Commission may disallow credit under that section. This paragraph is not meant to imply any other limitations on the Commission's authority regarding such person.

- B. Credit for seniority shall equal, for the first four years of service, 1% of the total grade attainable in the promotion examination; and, for each of the fifth through fourteenth years of service, .6% of the total grade attainable (e.g., an individual passing an examination with 10 years of service would be credited 1% for each year 1-4, plus 3.6% for years 5-10, for a total of 7.6% seniority credit of the total attainable score. On a 100 point exam, this would yield 7.6 points seniority credit).
- C. An approved leave of absence (e.g., Family Medical Leave, Military Leave, etc.) is not a separation of service; therefore, seniority service credit for purposes of promotion will continue to accrue during such leave.

#### **Section 4. Addition of Credits.**

- A. Applicants for original appointment shall be entitled to only such credit as is set forth in Section 2 (relating to veteran's credit) and Rule XI, Section 10 if the Civil Service Commission determined to give residency credit on the examination.
- B. Applicants for promotional appointments shall be entitled to only such credit as is set forth in Section 3 (relating to seniority credit).
- C. In scoring all original and promotional examinations, no additional credit shall be given to any applicant, unless such applicant has achieved the minimum passing grade without the addition of any additional credit.
- D. The Commission at its discretion may allow for additional credit as described in the examination announcement (i.e., college, OPOTA, Paramedic, etc...).

#### **Section 5. Inspection and Grading of Examination Papers.**

- A. Notification of Initial Results; Appeals. A written report of the grades of the applicants shall be submitted by the testing entity to the Civil Service Commission, and the results posted. After any promotional competitive

examination has been held and after the initial grading of examination papers, any participant in the examination who considers the participant's examination papers to have been erroneously graded shall have the right to appeal to the commission. Such appeal must occur within five business days following the initial posting of grades, be in writing, contain the authority relied upon, and shall remain anonymous to the Commission. All appeals with respect to grading shall be determined by the Commission within a period of not more than five business days following the date on which the final protest is received, exclusive of Saturdays, Sundays, and holidays; and the Commission's decision shall be final.

- B. Establishment of Eligibility List. The Commission shall consider all protests, make changes as warranted, and then establish the eligible list. No grades shall be changed after the posting of any eligible list.
- C. Inspection of Examination Papers. All papers qualifying as public records under R.C. 149.43 shall be open to public inspection during office hours upon application to the Commission, provided such application is made during the period in which persons whose names appear on the eligible list resulting from such examination are eligible for appointment. Inspection shall not be permitted of standardized tests prepared by experts outside of the City's service.

**Section 6. Preservation of Papers.** All examination papers shall be preserved in the office of the Commission for at least the life of the eligible list. Before any examination papers are destroyed, the Commission shall give notice of its intention to do so. Thereafter, destruction shall occur in accordance with the public records destruction policy established by the City Records Commission.

#### **RULE XIV** **ELIGIBLE LISTS**

**Section 1. Preparation of Eligible Lists.** From the returns of each competitive examination the Commission shall prepare and keep open to public inspection an eligible list of the persons whose general average score in the examination is not less than the minimum passing grade. Such persons shall be ranked upon the eligible list as candidates in the order of their relative excellence as determined by the examination without reference to priority of the time of examination. Whenever it becomes necessary to hold a subsequent examination in order to obtain additional eligible candidates, the Commission may consolidate existing lists for the same class by rearranging the names of those eligible therein according to their score. All those persons whose names appear on an existing list, which is to be merged with a new list, shall have an opportunity to compete in the second examination.

**Section 2. Term of Eligible List.** The term of eligibility of each list shall be fixed by the Commission and expire upon the filling or closing of the position. An expired

eligible list may be used to fill a position of the same classification within the same appointing authority for which the list was created, but in no event shall an expired list be used more than one (1) year past its expiration.

Eligibility lists fixed by the Commission for promotions within the Fire Department shall be for a term of two (2) years. If a vacancy occurs prior to the expiration of the two-year period, the list shall continue for the purpose of filling the vacancy until the vacancy has been filled.

**Section 3. Ties — Original Appointment Eligible Lists.** In the event that two (2) or more applicants receive the same score in an original appointment 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, provided that applicants eligible for veteran's preference under section 124.23 of the Revised Code shall receive priority in rank on the eligible list over non-veterans on the list with a rating equal to that of the veterans. Ties among veterans shall be decided by priority of the filing of the application.

**Section 4. Ties — Promotional Eligible Lists.** In the event that two (2) or more applicants receive the same mark on a promotional examination, seniority within the applicable City of Brooklyn department (i.e., police department, fire department, etc.) shall determine the order in which names shall be placed on the eligible list.

**Section 5. Disqualification from Eligible List.**

- A. A person appearing on an eligible list may be declared disqualified if the person:
1. fails to report, or arrange to report, or arrange within a reasonable time for an interview with an appointing authority; or
  2. fails to respond to a notice from the Civil Service Commission; or
  3. provides incorrect or incomplete information to the Civil Service Commission; or
  4. fails to respond to a request for information during background checks; or
  5. declines an appointment for reasons other than illness, military service, conflict with schooling, or other instances not satisfactory to the Civil Service Commission;
  6. cannot be located by the postal authorities;

7. has previously held the position for which the list exists and was removed or demoted from the position for cause under R.C. 124.34; or
8. for other good cause as determined by the Commission.

**Section 6. Removal from an Eligible List.** Names may be removed from an eligible list by the Civil Service Commission in accordance with these rules, for the following reasons:

1. the written request of the eligible;
2. the expiration or revocation of the list;
3. failure of the person listed on the eligible list to fulfill all of the requirements and qualifications set out by or under these rules;
4. the refusal or neglect of the eligible within six (6) calendar days after notice of appointment to accept appointment upon certification, unless a waiver of such appointment is sought by the eligible and approved by the Civil Service Commission;
5. the failure of the appointing authority to select the eligible upon more than three (3) certifications; and
6. the death of the eligible.
7. has previously held the position for which the list exists and was removed or demoted from the position for cause under R.C. 124.34; or
8. for other good cause as determined by the Commission.

**Section 7. Duty of Eligibles.** Each person on an eligible list shall file with the Commission written notice of any change of address, and failure to do so may be considered sufficient reason for not certifying his name to the appointing authorities for future appointment.

**Section 8. Revocation of Eligible List.** An eligible list may be revoked and another examination ordered only when, in the judgment of the Commission, such action is deemed advisable by reason of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All competitors in the first examination shall be notified and shall be eligible to compete in the rescheduled examination without filing a separate application or payment of an additional fee. No eligible list shall be altered or revoked, except upon written notice to all persons whose standing may be

affected and upon an entry in the minutes of the Commission of the reasons for such alteration or revocation.

**Section 9. Separate Lists for Police and Fire.** Separate eligible lists shall be maintained for original and promotional appointments in the Police Department and Fire Department. No person may be transferred from one list to the other, and appointments and promotions shall be made only from the eligible lists maintained by each department.

## **RULE XV** **APPOINTMENTS AND PROMOTIONS**

**Section 1. Appointments in General.** Appointments to all positions in the classified service, other than those that are filled by promotion, transfer or reduction, as provided in Sections 124.01 to 124.64 of the Revised Code, and the rules and regulations of the Commission prescribed under such sections, shall be made only from those persons whose names are certified to the appointing authority. Before any position in the classified service of the Commission shall be filled, the appointing authority shall make a written request of the Commission for the certification of the names of the eligible for such position and shall be state whether the employment is to be permanent or temporary and if temporary, the duration and conditions of employment. Upon receipt of such request, the Commission shall certify to the appointing authority the names and addresses of those candidates eligible for appointment in accordance with these rules and the applicable provisions of the Ohio Revised Code.

**Section 2. Original Appointment Procedure/Number of Names Certified.**

- A. The appointing authority of a department in which a position in the classified service is to be filled shall notify the Commission of the classification title and the number of positions to be filled. Upon the receipt of this, the Commission shall, except as otherwise provided in ORC 124.27, 124.30, and 124.31 (relating to promotions) and these rules, certify to the appointing authority the names and addresses of the candidates standing in the top twenty-five percent (25%) on the eligible list for the class or grade to which the position belongs, provided that the Commission may certify less than ten (10) names if ten (10) or fewer names are not available.
- B. The appointing authority, having notified the Commission of the position to be filled, and having received such list, may then appoint. The appointing authority shall fill such position by appointment of one of the persons in the top twenty-five percent (25%) of the eligible list certified to him. In the event that ten (10) fewer names are on the eligible list, the appointing authority may select any of the listed candidates. If more than one position is to be filled and there are more than ten (10) names on the eligible list, the Commission may certify a group of names from the eligible list, and the appointing authority shall appoint in the following

manner: beginning at the top of the list, each time a selection is made it must be from the top twenty-five percent (25%) of the candidates on the list who is willing to accept consideration for the position.

**Section 3. Promotional Appointment Procedure/Number of Names Certified.**

- A. The appointing authority of a department in which a position in the classified service is to be filled by promotion shall notify the Commission of the classification title and the number of positions to be filled. Upon the receipt of this, pursuant to its authority vested under ORC 124.31, the Commission shall certify to the appointing authority the names and addresses of the three (3) candidates standing highest on the eligible list for the class or grade to which the position belongs, provided that the Commission may certify less than three (3) names if three (3) names are not available.
- B. The appointing authority, having notified the Commission of the position to be filled, and having received such list, may then appoint. The appointing authority shall fill such position by appointment of one (1) of the three (3) persons certified to him. If more than one (1) position is to be filled, the Commission may certify a group of names from the eligible list, and the appointing authority shall appoint in the following manner: beginning at the top of the list, each time a selection is made, it must be from one of the first ten (10) candidates on the list who is willing to accept consideration for the position.
- C. If an eligible list becomes exhausted and until a new list can be created; or when no eligible list for such position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is classified.

**Section 4. Removal from Eligible List.** A person certified from an eligible list more than three (3) times to the same appointing authority for the same or similar positions may be omitted from future certification to such appointing authority, provided that certification for a temporary appointment shall not be counted as one of such certifications.

**Section 5. Veteran's Preference on Original Appointments.** A veteran of military service, who has been honorably discharged or separated under honorable conditions therefrom, and who is a resident of Ohio, and whose name is on the eligible list for a position, shall be entitled to preference in an original appointment to such competitive position over any other person eligible for such appointment and standing on the list thereof with a rating equal to that of each such person.

**Section 6. Probationary Periods.**

- A. All original appointments shall be for a probationary period of two (2) years. All promotional appointments shall be probationary for one (1) year.
- B. No promotion shall be final until the appointee has satisfactorily served his probationary period.
- C. At the end of the probationary period, the appointing authority shall transmit to the Civil Service Commission, or the Secretary of the Civil Service Commission, indication of the appointee's successful completion of the probationary period.

**Section 7. Removal or Reduction During Probation.** If the service of a probationary employee is unsatisfactory, he may be removed or returned to his prior position without right of appeal at any time during the probationary period. In the case of the removal of a probationary appointee, the appointing authority shall immediately notify the Commission when the appointment is to be terminated. Such notification shall be in writing.

**Section 8. Promotional Appointments: Police and Fire.** In the case of a promotional appointment to be made in the Division of Police or the Division of Fire, the Commission shall certify to the appointing authority the name of the person standing highest on the list. Upon such certification, the appointing authority shall appoint the person certified within thirty (30) days of certification. If there is no eligible list for the rank in which the available vacancy occurred, the Commission, within sixty (60) days of such vacancy occurring, shall hold a competitive promotional examination.

**Section 9. Promotional Restrictions: Police and Fire.**

- A. Procedure. With the exception of vacancies requiring peculiar and exceptional qualifications and otherwise meeting the requirements of R.C. 124.30(A)(2), vacancies above the rank of patrol officer in the Division of Police and fire fighter in the Division of Fire shall be filled by a competitive examination for promotion from among persons holding the next immediate lower rank. No such position shall otherwise be filled by original appointment.
- B. Length of Service Prior to Exam. No person in the Division of Police shall be promoted to a position in higher rank who has not served at least twelve (12) months in the next lower rank, not including the probationary period. No person in the Division of Fire shall be promoted to a position in higher rank who has not served at least forty-eight (48) months in the next lower rank, not including the probationary period.

- C. If there are fewer than two (2) eligible people willing to take the promotional test, the time-in-rank requirement may be waived by the Civil Service Commission.
- D. If, even by waiving the time-in-rank requirement for non-probationary employees, there are not two (2) eligible people willing to take the promotional examination, the Civil Service Commission shall open the test to probationary employees in the lower rank.
- E. If, even by opening the test to probationary employees, there are not two (2) eligible people willing to take the promotional examination, the Civil Service Commission shall allow the non-probationary persons in the then next lower rank to compete with those persons in the rank lower than the position to be filled.
- F. The above process shall be repeated in a downward progression until such time as there are at least two (2) candidates to take the competitive examination.
- G. If, after exhausting all ranks, two (2) eligible test takers cannot be located, then a temporary appointment can be made, and the Commission may invoke the procedures of R.C. 124.31 to determine whether or not a promotion is “practicable” as a method of filling the promotional vacancy. Should the Commission determine that the filling of the vacancy is not practicable, it may open the exam to persons meeting the minimum qualifications of the vacancy from outside the City.

**Section 10. Exceptional, Temporary, or Intermittent Appointments — Scientific, Managerial, Professional, or Educational Qualifications.**

- A. Positions in the classified service may be filled without competition as follows:
  - 1. Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the Civil Service Commission is unable to certify to the appointing authority, upon its request, a list of persons eligible for appointment to the position after a competitive examination, the appointing authority may fill the position by noncompetitive examination.

Except as otherwise provided in this section, the temporary appointment may not continue longer than one hundred twenty days, and in no case shall successive temporary appointments be made. A temporary appointment longer than one hundred twenty days may be made if necessary by reason of sickness, disability, or other approved leave of absence of regular officers or employees, in which case it may continue during the period of sickness, disability, or other approved leave of absence.

2. 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 this 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 those qualities, the Civil Service Commission may suspend the provisions of these Rules that require competition in this special case, but no suspension shall be general in its application. All such cases of suspension shall be reported in the annual report of the Commission with the reasons for each suspension. See also Rule XII, Section 18.
  3. The acceptance or refusal by an eligible person of a temporary appointment shall not affect the person's standing on the eligible list for permanent appointment, nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position.
- B. Persons who receive temporary or intermittent appointments are in the unclassified civil service and serve at the pleasure of their appointing authority.

## **RULE XVI**

### **APPLICATIONS AND TESTS IN THE UNSKILLED LABOR CLASS**

**Section 1. Eligible Lists.** Eligible lists shall be established for each classification in the ordinary unskilled labor class and the Commission shall determine minimum entrance qualifications for each classification.

**Section 2. Registration.**

- A. The Commission shall, by official bulletin published and posted on the bulletin board in the office of the Commission, announce that registration for classifications in the labor class will be accepted. The official announcement shall contain among other things the minimum qualifications for entrance to the examination, the dates when and the places where registration will be accepted, and the duties and typical tasks of the classification. After such announcement applicants shall register on forms prescribed by the Commission and shall receive a registration number in accordance with the order of registration.
- B. Each registrant's name shall be added to the registration list in accordance with his registration number. Wherever an applicant has registered for more than one classification in the labor class, he shall be given a separate notice to appear for an examination and separate examination for each classification for which he has

registered. Notice to appear for examination shall be sent to each registrant in the order of his priority of registration.

- C. Registrants who by reason of illness or absence from the City are unable to report for examination at the time designated in the notice of examination may, with the approval of the chief examiner, waive appearance at the examination until a later date. Such waiver must be requested within ten days from the date on which the notice to appear for examination was sent by the Commission. Persons so filing such waiver shall not be entitled to examination so long as waiver remains on file and not withdrawn; but no waiver shall be permitted for a longer period than six (6) months, after which time if waiver is not withdrawn, the name of such persons shall be removed from the registration list. Not more than one waiver of appearance at examination shall be permitted. Further, when a waiver of appearance is withdrawn, the registrant's name shall be placed on the current registration list in accordance with the registrant's original registration number.
- D. The name of registrants who fail to respond to notice to appear for examination shall be removed from the registration list for the position for which they were notified to appear for examination. A registrant's name which has been removed from a registration list for failure to respond to notice of examination may, with the approval of the Civil Service Commission, be reinstated to the registration list from which the registrant's name was removed upon presentation to the Commission of a satisfactory explanation presented within thirty (30) days from the date of such removal by the Commission; provided however, that where the name of a registrant was removed from a registration list because of failure to respond to notice for examination and the registrant was serving as a soldier, sailor, marine, member of the Army Nurse Corps or Red Cross nurse, such registrant may make request for reinstatement within thirty (30) days following honorable discharge from the armed forces, and upon presentation of proof of such honorable discharge shall be reinstated to the registration list (or appointed if required by the regulations of the Uniformed Services Employment and Reemployment Rights Act (USERRA) or comparable Ohio laws for employees returning from certain uniformed services).
- E. Upon reinstatement to a registration list the registrant shall be placed at the head of the list of registrants who have not yet been called for examination on the list from which his name was removed. Further, the registrant shall be given a new registration number which shall be one less than the number of the registrant at the top of said registration list on the day of reinstatement. Further, where more than one registrant is reinstated to the same list, the new registration number shall bear the subscripts a, b, c, etc., which shall be assigned on the order of the registrant's original registration list. A registrant's name shall again be removed from the registration list for failure to respond to notice of examination; said registration shall not be eligible for further reinstatement to the registration list.

### **Section 3. Examination.**

- A. Registrants called for examination shall be required, with the aid of an examiner, to make formal application for the classification for which he is to be examined. The examiner, at the time of such interview, shall have the power to reject an applicant if the applicant lacks any of the published minimum entrance qualification for the classification for which the registrant is making application.
- B. Ability to read, write, and speak the English language shall be regarded as one of the minimum entrance qualifications for all classifications in the ordinary unskilled labor class. Usual citizenship or legal eligibility for employment requirements shall be maintained for all classifications in the ordinary unskilled labor class.
- C. After interview, the registrant shall pay the fee required by law to the Finance Director of the city and be assigned a time for physical examination.
- D. Upon presentation of Finance Director's receipt for examination fee, registrants shall be examined by medical examiners designated by the Civil Service Commission. The medical examiner shall certify the results of such medical examination to the chief examiner together with a recommendation that the registrant be approved or rejected. Further, if registrant is rejected, the medical examiner shall certify the reason or reasons for such rejection. If, in the opinion of the medical examiner, the registrant should be rejected, said registrant may request a medical re-examination within fifteen (15) days from date of original rejection and the result of such re-examination shall be final.
- E. The chief examiner shall report weekly to the Civil Service Commission a summary of results of examinations for positions in the labor class. This report shall contain the names of registrants declared ineligible by examiners, the names of registrants declared ineligible by examiners, the names of registrants rejected by the medical examiner and the reasons therefore, the names of registrants who have been found to meet all minimum entrance qualifications and have passed practical tests as administered by staff and medical examiners. In addition the secretary shall report separately the names of applicants whose records show them to have been dismissed for cause from a position in the classified service or whose application for reinstatement to an eligible list was disapproved by record. Evaluation of the records of such applicants by the Commission shall be considered to be one of the 'practical tests' required in Section 126 of the charter, and the Commission may reject or approve such applicants in accordance with the best interest of the service. The Commission shall, after approving this report, add the names of the successful registrants on the proper labor class eligible lists. Names so placed on eligible lists shall be eligible for certification to vacancies in

the labor class for not more than two years from the date of such placement on the eligible list.

**Section 4. Date of Original Entrance.** In determining the date of original entrance into the service of the City of Brooklyn for the purpose of establishing an employee's place on the seniority lists provided for in this rule, the Commission shall have regard only to payroll or departmental records of the City of Brooklyn.

## **RULE XVII** **TRANSFERS AND LAYOFFS**

### **Section 1. Temporary Transfers.**

- A. An employee holding a position in the classified civil service may be temporarily transferred from his original position to a similar position, for a period not to exceed thirty (30) days, or for a longer period not to exceed ninety (90) days if agreed to by the employer and the employee.
- B. No employee shall be temporarily transferred more than once during any six (6) month period without the approval of the Civil Service Commission.
- C. If the Civil Service Commission approves a second temporary transfer within any six (6) month period, and the employee objects to the transfer because the temporary transfer is not necessary for the efficient operation of the office, the employee may appeal the temporary transfer to the Civil Service Commission. If the Civil Service Commission finds that the appeal of the employee is well taken, the Commission shall not approve the temporary transfer. If the Civil Service Commission finds that the appeal is not well taken, the Commission shall approve the temporary transfer.

### **Section 2. Permanent Transfers.**

- A. Subject to the other provisions of these rules, an appointing authority may, with the approval of the Civil Service Commission, permanently transfer an employee in the classified service from his position to a similar position in another office, department, or division of the same appointing authority.
- B. For the purposes of this rule, a "permanent transfer" is any transfer in excess of thirty (30) days unless the employee and the employer have agreed to a temporary transfer of a longer period, not to exceed ninety (90) days.
- C. The appointing authority requesting the permanent transfer shall notify the employee and the Civil Service Commission in writing of the request to transfer.

- D. If the Civil Service Commission determines that the transfer is not necessary for the efficient operation of the office, department, or division, the Commission shall not approve the transfer and shall notify the appointing authority and the employee in writing that the transfer is not approved. If the Civil Service Commission determines that the transfer is necessary for the efficient operation of the office, department, or division, the Civil Service Commission shall notify the appointing authority and the employee involved in writing that the transfer is approved.

### **Section 3. Layoffs and Job Abolishments.**

- A. Procedure. When any permanent office or position in the classified service, except in the Police or Fire Departments, is abolished or made unnecessary, or the person holding such office or position is laid off, the procedure outlined in Sections 124.321 through 124.328 of the Revised Code shall be followed. Layoffs or reductions in the Police or Fire Departments for causes other than those outlined in section 124.34 of the Revised Code shall be made in accordance with the provisions of section 124.37 of the Revised Code and 124.321 through 124.328 of the Revised Code.
- B. Order of Reduction. In accordance with R.C. 124.323, within the affected classification, first part-time probationary, then part-time permanent, and then full-time probationary employees shall be reduced, in that order, prior to a reduction of a permanent full-time employee. In accordance with the above order of reduction, employees with the least amount of retention points within the affected classification shall be laid off first.
- C. Retention Points. For purposes of retention point calculations, retention points are based solely on an employee's years of continuous full-time service with the City of Brooklyn from his original full-time appointment date. In accordance with R.C. 124.37 of the Ohio Revised Code, in the Police and Fire Departments, retention points shall be based solely on years of continuous full-time service with the Police or Fire Department as a police officer or firefighter from the employee's original full-time appointment date.

In the event that two (2) or more employees have identical retention point standings based on their continuous service from the original full-time appointment date, ties shall be broken by utilizing the following methods:

1. The employee who was standing highest on the eligibility list from which the original appointments to city service were made, shall be considered to have a higher retention point standing than employees originally appointed on the same date from the same eligibility list, who were standing lower on the eligibility list.

2. If the employee was not appointed from a regular eligibility list, as contemplated by number one, then the Appointing Authority shall determine the employee to be laid off or displaced first.

D. Displacement Rights. An employee that is displaced as part of a reduction may elect to displace another employee having a lesser retention point standing in the following order:

1. Within the classification from which the employee was laid off;
2. Within a lower classification within the same classification series from which the employee was laid off;
3. Within the classification the employee held immediately prior to holding the classification from which the employee was laid off, provided that such was held during the three (3) years immediately preceding the reduction and the employee meets the minimum qualifications for that classification.

The employee must notify the Appointing Authority of such an election within five (5) calendar days after receiving the notice of layoff.

E. Documentation to the Commission. The appointing authority shall compute the retention point standing, based on part C above, for each employee in the classifications affected by a layoff or position abolishment, including the classifications in which displacement may occur, and submit that information to the Commission for verification. The Appointing Authority shall also submit the statement of Rationale and supporting documentation as set forth in R.C. 124.321 to the Commission. This information will be verified by the Commission prior to the sending of notice of the reduction to those affected employees.

F. Notice of Reduction. After verification by the Commission, the Appointing Authority shall provide notice of the date of reduction to those affected employees prior to the date of the reduction.

G. Recall. Employees that are displaced or subject to layoff shall retain recall and reinstatement rights in accordance with R.C. 124.327 or R.C. 124.37 as may be applicable.

H. Appeal Rights. In accordance with R.C. 124.328, an employee that is displaced has a right to appeal such action to the civil service commission by filing notice of the appeal, which must be filed or postmarked, no later than ten (10) calendar days after the date of receipt of the notice of layoff or date of reduction.

- I. Relationship to Collective Bargaining Agreements. Should the retention point calculations and/or resulting layoff procedure contained in a collective bargaining agreement produce a result that is inconsistent with the resulting order of reduction set forth above, the procedure and resulting layoff order in the collective bargaining agreement shall be deemed to control over the procedure and resulting layoff order in this rule.

## **RULE XVIII**

### **LEAVES OF ABSENCE AND REINSTATEMENTS**

**Section 1. Leaves of Absence.** An appointing authority may, with the consent of the Commission, grant a leave of absence to an employee in the classified service for a period not to exceed (6) six months. Upon the expiration of such leave of absence, such officer or employee shall be reinstated. All such leaves of absence granted by the appointing authority shall be referred to the Commission promptly for approval, in order that the Civil Service data of such absentees may be protected.

**Section 2. Reinstatements in General.** Any person holding an office or position under the classified service who has been separated from the service without delinquency or misconduct on his part, and other than for disability, may, upon recommendation of the appointing authority and with the consent of the Commission, be reinstated within one (1) year from the date of such separation to a vacancy in the same or similar office or position in the same department within thirty days after making written application for reinstatement. Such reinstatement may be predicated upon the person passing a physical examination made by a licensed physician and showing the person can perform the essential functions of the job. Any person reinstated pursuant to the authority of this paragraph shall not receive credit for seniority earned prior to a resignation or reinstatement. Police and firefighters who resign shall not be entitled to reinstatement to a position above the rank of police officer or fire fighter, regardless of the position/rank the person may have held at the time of resignation.

### **Section 3. Reinstatement/Disability Retirement.**

- A. Any person holding an office or position under the classified service who is separated there from due to injury or physical disability and has been on an approved disability retirement under the Public Employee Retirement System (PERS) or the Police and Fireman Disability Pension Fund (PFDPF), and such retirement board certifies to the employer that the employee is physically and mentally capable of performing the duties of the same or similar position from which the employee was separated, the employee shall be restored to the same or similar position and salary as was held by the employee at the time of separation.
  1. One who was separated due to injury or physical disability incurred the performance of duty may be reinstated immediately.

2. One who was separated due to injury or physical disability incurred other than in the performance of duty may be reinstated upon:
  - a. filing a written application with the Department Head for reinstatement to the office or position held at the time of separation; and
  - b. passing a physical examination conducted by a licensed physician designated by the Public Employee Retirement System or Police and Fireman's Disability Pension Fund which certifies the person is able to perform the essential functions of the office or position within two weeks after making application for reinstatement;
  - c. such application for reinstatement must be filed within three years from the date of separation and the applicant shall not have attained service eligibility retirement.

B. Police and Fire. Any person who holds an office or position under the classified service in the Police Department or the Fire Department, who resigns therefrom, may be reinstated to the rank of policeman or fireman upon filing a written application for reinstatement with the Commission within one year from the date of resignation. A copy of the application shall be filed with the Chief of such department and the person shall pass a physical examination, conducted by a licensed physician that certifies the person is physically fit to perform the essential functions of the office of fire fighter or police officer (whichever is applicable). Any person reinstated pursuant to the authority of this paragraph (B) shall not receive credit for seniority earned prior to resignation and reinstatement and shall not be entitled to reinstatement to a position above the rank of police officer or fire fighter, regardless of the position the person may have held at the time of the resignation.

## **RULE XIX**

### **TENURE, REDUCTION, DISCHARGE, SUSPENSION, AND DEMOTION**

The following procedures shall apply to employees in the classified service, unless superseded by an applicable collective bargaining agreement:

#### **Section 1. Tenure in Office.**

A. The tenure of every officer or employee in the classified service of the City of Brooklyn shall be during good behavior and efficient service. Except in case of layoff or abolishment or as otherwise provided by the Ohio Revised Code or these Rules, no such officer or employee shall be discharged, suspended or demoted for

political, racial or religious reasons, or for refusing to contribute to any political fund or refusal to render partisan political service, nor shall any officer or employee be discharged, suspended, or demoted for any cause until he has received written charges from the appointing authority and has been given opportunity to be heard in his own defense as provided in Section 3 hereof.

Except in case of layoff or abolishment or as otherwise provided by the Ohio Revised Code or these Rules, no such officer or employee shall be reduced in pay or position, suspended, or removed except for any of the following clauses: neglect of duty; absence without leave; incompetency or inefficiency in his work; incapacity due to mental or physical disability; conduct unbecoming an employee in the public service; intoxication, disorderly or immoral conduct while on duty; insubordination; discourteous treatment of the public; offensive conduct or language toward fellow employees, superiors or the public; willful violation of any of the provisions of law governing the civil service or rules or regulations of the Commission; conviction of a felony or of a misdemeanor involving moral turpitude; negligent or willful damage to public property; wasteful use of public supplies or equipment; the use or attempt to use political influence or authority upon any person in the service, or engaging in any political activity such as are prohibited by civil service laws or the rules of the Civil Service Commission; and for other failure of good behavior which is detrimental to the service, or any violation of the rules and regulations of the City of Brooklyn, or for any other act of misfeasance, malfeasance or nonfeasance in office.

- B. A finding of the Ohio Ethics Commission, based upon a preponderance of the evidence that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102, Section 2921.42 or Section 2921.43 of the Revised Code may constitute grounds for dismissal.
- C. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal.

**Section 2. Conviction of a Felony.**

- A. Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the Commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

- B. A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.
- C. Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, such person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.
- D. As used in this division, "felony" means any of the following:
  - 1. a felony that is an offense of violence as defined in section 2901.01 of the Revised Code;
  - 2. a felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;
  - 3. a felony under the laws of this or any other state or the United States that is a crime of moral turpitude;
  - 4. a felony involving dishonesty, fraud, or theft;
  - 5. a felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

**Section 3. Predisciplinary Conference.** When any officer or employee in the classified service of the city is to be discharged, suspended or reduced in rank or compensation, the appointing authority shall first notify such officer or employee of the reasons therefore specifically stated in writing. The notice shall also set forth an appointed time, within five days when such officer or employee may be heard in his own defense before the director of the department concerned. The notice herein provided for shall be served personally upon such officer or employee or by depositing the same in the U.S Mail, addressed to his last known address. At the conclusion of the conference, the appointing authority shall determine what level of discipline is appropriate, and notify the employee in writing of its decision by serving an order on the employee which contains one or more

statutory reason(s) for the grounds for discipline with such specifications of facts as shall fairly allow the employee to defend.

#### **Section 4. Procedure in General.**

- A. In case of a reduction, suspension of more than twenty-four (24) hours, fine of more than twenty-four (24) hours of pay, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action. The order shall be filed with the Commission.
- B. Within ten (10) days following the date on which the order is served, the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the Civil Service Commission or Board of Appeals. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If such an appeal is filed, the Commission or Board shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty (30) days from and after its filing with the Commission or Board, and it may affirm, disaffirm, or modify the judgment of the appointing authority.
- C. In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the Civil Service Commission or Board of Appeals to the Court of Common Pleas of Cuyahoga County in accordance with the procedure provided by section 119.12 of the Revised Code.

#### **Section 5. Procedure: Police and Fire.**

- A. In the case of the suspension for any period of time, or a fine, demotion, or removal of a classified member of the Division of Police or Fire, the authority shall furnish such member with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with Commission.
- B. Within ten (10) days following the filing of the order, such member of the Police or Fire Division may file an appeal, in writing, with the Commission. If such an appeal is filed, the Commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within ten (10) days from and after its filing with the Commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority.

**Section 6. Disciplinary Suspension.** An employee may be suspended for a period of up to twenty-four (24) hours for disciplinary purposes without a right of appeal to the Civil Service Commission; provided that an employee that is exempt from the payment of overtime, he may be suspended for less than a period up to forty (40) work hours for disciplinary purposes without a right of appeal to the Civil Service Commission.

**Section 7. Absence Without Leave.** Absence from duty without leave for any period of time, or the failure to report for duty after leave has expired, shall be considered “neglect of duty” and a cause for removal.

**Section 8. Procedure for Removal, Suspension, or Reduction.** A suspension, removal, or demotion pursuant to ORC 124.34 of an employee by an appointing authority shall not become effective until such appointing authority has first:

- A. held a predisciplinary conference at which the employee is apprised of the alleged transgressions and of the proposed disciplinary action;
- B. served such employee a written order of discipline which contains one or more statutory reason(s) for the grounds for discipline with such specifications of facts as shall fairly allow the employee to defend; and
- C. filed a copy of such order of removal with the Commission.

## **RULE XX** **HEARING PROCEDURE**

The following procedures shall apply to employees in the classified service. The Commission may also use applicable elements of these procedures to determine whether it has jurisdiction over the appeal of an employee whose classified or unclassified status is at issue.

**Section 1. 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 of more than twenty-four (24) hours or forty (40) hours as may be applicable, the Commission shall set a time and place to hear such appeal and shall notify the appropriate appointing authority, as well as the employee and his attorney, if known, of the time and place of the hearing. Such notice must be in writing and mailed to the last known post office address of each party no less than ten (10) calendar days prior to the hearing date; however, this time limit may be waived by the Commission at the employee’s request.

**Section 2. Amendments to Orders.** Amendments to the orders of removal, reduction in pay or position, or suspension for more than twenty-four (24) hours or forty (40) hours as may be applicable, may be made by the appointing authority at any time, provided the

employee and his attorney, if any, receive copies of the amended order prior to ten (10) calendar days before the time set for the hearing as provided herein provided.

**Section 3. Hearing Procedure.** Hearings before the Commission may be public except when the nature of the charge may be offensive to public morality and decency. In such cases, the Commission may order the hearings closed to the general public. In the hearing of such appeals, the order of procedure shall be as follows:

- A. The appointing authority taking action affecting the employee shall present his evidence in support of the charges and specifications.
- B. The employee affected shall then produce such evidence as he may wish to present to refute such charges.
- C. The appointing authority may offer evidence in rebuttal. The Commission may, in its discretion, hear final arguments.
- D. Either party may call the other, or agents, officers, or employees of the same as a cross-examination.

**Section 4. Rules of Evidence/Representation by Counsel.** The Rules of Evidence prevailing in civil actions in the Ohio courts of general jurisdiction are to be used as evidentiary guidelines in hearings before the Civil Service Commission. The Commission may permit the introduction of evidence otherwise excludable under such rules where a foundation, establishing the reliability and credibility of the evidence, its relevance and materiality, and its necessity, has been established. The appellee and appellant may be represented by counsel or other representative. The Civil Service Commission may be represented by independent legal counsel and the cost of such representation will be paid by the City.

**Section 5. Burden of Proof.** The appointing authority shall prove, by a preponderance of the evidence, the factual allegations contained in the disciplinary order. Failure to prove each of the allegations contained in the order does not require disaffirmance or annulment of the appointing authority's order by the Commission.

**Section 6. Hearsay.** The Commission may permit the introduction of evidence otherwise excludable as hearsay provided there is established some foundation as to its reliability and its necessity.

**Section 7. Discovery.** The Commission may allow either party to conduct discovery upon notice to the Commission.

**Section 8. Subpoenas.** Either party may request that a subpoena be issued by the Commission. Such requests shall be submitted no later than seven (7) days prior to the

hearing. Such request must be accompanied by a completed subpoena form. It is the responsibility of the requesting party to serve the subpoena. The Commission may call witnesses other than those requested by the parties.

**Section 9. Witnesses.** All witnesses must testify under oath or affirmation.

**Section 10. Motions**

- A. All motions shall state, with particularity, both relief sought by the moving party and the basis for granting such relief.
1. All motions, together with supporting documentation, if any, shall be served on the opposing party.
  2. 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 matter 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.
- B. Procedure motions, not determinative of the final outcome of the appeal, may be acted upon any time after receipt by the Commission without awaiting a response from the opposing party. The party adversely affected by such action of the Commission may move for appropriate relief.

**Section 11. Record of Hearings.** The Commission may record hearings either by the use of a stenographer, magnetic tape, or other recording technology.

**Section 12. 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 charges. 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.

**Section 13. Trial Board/Hearing Officer.** The Commission may appoint a trial board or hearing officer to hear an appeal. When the Commission exercises its discretion to do so, the following procedure shall apply before the Commission takes final action on the appeal. "Hearing officer" shall have the same meaning as "trial board" for purposes of this section.

- A. The hearing officer shall submit a report to the Commission in each appeal considered by the hearing officer for the Commission.
- B. No objection may be made to any decision of a hearing officer prior to the submission of the hearing officer's report and recommendation. Written objections to reports and recommendations shall be filed within ten (10) calendar days after receipt of the report and recommendation(s). Written replies to objections shall be filed within ten (10) days after the opposing party's objection has been filed.
  - 1. If a report and recommendation is refused, unclaimed or sent to the wrong address due to a party's failure to notify the Commission of a change of address, it shall be deemed received by the party three (3) calendar days after such mailing. A certificate of mailing shall be considered sufficient proof of mailing.
  - 2. The Commission may extend the time to file objections or responses to the report and recommendation.
  - 3. Objections to reports and recommendations should include a brief statement of each statement of the case and a concise statement of each area of disagreement with supporting arguments and memoranda. All parties' objections or responses must be limited to evidence presented at the hearing. Objections and responses to objections containing arguments based on evidence not already in the record may be stricken.
  - 4. No objection without a certificate of service may be considered by the Commission.
- C. The Commission may accept, reject, or modify, in whole or in part, any report and recommendation of the hearing officer. The Commission may also receive additional evidence, hear arguments, or remand an appeal to a hearing officer for further consideration or hearing.
- D. Final orders shall be signed by the Chair or other member of the Commission. The original order shall be journalized and a copy of the order placed in the case file. Agreement of not less than two (2) Commission members shall be required to reject or modify any report and recommendation of the hearing officer. If no such agreement is reached, the report and recommendation of the hearing officer shall be deemed affirmed as the final order of the Commission but shall not have any presidential value.

Copies of final orders of the Commission shall be sent by certified mail to the affected employee and by regular mail to the other parties and their representatives.

1. Copies of orders returned to the Commission or unclaimed or refused shall be reissued by regular United States mail.
2. Copies of final orders returned to the Commission as undeliverable shall be placed in the case file and the opposing party shall be notified.

**RULE XXI**  
**DISABILITY SEPARATION**

**Section 1. Involuntary Disability Separation.**

- A. An employee who is unable to perform the essential job duties of the position due to a disabling illness, injury or condition may be involuntarily disability separated. An involuntary disability separation occurs when an appointing authority has received substantial credible medical evidence of the employee's disability and determines that the employee is incapable of performing the essential job duties of the employee's assigned position due to the disabling illness, injury or condition and the employee has exhausted all available accrued paid leave, approved unpaid leave, and/or Family and Medical Leave time.
- B. An appointing authority shall request that an employee submit to a medical or psychological examination, conducted in accordance with Section 3 of this Rule, prior to the involuntary disability separating the employee unless:
  1. The employee is hospitalized at the time such action is taken, or
  2. Substantial credible medical evidence already exists that documents the employee's inability to perform the essential job duties. A finding by the employee's own physician that the employee is incapable of performing one or more of the essential functions of his position or by the Bureau of Worker's Compensation that the employee is either temporarily or permanently disabled shall constitute credible medical evidence for purpose of involuntary disability separation.
- C. Pre-Separation Conference. An appointing authority shall conduct a pre-separation conference prior to involuntarily disability separating an employee. The employee shall be provided written notice at least seventy-two (72) hours in advance of the conference. If the employee does not waive the right to the conference, then at the conference the employee has the right to examine the

appointing authority's evidence of disability, to rebut that evidence, and to present testimony and evidence on the employee's own behalf.

- D. If the appointing authority determines, after weighing the testimony presented and evidence admitted at the pre-separation conference, that the employee is capable of performing his or her essential job duties, then the involuntary disability process shall cease and the employee shall be considered fit to perform his or her essential job duties. If the appointing authority determines, after weighing the testimony presented and the evidence admitted at the pre-separation conference, that the employee is unable to perform his or her essential job duties, then the appointing authority shall issue an involuntary disability separation order.
- E. Right to Reinstatement. At the time the appointing authority provides the involuntary separation order to the employee, the appointing authority shall notify the employee of the required procedures to apply for reinstatement. The effective date of separation, for purposes of reinstatement, shall be based on the date that the employee exhausted all available approved unpaid and paid leave. Except as provided for in Section 4, the total time of absence due to the disabling illness, injury or condition shall not exceed two years from the date of separation for purposes of reinstatement rights under this Rule.
- F. An employee so separated shall have the right to appeal in writing to the municipal civil service commission within ten (10) days following the date the order is served.

## **Section 2. Voluntary Disability Separation.**

- A. An employee who is unable to perform the essential job duties of the position due to a disabling illness or injury or condition may request a voluntary disability separation. A voluntary disability separation occurs when an employee does not dispute his or her inability to perform the essential job duties of the position due to a disabling illness, injury or condition.
- B. Appointing authorities may grant an employee's request for voluntary disability separation or may require the employee to submit to a medical or psychological examination pursuant to Section 3 of this Rule. If the examination supports the employee's request, the appointing authority may grant the employee's request for voluntary disability separation. If the medical examination does not support the employee's request, the appointing authority shall not approve the employee's request for voluntary disability separation.
- C. Pre-separation Conference. An employee who is granted a voluntary disability separation waives the right to a pre-separation conference.

- D. Right to Reinstatement. An employee that is granted a voluntary disability separation shall retain the right to be reinstated to his or her position for two years from the date that the employee exhausts all available approved unpaid and paid leave. An employee may submit a written request for reinstatement from a voluntary disability separation in accordance with the procedure established in Section 4 of this Rule.

### **Section 3. Medical and Psychological Exams.**

- A. An appointing authority may require that an employee submit to medical or psychological examinations for purposes of disability separation or a reinstatement from disability separation. The appointing authority shall select one or more licensed practitioners to conduct the examinations.
- B. Prior to any examination, the appointing authority shall supply the examining practitioner with facts relating to the perceived disabling illness, injury or condition. The appointing authority shall also supply physical and mental requirements of the employee's position; duty statements; job classification specifications; and position descriptions. Both the appointing authority and the employee shall receive the results of any examination and related documents subject to division (C)(1) of section 1347.08 of the Revised Code.
- C. Except as provided in paragraph (D) of this section, the appointing authority shall pay the cost of the examinations.
- D. Employee's Failure to Appear for Examination. An employee's refusal to submit to an examination, the unexcused failure to appear for an examination, or the refusal to release the results of the examination amounts to insubordination, punishable by the imposition of discipline up to and including removal. An employee will be responsible for the costs associated with an unexcused failure to appear at a scheduled examination.

### **Section 4. Reinstatement Rights/Rights to Appeal.**

- A. Timeline for Reinstatement. An employee may make a written request to the appointing authority for reinstatement from a disability separation. An employee may not make a first request for reinstatement until three months from the date of the separation order. The appointing authority shall notify the employee of its decision to approve or deny the reinstatement request no later than sixty (60) days after it receives the employee's written request. The employee shall not make subsequent requests for reinstatement more than once every three (3) months from the date the employee is notified of a reinstatement denial. An employee is not eligible for reinstatement if the request occurs later than two (2) years from the

date that the employee exhausted all available approved unpaid and paid leave due to the disabling illness, injury, or condition.

- B. Requirements for Reinstatement. The employee's request for reinstatement shall be accompanied by substantial, credible medical evidence that the employee is once again capable of performing the employee's essential job duties. Upon receiving this evidence, the appointing authority may either reinstate the employee or require the employee to submit to a medical or psychological examination in accordance with Section 3 of this Rule.
- C. Initial Determination. The appointing authority will review the substantial credible medical evidence submitted by the employee or the results of a medical or psychological examination conducted in accordance with Section 3 of this Rule and make an initial determination of whether or not the employee is capable of performing the essential duties of the employee's position. If the appointing authority initially determines that the employee is once again capable of performing the essential job duties, the appointing authority shall reinstate the employee. If the appointing authority initially determines that the employee remains incapable of performing the essential job duties, the appointing authority shall institute a pre-reinstatement conference.
- D. Pre-Reinstatement Conference. A former employee seeking reinstatement shall be provided written notice at least seventy-two (72) hours in advance of the pre-reinstatement conference. If the applicant does not waive the right to a conference, then at the conference the applicant has a right to examine the appointing authority's evidence of continuing disability, to rebut that evidence, and to present testimony and evidence on the employee's own behalf.
- E. Determination. The appointing authority will weigh the testimony presented and evidence admitted at the pre-reinstatement conference to determine whether the employee is able to perform the essential job duties of the employee's assigned position. If the appointing authority finds the employee capable of performing essential duties, then the appointing authority shall reinstate the employee. If the appointing authority finds the employee incapable of performing essential duties, then the appointing authority shall not reinstate the employee.
- F. Acts Inconsistent with Illness, Injury, or Condition. If the appointing authority determines that an employee, who has been disability separated, has committed an act that is inconsistent with the employee's disabling illness, injury or condition, then that act may be considered by the appointing authority when determining an employee's eligibility for reinstatement.
- G. Assignment upon Reinstatement. Once an appointing authority determines that the employee is to be reinstated, then the employee has a right to be assigned to a

position in the classification the employee held at the time of disability separation. If the classification the employee held at the time of disability separation no longer exists or is no longer utilized by the appointing authority, then the employee shall be placed in a similar classification. If no similar classification exists, or the employee no longer meets the minimum qualifications, the employee may be laid off in accordance with the City of Brooklyn Municipal Civil Service Rules and sections 124.321 to 124.327, and if applicable 124.37, of the Revised Code or in accordance with an applicable collective bargaining agreement executed in accordance with Chapter 4117 of the Revised Code.

- H. Reinstatement in State Retirement Disability Situations. If the employee has been granted disability benefits by a state retirement system, the requirements of this rule shall apply for up to five (5) years, except that a licensed practitioner shall be appointed by the public employees' retirement board and application for reinstatement shall not be filed after the date of service eligibility retirement. Employers shall restore an employee found to be physically and mentally capable of resuming service under section 145.362 of the Revised Code, but may request the employee to submit to a medical or psychological examination, conducted in accordance with Section 3 of this rule, prior to such restoration.
- I. Denial of Reinstatement/Appeal. An employee refused reinstatement as provided in paragraph (E) of this rule shall be notified in writing of the refusal to reinstate and of the right to appeal in writing to the municipal civil service commission within ten (10) days of receiving notice of that refusal to reinstate.
- J. Failure to Apply for Reinstatement. An employee who fails to apply for reinstatement within two (2) years from the date that the employee exhausted all available approved unpaid and paid leave due to the disabling illness, injury, or condition shall be deemed permanently separated from service.

**Section 5. Disclosure of Medical Reports.** Disclosure of any information or related documents, provided by or prepared by an examining physician, psychiatrist, psychologist or other licensed practitioner, is subject to division (C)(1) of section 1347.08 of the Revised Code.

## **RULE XXII** **PROHIBITIONS**

**Section 1. Fraud in Examinations Prohibited.** Fraud in examinations is prohibited. In accordance with section 124.58 of the Revised Code, no person or officer shall:

- A. willfully or corruptly by himself or in cooperation with one or more persons defeat, deceive, or obstruct any person in respect to their right of examination,

appointment, or employment arising under the Civil Service laws or any rules and regulations prescribed pursuant thereto; or

- B. willfully or corruptly, falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to the provisions of the Civil Service Law, or aid in so doing; or
- C. willfully or corruptly make any false representations concerning the results of such examinations or concerning any person examined; or
- D. willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be appointed, employed, or promoted; or
- E. willfully personate any person or permit or aid in any manner any other person to personate him in connection with any examination, registration, or appointment or application or request to be examined, registered, or appointed; or
- F. furnish any false information about himself or any other person, in connection with any examination, registration, or appointment or application or request to be examined, registered, or appointed; or
- G. make known, or assist in making known to any applicant for examination, any questions to be asked on such examination; or
- H. for any applicant taking an examination to assist any other applicant in any manner whatsoever; or
- I. personally solicit a favor from any member of the Commission, appointing officer, or any person in his behalf solicit a favor; or
- J. 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 of any kind to assist him in answering the questions, shall have his examination papers taken up and filed with a "0" marking, when the circumstances justify such action.

**Section 2. Payment for Appointment or Promotion Prohibited.** No applicant for appointment or promotion in the classified civil service shall, directly or indirectly, pay or promise to pay any money or other valuable thing, nor shall he ask or receive any recommendation or assistance from any person, upon the consideration of any political service to be rendered, for or on account of his appointment or promotion, or proposed appointment or promotion.

**Section 3. Abuse of Official Power for Political Reasons Prohibited.** No officer or employee of the City of Brooklyn, Ohio, shall appoint, promote, reduce, suspend, layoff, discharge, or in any manner change the official rank or compensation of any officer or employee in the classified service, or promise or threaten to do so, or harass, or discipline, or coerce any such officer or employee, for giving, withholding, or refusing to support any party.

**Section 4. Abuse of Political Influence.** No person who holds any public office, or who has been nominated for, or who seeks nomination or appointment to any public office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence in order to secure or to aid any person in securing for himself, or for another any office or employment in the classified service of the City of Brooklyn, Ohio, or any promotion or increase in salary therein, as a reward for political influence or service. No person, by means of threats or coercion, shall induce or seek to induce anyone in the said classified service to resign his position, or to waive his right to certification, appointment, or promotion.

**Section 5. False Statements.** Fraudulent conduct or false statements by an applicant or by others with his connivance, in any application or examination, shall be deemed cause for exclusion of said applicant from any examination, or for removal of his name from an eligible list, or for discharge from the service after appointment from certification.

**Section 6. Violations.** After a rule hereunder has been established and published by the Civil Service Commission, no person shall make an appointment to office or select a person for employment contrary to such rule, or willfully refuse or neglect to comply with or to conform to the sections of these rules, and, to the extent that the same are applicable, Chapter 124 of the Ohio Revised Code, or willfully violate any section of the same. If any person who is convicted of a violation described herein holds any public office or place of public employment, such position shall be rendered vacant by reason of said conviction.

**Section 7. Prosecutions.** Prosecutions for violations under these rules and/or Chapter 124 of the Ohio Revised Code in relation to the civil service of the City of Brooklyn, Ohio, or by any officer or employee of the same, shall be instituted by the Civil Service Commission of the City of Brooklyn, Ohio, through the legal department of the City of Brooklyn, Ohio, or by such Civil Service Commission through special counsel.

### **RULE XXIII** **INVESTIGATIONS**

**Section 1.** The Civil Service Commission may make investigations concerning the fact in respect to the execution of the Civil Service provisions of the charter. Written charges of misconduct or inefficiency against any officer or employee in the classified service may be filed with the Commission by any person. The Commission shall cause such

complaint to be investigated and it may report its findings to the authority responsible for the appointment of the officer or employee against whom the charges have been made. Each member of the Commission, or any person whom the Commission may appoint to make any investigation authorized or required by this section, shall have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigation, and to administer oaths to such witnesses.

#### **RULE XXIV** **PERSONNEL EVALUATION**

**Section 1. Efficiency Records/Personnel Evaluations.** An appointing authority may develop and administer an evaluation system for the employees it appoints. Upon implementation this system will be used for keeping efficiency ratings of officers and employees in the service of the appointing authority, and shall provide for rating the character, conduct, capacity and efficiency of each employee. All factors used in determining an employee's work, character and conduct shall be such as will fairly test the quality and quantity of service performed; and the weights assigned to such factors shall be such as will represent fairly the relative value and importance of the various factors.

#### **RULES XXV** **PAYROLL PROCEDURE**

**Section 1. Payrolls.** The original and first carbon of all payrolls of every department, containing the names of every officer or employee in such department, shall be sent to the Commission for checking the civil service status of the employees. Each item on the payroll which is there in conformity with the provisions of the charter and the rules of the Commission shall be stamped as follows:

“R” meaning appointees who have received their appointments pursuant to certification from an eligible or layoff list. “Exempt” meaning appointees to positions in the unclassified service in accordance with provisions of the city charter. “T” or “Emergency” meaning those appointees who have received their appointments in accordance with the provisions of the city charter.

Each name on any such payroll which is there in violation of the charter or the Civil Service rules shall be underlined in red and marked “Disapproved by the Civil Service Commission” and a memorandum of the same shall be sent to the Mayor, and the appropriate officer charged with paying the salaries and wages of persons on the payroll shall be immediately notified that such names are illegally on the Commission. The secretary shall report all such items to the Commission at its next meeting.

**RULES XXVI**  
**REPORTS TO THE COMMISSION**

**Section 1. Reports Regarding Changes.** In order that the Commission may keep proper records of changes in the service, each appointing officer, board, bureau or commission shall report to the Commission:

- A. Appointments, whether temporary, emergency, permanent or promotional.
- B. Refusal or neglect on the part of a person, duly certified, to accept an appointment.
- C. Changes in the rank and compensation of any officer or employee holding a classified service position
- D. Transfers, layoffs, leaves of absence, resignations, suspensions, reductions, or removals of any employees and the cause for each.
- E. Efficiency ratings where established by the Commission.

**Section 2. Records.** There will be maintained in the office of the Commission the following records:

- A. Original Entrance. A cumulative record for each person making application for entrance to a competitive or non-competitive examination. Among other things this record shall contain the applicant's name, address, birth date, title of examinations applied for, and the result of each such examination.
- B. Applications. All applications filed with the Commission for entrance to examinations for positions in the competitive and non-competitive classes of the service.
- C. Labor Class Registration. Forms used by applicants in registering for positions in the labor class. Among other things, this form shall contain the registrant's name, address, registration number, and titles of all positions for which registration was accepted.
- D. Registration Books. A continuous record of all labor class registration numbers issued. Among other things, this record shall show the names of all registrants, together with the titles of positions for which registration was accepted.
- E. Eligible List Books.
  - 1. Competitive Class. An alphabetical listing of all eligible lists established by the Commission. Among other things, this record shall show the names,

addresses, ranks, and grades of all applicants who obtain passing grades in competitive or non-competitive examinations and the disposition of all eligibles certified for appointment.

2. Labor Class. A continuous record of all registrants notified to report for examination for positions in the labor class. Among other things, this record shall show the registration number, name, address, and disposition of each registrant for a position in the labor class.
- F. Medical Record. There shall be maintained in a separate file the result of all medical examinations administered.
- G. On-Roster. A card record for each employee holding regular appointment in the classified service. Among other things, this record shall show the name and address of the employees, title of the position held, date of appointment thereto, and all subsequent personal transactions.
- H. Off-Roster. The roster cards of employee who have left the service for any reason whatsoever.
- I. On-Payroll. A card record of each employee in the service, regardless of type of appointment held. Among other things, this record shall show the employee's name, address, title of position, type of appointment, and all subsequent personnel transactions.
- J. Off-Payroll. The payroll cards of employees who have left the service for any reason whatsoever.

**Section 3. Presentation of Records.** Personnel records, other than those set forth in Section 2 of this rule, shall be maintained by the Commission in accordance with the following:

- A. Upon the death of an employee in the classified service, the letter file applicable thereto shall be destroyed, after determination of the completeness of all entries on the payroll and roster cards.
- B. Upon the registration and/or retirement of an employee in the classified service, the letter file applicable thereto shall be destroyed upon the expiration of the reinstatement rights of such employee and after determination of the completeness of all entries on the payroll and roster cards.
- C. Upon the dismissal of an employee in the classified service, the letter file applicable thereto shall be preserved for five (5) years and then destroyed after determination of the completeness of all entries on the payroll and roster cards.

- D. Eligible List Cards (Competitive and Non-Competitive Classes). All cards of eligibles who have not been certified or appointed during the life of the eligible list shall be destroyed upon the expiration of the eligible list.
- E. Eligible List Cards (Labor class). All cards shall be destroyed upon expiration of the eligible's eligibility for appointment.
- F. Registration Cards. All cards shall be destroyed upon expiration of the registrant's reinstatement rights following removal for failure to respond to notice of examination.

**RULES XXVII**  
**WAIVER OF RULES**

**Section 1.** In specific cases where in the judgment of the Commission it is in the interest of the public service, any rule hereby adopted may be waived by a majority vote of the Commission. Such action and the reasons therefore shall be entered into the minutes of the Commission.