



CIVIL SERVICE COMMISSION
RULES AND POLICIES
Revised: Effective July 11, 2019

PREAMBLE

The rules as amended and set forth herein are effective on July 11, 2019, and replace all previous established by the Commission.

These rules may be amended in part or in total by a **majority vote** of the members of the Commission at any regular meeting or additional meeting set by the Chairman. The amended rule or rules will become effective upon adoption by the Commission, unless otherwise specified by the Commission.

Nothing contained herein is intended to establish any rule contrary to law. If such is determined to be the case, whether the law is now in effect or hereafter enacted, such rule or portion of a rule as is found to be contrary to law will be set aside, but only that particular rule or portion of a rule shall be invalidated and all other rules and policies shall remain in effect. Any rule found to be contrary to law shall be amended by the Commission so that the rule conforms appropriately.

RULES OF THE CITY OF PORTSMOUTH CIVIL SERVICE COMMISSION

Each Commissioner, before entering upon the duties of the office, shall take the oath prescribed by the Constitution of this Commonwealth. Any vacancies in the Commission shall be filled as provided by law, for the remainder of the unexpired term.

The Commission shall elect annually a Chairperson and Vice Chairperson from among its members.

It shall appoint as Secretary to the Commission, one who by education and experience is qualified to conduct the business of the Commission. The duties of the Secretary will include, but not be limited to, coordinating meeting dates, times and locations with all Commission members, preparing any pertinent documentation necessary for the Commissioners for the meetings, and drafting the minutes of meetings for the Commission's review and approval. There may be other duties for the Secretary as assigned by the Commission.

The Civil Service Commission shall hold regular meetings **at least every three months** on such date as the Commissioners may deem advisable. The date of such meeting shall be set by the Chairperson or a majority of the Commissioners and rescheduled if necessary within the quarter.

The Chairperson shall have the authority to call as many additional meetings as may be necessary. The Commission shall establish and obtain adequate administrative support for timely conduct of its business.

DEFINITIONS

Appointing Officer – The City Manager or his/her duly authorized representative.

Appointment – Selection by the appointing officer, in accordance with these rules and policies, to a position or rank in the classified service.



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Classified Service – All sworn full-time Firefighters, Firefighter/Paramedics and Police Officers, and sworn employees of rank in the Police and Fire Departments.

Commission – The Civil Service Commission as created under the authority of the Charter of the City of Portsmouth. The Commission is composed of three persons of known sympathy with the merit system; the three members are appointed by the Judges of the Circuit Court of the City of Portsmouth.

*RULE 1
PURPOSE OF RULE*

For the purpose of ascertaining the merit and fitness of persons seeking or named for positions in the Police and Fire Departments, these rules shall apply to all classified positions in these departments in the City of Portsmouth, Virginia, with exception of the Chief and Assistant or Deputy Chief(s) of each department.

*RULE 2
GENERAL PROVISIONS*

- (a) No appointing officer shall select or appoint any person for appointment, employment, promotion, or reinstatement except in accordance with the provisions of Civil Service as stated in the Charter of the City of Portsmouth and the rules and policies of the Commission.
- (b) No person shall be appointed to or employed in any position in the classified service of the City until he/she passed an examination and met all requirements of the Commission unless he/she is shown to be especially exempted from such examination or requirement in conformity with these rules and policies and provisions of law.
- (c) Personnel in the classified service shall hold only that rank or grade delegated to them by the appointing officer.
- (d) Wherever the Portsmouth City Charter or these rules require notice of any action taken or to be taken or of a hearing to be held, such notice will be in writing and served upon the person to be notified either in person or by mail to the last known residence address of such person. Where the Commission, the City Manager and the City Attorney have been informed that the person to be notified is represented by an attorney, it will be sufficient if such written notice or copy thereof, is served upon or mailed to such attorney by registered or certified mail.

*RULE 3
GENERAL PROVISIONS CONTINUED -
STATEMENT OF AFFIRMATIVE ACTION AND POLITICAL SERVICES PROHIBITED*

- (a) No person in the classified service, or seeking admission thereto, shall be appointed, promoted, reduced or removed, or in any way favored or discriminated against because of political or religious opinions and affiliations, race, or sex.



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- (b) Members of the classified service shall have the right as a citizen privately to express his/her opinion and to enjoy freedom from all interference in casting his/her vote and to seek or accept election or appointment to public office. Active participation in the management of any political party or in any political campaign other than that of his/her own candid pursuit of public office is prohibited. Activity for the purpose of pursuing public office while on duty is prohibited
- (c) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service. No recommendation for any person who applies for office or position in the classified service, or for examination under the provisions of this Chapter, except, as to character, and, in the case of former employers, as to ability, shall be considered by the Commission, director, or the appointing authority in giving any examination, appointment, promotion or reinstatement under this Chapter.
- (d) No person shall use, or promise to use, directly or indirectly any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person on appointment or advantage in appointment to a position in the classified service or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.
- (e) No person acting in their capacity as a member of the classified service and no member of the Commission acting in their capacity as a member of the Commission shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political organization or purpose, or solicit or take part in soliciting, or receive any such assessment, subscription or contribution.
- (f) No person acting in their capacity as a member of the classified service and no member of the Commission acting in their capacity as a member of the Commission shall take any active part in the management of any political party or in political campaign; provided, however, nothing in this Chapter shall be construed to prohibit or prevent any such officer or employee from exercising the rights of a citizen privately to express an opinion or from enjoying entire freedom from all interference in casting a vote, or from seeking or accepting election or appointment to public office.

RULE 4
DUTIES OF THE COMMISSION

It shall be the duty of the Civil Service Commission to prescribe, amend, and enforce rules for the service in an equitable and non-discriminatory manner. The Commission shall keep minutes of its proceedings, and records of its examinations, and shall make investigations concerning the enforcement and effect of the rules, policies and amendments. Records of applicants found ineligible shall be maintained for at least three years from the date of determination of ineligibility. Records of terminated employees shall be maintained for at least seven years from the date of termination.



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The Commission may delegate authority for any or all of the rules and policies contained herein to the Fire and/or Police Chief and such rules delegated will be marked with an asterisk (*). As such, any reference to “Commission” contained herein is defined as the Civil Service Commission or their delegated authority. Upon delegation, the Commission may request periodic reports from the Chiefs on matters of their designated authority. Further, the Commission reserves the right to remove such delegation at any time.

RULE 5
POWERS OF THE COMMISSION

- (a) It shall be the duty of the Commission to make suitable rules and regulations not inconsistent with applicable law and the Charter. The rules and regulations shall provide the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made. The rules and regulations and any amendments thereof shall be made available for free public distribution.
- (b) All tests shall be practical and shall consist of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and of manual skill.
- (c) The Commission may make investigations concerning and report upon all matters touching the enforcement and effect of the Civil Service, and the rules and regulations prescribed hereunder, inspect all institutions, departments, offices, places, positions and employments affected hereby and ascertain whether this Chapter and all rules and regulations are being obeyed. Investigations may be made by the entire Commission or by a single Commissioner designated by the Commission for such purpose.
- (d) In the course of an investigation or hearing, the Commission shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production of books, papers and documents and accounts appertaining to the investigation. The Commission may also cause the depositions of witnesses residing within or outside the City limits to be taken in the manner prescribed by law for like depositions in civil actions. The oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a circuit court judge; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section may be enforced by equitable relief.
- (e) All hearings and investigations before the Commission shall be covered by this Chapter and by the rules and practices and procedures to be adopted by the Commission, and in the conduct thereof the Commission shall not be bound by the technical rules of evidence. No informality in any proceeding or hearing, or in the manner of taking testimony before the Commission, shall invalidate any order, decision, rules or regulation made, approved or confirmed by the Commission.
- (f) The Commission shall hear and determine appeals or complaints from a covered employee’s removal, suspension, demotion, discharge, or other disciplinary action.



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- (g) The Commission shall provide for, formulate and hold competitive tests devised in accordance with applicable laws to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligibility lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed.
- (h) The Commission shall certify to the appointing authority, upon, written request

RULE 6
MAKING OF APPOINTMENTS

Appointments in the classified service are to be made only from the candidates deemed eligible as furnished by the Commission to the appointing officer except as is otherwise set forth in Rule 19.

RULE 7
NEW POSITIONS

Any new position that belongs under the general provision of these rules and policies, but is nowhere stated as such, will be deemed to be included in the classified service, unless some other designation of the position is made by the City Council in accordance with provisions of the Charter of the City of Portsmouth.

RULE 8
POSITIONS ABOLISHED

When any office or position in the classified service is abolished by the appointing officer, it shall be the duty of the appointing officer to notify the Commission in writing forthwith. The name of any incumbent so displaced shall be eligible for reinstatement as specified in Rule 20.

RULE 9
APPLICATION FOR POSITION

- (a) No person shall be admitted to any examination for a position in the classified service until the individual shall have filed an application upon a form provided by the Commission which shall show:
- 1) Full name, address and Social Security number.
 - 2) That the applicant is a citizen of the United States.
 - 3) Age, place and date of birth.
 - 4) The nature of the applicant's education.
 - 5) The applicant's business training and experience.
 - 6) The applicant's employment background for the prior ten years.
 - 7) Such other information as to the qualification of merit, which the Commission through its regulations may require.



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- (b) Each applicant must have in their own name a valid operator's license issued by their current state of residence, permitting them to drive ordinary pleasure cars, or have the ability to obtain a valid operator's license in their own name issued by their current state of residence by the time of appointment.
- (c) Each applicant must, when directed by the Commission, present himself/herself to the Police Department of the City of Portsmouth for the purpose of being fingerprinted and photographed.

RULE 10
APPLICATION FOR POLICE OFFICER
DIVISION OF POLICE

In addition to the general requirements of Rule 9.

- (a) Shall have reached his/her 21st birthday by the time of their Department of Criminal Justice Services (DCJS) Certification.
- (b) Must have completed a minimum of a High School education or its equivalency.
- (c) Must qualify in the prescribed test of strength and agility.
- (d) Must undergo any examination deemed appropriate by the Commission.

RULE II (A)
APPLICATION FOR FIREFIGHTERS
DIVISION OF FIRE

In addition to the requirements of Rule 9.

- (a) Shall have reached his/her 18th birthday by the time of appointment.
- (b) Must have completed a minimum of a High School education or its equivalency.
- (c) Must undergo any examination deemed appropriate by the Commission.

RULE II (B)
APPLICATION FOR FIREFIGHTER/PARAMEDICS
DIVISION OF FIRE

In addition to the requirements of Rule 9.

- (a) Shall have reached his/her 18th birthday by the time of appointment.
- (b) Must have completed a minimum of a High School education or its equivalency.
- (c) Must undergo any examination deemed appropriate by the Commission.



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- (d) Must be a certified paramedic or have the ability to obtain such certification by the Commonwealth of Virginia and/or be nationally registered.
- (e) Be proficient in reading, writing and speaking the English language in order to clearly communicate with a patient, family or bystander to determine a chief complaint, nature of illness, mechanism of injury and/or assess signs and symptoms.
- (f) Have no physical or mental impairment that would render him/her unable to perform all practical skills required for that level of training. Physical and mental performance skills include the ability of the individual to function and communicate independently to perform appropriate patient care, physical assessments and treatments without the need for an assistant.

RULE 12 (A)
DISQUALIFICATION OF APPLICANTS FOR POLICE OFFICER

The Commission reserves the right to refuse to further examine an applicant, or after examination, to further certify as eligible an applicant who:

- (a) Does not meet the established preliminary requirements as set forth in these rules for the position for which application is made.
- (b) Fails to pass the required test in strength and agility.
- (c) Has been involved in the following activities:
 - i. Possession or use of marijuana or any of its derivatives within the previous six (6) months.
 - ii. The conviction of any substantiated illegal act including the possession, manufacturing, sale or distribution of any narcotic, controlled substance, illegal, or dangerous drug (excluding misdemeanor marijuana).
 - iii. Illegal possession or consumption of Adderall more than 3 times and/or within the last 3 years, or illegal possession of any Schedule I or Schedule II drug, or derivative thereof, within the last ten (10) years (excluding misdemeanor marijuana).
 - iv. Illegal use and or possession of anabolic steroids within the last five (5) years.
- (d) Is found to have used in excess, as determined by the Police Chief, or to be addicted to illegal drugs or narcotics unless the applicant:
 - i. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use; or
 - ii. Is participating in a supervised rehabilitation program and is no longer engaging in such use.



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- (e) Who has been convicted of the following:
 - i. A felony as defined in the Code of Virginia, or a crime of comparable nature in any other jurisdiction.
 - ii. Any Class 1 or Class 2 misdemeanor (excluding traffic offenses) within the last five (5) years (minor offenses may be looked at on a case by case basis).
 - iii. Any crime involving moral turpitude, i.e., lying, cheating, or stealing.
 - iv. Domestic violence, as defined under the Federal Gun Control Act, or where there is an obvious pattern of abuse as determined by the Police Chief.
- (f) Who has intentionally made a false statement of any material fact or practiced or attempted to practice any deception or fraud in his/her application, examination, or in securing his/her eligibility for appointment.
- (g) Driving Under the Influence (DUI) conviction within the past thirty six (36) months or refusal to take blood/breath test within the last twelve (12) months.
- (h) Any two (2) convictions of DUI of alcohol or drugs within the prior ten (10) year period.
- (i) Driver's license is suspended at time of the background check.
- (j) Driver's license has been revoked from any State within the past twenty four (24) months.
- (k) DMV record shows a large amount of points in the minus column (-10 points or worse) or three (3) or more moving violations within the last twelve (12) months.
- (l) A dishonorable military discharge, or a less than honorable military discharge that is the result of misconduct.

Any of the foregoing disqualifications shall cause the removal of the name of the applicant from the eligibility list or from the classified service within three (3) years after his/her appointment.

The applicant or eligible whose application is disqualified by any of the foregoing provisions of this rule may request an investigation of such disqualification by the Civil Service Commission within one (1) year of notification of disqualification. The investigation shall be at the discretion of the Commission, and the decision of the Commission shall be final unless otherwise provided for in the City Charter.

RULE 12 (B)
DISQUALIFICATION OF APPLICANTS FOR FIREFIGHTER OR
FIREFIGHTER/PARAMEDIC

The Commission reserves the right to refuse to further examine an applicant, or after examination, to further certify as eligible an applicant who:

- (a) Does not meet the established preliminary requirements as set forth in these rules for the position for which application is made.



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- (b) Fails to pass the required test in strength and agility.
- (c) Has been involved in the following activities:
 - v. Possession or use of marijuana or any of its derivatives within the previous six (6) months.
 - vi. The conviction of any substantiated illegal act including the possession, manufacturing, sale or distribution of any narcotic, controlled substance, illegal, or dangerous drug (excluding misdemeanor marijuana).
 - vii. Illegal possession or consumption of Adderall more than 3 times and/or within the last 3 years, or illegal possession of any Schedule I or Schedule II drug, or derivative thereof, within the last ten (10) years (excluding misdemeanor marijuana).
 - viii. Illegal use and or possession of anabolic steroids within the last five (5) years.
- (d) Is found to have used in excess, as determined by the Fire Chief, or to be addicted to illegal drugs or narcotics unless the applicant:
 - iii. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use; or
 - iv. Is participating in a supervised rehabilitation program and is no longer engaging in such use.
- (e) Who has been convicted of the following:
 - v. A felony as defined in the Code of Virginia, or a crime of comparable nature in any other jurisdiction.
 - vi. Any Class 1 or Class 2 misdemeanor (excluding traffic offenses) within the last five (5) years (minor offenses may be looked at on a case by case basis).
 - vii. Any crime involving moral turpitude, i.e., lying, cheating, or stealing.
 - viii. Domestic violence, as defined under the Federal Gun Control Act, or where there is an obvious pattern of abuse as determined by the Fire Chief.
- (f) Who has intentionally made a false statement of any material fact or practiced or attempted to practice any deception or fraud in his/her application, examination, or in securing his/her eligibility for appointment.
- (g) Driving Under the Influence (DUI) conviction within the past thirty six (36) months or refusal to take blood/breath test within the last twelve (12) months.
- (h) Any two (2) convictions of DUI of alcohol or drugs within the prior ten (10) year period.
- (i) Driver's license is suspended at time of the background check.
- (j) Driver's license has been revoked from any State within the past twenty four (24) months.
- (k) DMV record shows a large amount of points in the minus column (-10 points or worse) or three (3) or more moving violations within the last twelve (12) months.



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- (l) A dishonorable military discharge, or a less than honorable military discharge that is the result of misconduct.

Any of the foregoing disqualifications shall cause the removal of the name of the applicant from the eligibility list or from the classified service within three (3) years after his/her appointment.

The applicant or eligible whose application is disqualified by any of the foregoing provisions of this rule may request an investigation of such disqualification by the Civil Service Commission within one (1) year of notification of disqualification. The investigation shall be at the discretion of the Commission, and the decision of the Commission shall be final unless otherwise provided for in the City Charter.

In compliance with state law, the Civil Service Commission shall also disqualify any applicant who:

- (a) Has been convicted or found guilty of any crime involving sexual misconduct where the lack of affirmative consent by the victim is an element of the crime, such as forcible rape.
- (b) Has been convicted of a felony involving the sexual or physical abuse of children, the elderly or the infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, or assault on an elderly or infirm person.
- (c) Has been convicted or found guilty of any crime (including abuse, neglect, theft from, or financial exploitation) of a person entrusted to his/her care or protection in which the victim is a patient or is a resident of a health care facility.
- (d) Has been convicted or found guilty of any crime involving the use, possession, or distribution of illegal drugs except that the person is eligible for consideration five (5) years after the date of final release if no additional crimes of this type have been committed during that time.
- (e) Has been convicted or found guilty of any other act that is a felony except that the felon is eligible for consideration five (5) years after the date of final release if no additional felonies have been committed during that time.
- (f) Is currently under any disciplinary or enforcement action from another state EMS office or other recognized state or national healthcare provider licensing or certifying body. Personnel subject to these disciplinary or enforcement actions may be eligible for certification provided there have been no further disciplinary or enforcement actions for five (5) years prior to application for certification in Virginia.
- (g) Has been subject to a permanent revocation of license or certification by another state EMS office or other recognized state or national healthcare provider licensing or certifying body.



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- (h) Has been convicted upon a charge of driving under the influence of alcohol or drugs, convicted of a felony or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to §18.2-271.1 of the Code of Virginia, hit and run, or operating on a suspended or revoked license within the past five (5) years. A person having any of these convictions in Virginia or another state may be eligible for reinstatement as an operator after five (5) years and after successful completion of an approved emergency vehicle operator's course (EVOC) within the year prior to reinstatement.

All references to criminal acts or convictions under this subsection (a) through (h) directly above refer to substantially similar laws or regulations of any other state or the United States. Convictions include prior adult convictions, juvenile convictions and adjudications of delinquency based on an offense that would have been, at the time of conviction, a felony conviction if committed by an adult within or outside Virginia.

Any of the foregoing disqualifications shall cause the removal of the name of the applicant from the eligibility list or from the classified service within three years after his/her appointment.

The applicant or eligible whose application is disqualified by any of the foregoing provisions of this rule may request an investigation of such disqualification by the Civil Service Commission within one (1) year of notification of disqualification. The investigation shall be at the discretion of the Commission, and the decision of the Commission shall be final unless otherwise provided for in the City Charter. To the extent that any applicable rule is more restrictive, that rule shall take precedence.

RULE 13 ()*
EXAMINATION – COMPETITIVE

- (a) The Commission shall control all examinations and may whenever an examination is to take place, designate a suitable number of persons, either in or not in the official service of the City, to be examiners; and if in the official service, it shall be part of their duty, without extra compensation, to conduct such examinations as the Commission may direct and to make return or report thereof to said Commission; and the Commission may at the time substitute any other person, whether or not in such service, in the place of anyone so selected; and the members of the Commission may themselves at any time act as examiners, and without appointing examiners.
- (b) In accordance with federal and state law, all examinations shall relate to such matters as will fairly test the relative capacity and fitness of the person examined to discharge the duties of the position which they seek.
- (c) The Commission shall prepare or have prepared lists of preliminary requirements and subjects of examinations for the several positions or groups of positions in the competitive class, and shall from time to time, prepare or cause to be prepared, such examinations for the positions and groups of positions aforesaid as shall be pertinent to each position or group.



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- (d) Initial written entrance examinations for Civil Service positions shall be offered periodically as deemed necessary by the Fire or Police Chief. The most recent test score of any applicant shall be the score of record.

RULE 14 ()*
ENTRANCE LEVEL ELIGIBILITY

- (a) Only those candidates who pass the written examination and who pass the remaining qualifying requirements of the Commission shall be considered for appointment.
- (b) The Commission shall notify each competitor of the final result of the processing of this application.
- (c) The Commission shall reserve the right, at any time before, during, or subsequent to any examination as herein provided, and prior to the submission of any name to the appointing officer for appointment to the classified service, to make such further investigation into the qualifications of the applicant as the Commission may deem necessary.
- (d) Any oversight, mistake, clerical error or similar miscue by the appointing authority or his/her staff concerning matters of eligibility for any position may be corrected by the Commission should it deem it appropriate to do so. No appointment that may occur as a result of such oversight, mistake, clerical error or miscue shall be invalidated except as determined by the Commission.

RULE 14 (A) ()*
LATERAL ENTRY – ENTRANCE LEVEL

Any person who is currently certified, as defined by the Fire/Police Chief and the current requirements of such certifications, and meets the minimum qualifications to be a sworn Firefighter or Police Officer in accordance with the job description may apply for the ability to laterally enter such position.

The qualifying entry-level written exam and physical agility test is waived for lateral entry applicants. Background investigations will still be conducted and the Fire/Police Chief has final authority to recommend an applicant for approval to hire through the city's employment process. Upon approval, the applicant would be hired as a lateral entry to the rank of Firefighter or Police Officer rather than as a Firefighter Trainee or Police Officer Trainee.

RULE 15 ()*
APPOINTMENT TO POSITION IN THE CLASSIFIED SERVICE – ENTRANCE LEVEL

- (a) Appointments shall be made to, or employment shall be given in, all positions in the classified service that are not filled by promotion, reinstatement or reduction under the laws and rules, by appointment from among those certified as eligible by the Commission most nearly appropriate for the particular position to be filled. The maximum period of time that any candidate will be considered eligible is one (1) year from the date he/she is determined to be eligible.



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- (b) If an eligible person certified for appointment should fail to respond to or who declines any further evaluation requisite of the appointing officer or his/her representative(s) in the assessment of those candidates in competition for any vacancy, or if an eligible should refuse or fail to accept an offer of appointment, within ten (10) business days next succeeding the mailing of an official appointment or consideration for appointment. An eligible person deemed to have declined an appointment or consideration for appointment will be stricken from further consideration, unless such declination be based on temporary inability, physical or otherwise, to accept, and proof of such inability is furnished to and accepted by the Commission. Any person certified as eligible who makes written notice to the Commission of no further interest in appointment shall be stricken from further consideration.
- (c) From among persons whose names are certified, as above provided for, the appointing officer shall make an appointment to fill the vacancy. After job offer is made, applicant must successfully complete a physical examination to be conducted by the City Physician or medical provider.

RULE 16 ()*
PROBATIONARY SERVICE

All appointments or employments in the classified service shall be for a probationary service of twelve (12) months; and if the conduct capacity, and fitness of the probationer are satisfactory to the appointing officer, his/her retention in the service after the end of such term shall constitute his/her permanent appointment; but his/her appointment may be terminated during such term by the appointing officer in accordance with the Code and Charter and these rules and policies. A probationary appointment shall not be deemed as a waiver of any requirement for appointment. The probationary period may be extended for up to one hundred eighty (180) days upon approval by the Commission.

All persons reinstated to the Civil Service shall be required to re-serve a one-year probationary period.

RULE 17 ()*
RE-EXAMINATION

Before the expiration of the probationary appointment period, the Commission may require a probationary appointee to resubmit to a physical examination, or to resubmit to any other qualifying requirement that the Commission may deem necessary. The Commission will make reasonable accommodations for disabled employees.

RULE 18
APPOINTMENT FOR POSITION IN COMPETITIVE CLASS
TEMPORARY APPOINTMENTS

- (a) In case of riot, conflagration, or emergency, the City Manager may appoint additional Police Officers, Firefighters and Firefighter/Paramedics during the emergency and for temporary service, who need not be in the classified service. Physical examination will be required for any such temporary appointment as appropriate after a job offer is made.



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- (b) No such appointment shall continue for a period longer than three (3) months.
- (c) The occupation by an eligible of a temporary appointment shall not affect his/her standing on the eligibility list for permanent appointment, nor shall such temporary service be counted as part of the probationary term, in case of subsequent appointment to a permanent position.

RULE 19
APPOINTMENTS TO POSITION IN COMPETITIVE CLASS
PROBATIONAL APPOINTMENTS

- (a) Whenever there are urgent reasons, other than those reasons stated in Rule 18, for filling a vacancy in any position in the competitive class, and there is no list of persons eligible for appointment, the appointing officer may nominate a person to the Commission for non-competitive examination, and if such nominee shall be certified by the Commission as qualified after such non-competitive examinations, but such probational appointment shall not continue more than ten (10) days after notice to the appointing officer that an eligibility list has been prepared for such position nor in any case for a longer period than six (6) months, nor shall successive probational appointment be made to the same position under this rule.
- (b) Whenever a vacancy exists in a position in a competitive class, and an open competitive examination has been duly advertised, and there are no applications filed for the examination, the appointing officer may nominate a person to the Commission for non-competitive examination, and if qualified, he/she may be appointed to fill such vacancy. In case there is a person in such position, under probational appointment and no one applies to compete with him/her in an open competitive examination duly advertised, the probational appointment of such a person may be made permanent if satisfactory to the Civil Service Commission.

RULE 20 ()*
REINSTATEMENT

Any person who has held a position by permanent appointment in the Civil Service, and who has not been terminated for cause or resigned in lieu of termination may apply in accordance with this Rule to be reinstated to the classified service under the following conditions:

- (a) Approval of the Commission
- (b) The position is equal to or less than or has requirements equal to or less than the position formerly held. If a reinstatement is made to a lesser rank than that formerly held, the person will retain eligibility for reinstatement to the higher rank in accordance with the provisions of this rule.
- (c) A physical examination is required prior to any reinstatement after an offer of reinstatement is made.
- (d) Applicant is required to be certified or have the ability to be re-certified for all requirements of their respective position being sought for reinstatement.



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- (e) If approved, seniority for the purpose of promotion will commence as of the date of reinstatement, in accordance with Rule 23, which will be reflected as the employee's new continuous service date.
- (f) The Chief of the department to which reinstatement is sought shall advise the Commission in writing as to whether or not he/she is in favor of the requested reinstatement and the reasons therefore. In addition, the Chief shall conduct a supplemental background investigation of the applicant and provide his/her findings to the Commission. The investigation shall include, but need not be limited to, the time period during which the applicant was separated from employment with the City of Portsmouth. The Chief's report shall, among other things, state whether there exist any grounds to believe that the applicant is unfit to return to the Civil Service and/or whether the applicant may be the subject of a disqualification set out in Rule 12 (A)(B).

A determination on reinstatement for a person requesting such and who has resigned from the classified service shall be by the above procedure, or the person may re-apply by submitting a new application competing in the competitive examination process, whichever is deemed most appropriate by the Commission in consideration of the circumstances of the resignation.

RULE 21
LEAVE OF ABSENCE

Any person holding a position in the classified service may be granted a leave of absence without pay by the appointed officer. Any person whose leave exceeds one year will be required to pass a physical exam after an offer of reinstatement is made. Upon reinstatement after an authorized non-military leave, service prior to the authorized leave will be credited towards seniority value, however, no service will be credited for the authorized leave period. Seniority will not accrue during periods of authorized leave of absence except when the leave is for the purpose of serving in the Armed Forces of the United States, in accordance with federal law and the City's Military Leave policy.

RULE 22
ELIGIBILITY LIST-PROMOTION

- (a) Promotion shall be based on a cumulative process that may include a written examination and an assessment of their knowledge, skills and abilities. Promotion shall be open to all employees who have served at least two (2) full years in the classified service of the respective department. Eligibility for promotion will start on the anniversary date one (1) day after having served one (1) year or more in the next lower position in a non-probationary status.
- (b) Promotional exams will be offered at least once every two (2) years. Date and time of tests will be that most optimum to all persons concerned. As of the date of establishment of a new promotional eligibility list, the previous list is nullified. Upon termination of any Civil Service employee, he/she will be removed from the current promotional eligibility list and all persons reinstated to the Civil Service shall not be placed back on the list. If an employee will still be on probation thirty (30) days after the last date on which the promotional exam is held, he/she is ineligible to take the exam.



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While an employee with less than one (1) year of non-probationary service is permitted to take the exam, he/she will not be eligible for promotion to the higher rank until one full year of non-probationary service is completed. During the period between exams, names of those who had taken the test but who had not yet become eligible for promotion will be added to the list in the proper rank at the time they became eligible. If for some reason the probation period for an employee who had taken the exam is extended beyond the normal one (1) year probation period, such that probation is extended beyond thirty (30) days after the last date on which the exam is held, the exam is voided.

- (c) Notice of the examination shall be posted conspicuously in the department where promotion is to be made. No person shall be admitted to the competitive exam for promotion until he/she has filed an application upon the form and in the manner prescribed by the Commission.
- (d) The eligibility lists developed as the result of a promotional examination shall be posted conspicuously in the respective department. The posted list shall list the score in rank order without any identifying information. The list will include the overall score from the promotional process for each candidate. In consultation with the Civil Service Commission, the overall score deemed appropriate for certification shall be determined by the consultant.
- (e) Any candidate may request that the Commission remove his/her name from the eligibility list. To be effective, such a request shall be in writing, directed to the Commission, certify that the request is voluntary and that the candidate understands that upon acceptance and approval of the request that he/she will under no circumstances be eligible to have his/her name again placed on the eligibility list until and unless the candidate passes a subsequent promotional examination.

***RULE 23
SENIORITY VALUE***

In consultation with the Civil Service Commission, seniority credit for the purpose of promotion shall be determined by adding points to the mark obtained on the written promotional examination in the following manner: half a point (0.5) shall be added for each year in rank for a maximum of ten (10) years or five (5) points total.

Except as provided for in Rule 21, credit shall not be given for other than continuous years of service. Determination of seniority credit shall be as of the date the written exam was held, and such determination shall be fixed until such times as a new eligibility list is established.

***RULE 24
APPOINTMENT TO POSITION IN THE CLASSIFIED SERVICE FROM
ELIGIBILITY LIST – PROMOTIONAL LEVEL***

- (a) All promotions in the classified service shall be by appointment from among those certified as eligible by the Commission on the eligibility list most nearly appropriate for the particular position to be filled.



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- (b) Whenever a promotion is to be made in the classified service, the appointing officer shall request from the Commission a list of eligible candidates. The Commission shall thereupon send to the appointing officer a certified list of the top five (5) passing scores (ties count as one) in alphabetical order. If more than one vacancy is to be filled, an additional score shall be certified for each vacancy.
- (c) If, because of changing standards of merit, fitness, or performance, the appointing officer finds none of the personnel on the certified list to be eligible for a particular promotion, the list shall be returned and such standards of merit and fitness shall be reported to the Commission. The Commission shall consider such standards and make a determination as to the replacement of any or all names on the certified list.
- (d) The Commission will make every effort to reasonably accommodate qualified applicants with disabilities who seek application to the classified service.

*RULE 25
SPECIAL TENURE*

If a member of the Police Department or Fire Department is appointed as Chief or Deputy Chief of that department and is afterwards removed from such position, he/she shall be reinstated to an equivalent position in the department for which he/she has qualified under these regulations, provided he/she is not subject to dismissal under any of the provisions of Rule 33 and Rule 34, as herein set forth, or Chapter XI, Section 11.12 of the Portsmouth City Charter.

*RULE 26
PAYMENT OF SALARIES*

Neither the Chief Financial Officer, nor any other disbursing officer of the City, shall pay any salary or compensation for service to any person holding or performing the duties of any position in the classified service unless the person paid shall have been appointed or employed and is performing service in accordance with the rules of the Commission.

*RULE 27
APPOINTING OFFICER*

For the purpose of enabling The Commission to keep the official roster of the classified service as required by law and to certify to the officer for the payment of salaries, the appointing officer shall, forthwith upon the date of the official action in each case, report to the Commission as follows:

- (a) Every appointment or employment in any capacity whatever, whether probationary, permanent, temporary, special, or otherwise, in the classified service, and the name of such appointee or employee, and the title and character of the office or employment, with the date of the commencement of the service, and the salary or compensation thereof.
- (b) Every failure to accept an appointment by a person entitled thereto, with copies of the offer or notice of appointment, and to reply thereto, if any.



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- (c) Every discharge during or at the end of a probationary term with the date thereof.
- (d) Every termination of an appointment, whether caused by dismissal, resignation, or death, with the date thereof.

RULE 28
THE OFFICIAL ROSTER

The Commission shall keep in its office an official roster of the classified service, and shall enter thereon the name of each and every person who has been appointed to, employed, promoted, or reinstated in the service in conformity with the provisions of law and these rules. The official roster shall show opposite, or in connection with each name, the date of appointment, employment, promotion, or reinstatement, and the date of transfer in or separation from the service and the reason thereof.

RULE 29
REPORT TO THE COUNCIL

The Civil Service Commission shall from time to time make report to the Council showing its own action, and any suggestion it may have for the improvement of the classified service. The Council may require a report from said Commission at any time.

RULE 30
PETITIONS, APPEALS, AND INVESTIGATIONS THEREOF

- (a) The Commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the Civil Service provisions of the City Charter, City Code, and rules and policies prescribed hereunder, inspect all institutions, departments, offices, places, positions, and employments affected hereby, and ascertain whether the Civil Service positions of this act and all such rules and regulations are being obeyed.
- (b) Such investigations may be made by the Commission or by the Commissioner designated by the Commission for that purpose. Not only may these investigations be made by the Commission as aforesaid, but the Commission may make like investigation on petition of a citizen, duly verified stating that irregularities or abuse exist, or setting forth in concise language, in writing, the necessity for such investigation.
- (c) In the course of such investigation, the Commission or designated Commissioner, or Secretary, shall have the power to administer oaths, subpoenas, and require the attendance of witnesses and the productions by them of books, papers, documents, and accounts pertaining to the investigation and also to cause the deposition of witnesses residing within or without the City to be taken, in the manner prescribed by law for like depositions in civil actions in the court of original and unlimited jurisdiction in civil suits of the State; and the oaths administered hereunder shall have the same force and effect as the oaths administered by a Circuit Court judge in his/her judicial capacity, and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of the Civil Service provision of the City Charter, and punishable as such.



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*RULE 31
MEET AND DISCUSS*

The topics of wages, hours, and conditions of employment in general should be directed to the Director of Human Resource Management.

*RULE 32
GRIEVANCES*

- (a) If a member of the classified service feels any condition affecting him/her is unjust, unfair, inequitable, or creates a problem other than those actions stated specifically in part (b) of this rule, or if he/she should have a grievance concerning the interpretation and application of City and/or departmental rules and regulations, the member's recourse shall be as stated in the City Grievance Procedure.
- (b) Recourse of any member of the classified service who is not on probation at the entry level on any action of removal or discharge, demotion, suspension, deprivation or other privileges, or any other disciplinary action, shall be as set forth in these rules and policies. Decisions of the Civil Service Commission will be final unless otherwise provided for in the City Charter.

*RULE 33
DUTIES OF ALL OFFICERS AND EMPLOYEES TO ASSIST THE COMMISSION*

It shall be the duty of all officers and employees of the Police and Fire Department of the City of Portsmouth to aid in all proper ways of carrying out the Civil Service provisions of these rules and policies, and the City Code and Charter, and to afford the Commission, its members and employees all reasonable facilities and assistance to inspect all books, papers, documents, and accounts, and testify whenever required to do so by the Commission.

*RULE 34
TENURE OF OFFICE, CAUSES FOR DISCHARGE OR DISCIPLINARY ACTION*

The determination or removal or discharge, suspension, or demotion, or deprivation of other privileges, may be made by the appointing officer, in accordance with the Charter and these rules and policies, for any one of the following reasons:

- (a) Incompetent or inefficient performance of duty or inattention to or dereliction of duty.
- (b) Insubordination, willfully discourteous treatment of the public or a fellow employee, or any other act of omission or commission of similar nature tending directly to discredit or injure the public service or to jeopardize the effective functioning of the service.
- (c) Mental or physical unfitness for the position which the employee holds, substantiated to the satisfaction of the Commission, only after reasonable accommodation has been pursued.



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- (d) Drunkenness or use of intoxicating liquors, narcotics, or any other dangerous drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions and duties of his/her position. Determination of such while on duty shall be grounds for immediate discharge.
- (e) Conviction of a misdemeanor involving moral turpitude, or a pattern of misconduct as manifested by a series of convictions of misdemeanors not involving moral turpitude. Conviction of a felony shall be grounds for immediate discharge.
- (f) Failure to report to an appropriate superior authority significant administrative errors, incompetence, misconduct, inefficiency, neglect of duty, or any other form of misconduct or negligence of which the employee has knowledge.
- (g) Failure of a supervisory employee or commanding officer to take appropriate corrective action with regard to such employees under his/her supervision or command as may be guilty or willful or gross neglect of duty or misconduct where the supervisor or commanding officer knows or should have known of such derelictions.
- (h) Failure to achieve professional progress in accordance with reasonable and definitive criteria established by the Civil Service Commission or the appointing officer and set forth under the authority of these rules and policies; provided, however, that such failure must be a personal failure of the employee and not one directly caused by conditions beyond the control of the employee; provided, further, that no person shall be disciplined under this rule unless and until he/she is given adequate written notice of his/her deficiencies and a reasonable time to correct them.
- (i) Failure to meet or maintain compliance with any required certifications, licensures or applicable law.
- (j) And, any other such similar reasons as may be deemed by the appropriate officer.

RULE 35
PRINCIPLES, PROCEDURES, AND APPEALS RELATIVE TO RULE 34

Any action so stated in the first paragraph of Rule 34 taken against a member of the classified service, who is not serving under the initial entry-level probationary period, shall be by the following principles and procedures and in accordance with the City Charter and Code:

- (a) No disciplinary action shall be taken except for cause, and by written accusation.
- (b) The written accusation, whether it be by the appointing officer, superior officer, a citizen, or taxpayer, shall be served upon the accused within forty-eight hours of any action taken. Included with the served written accusation shall be a statement of the appointing officer offering the accused person the opportunity to be heard in his/her own defense in the presence of the appointing officer.



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- (c) Should the person decide against appearing before the appointing officer, or if, after an appearance before the appointing officer, the person should wish to further appeal any disciplinary action, he/she shall have the right to an investigation by the Civil Service Commission. The request for such an investigation must be made within ten (10) days from the time of the disciplinary action taken.

- (d) Any investigation made by the Commission shall be by public hearing. Reasonable notice of time and place of the hearing shall be given the accused, and he/she shall have the right to appear in person and with the representative(s) of his/her choice and to present a defense. The investigation shall be confined to the determination of the question of whether the action taken was or was not made for political, religious, racial, or other unlawfully discriminatory reason, and was or was not made in good faith for cause. After the hearing, it shall be the decision of the Commission to either affirm the action, to reinstate the person with retroactive pay, or to modify the action. A modification of an action may be by directing a suspension, without pay, for a given period and subsequent restoration to duty, or demotion in classification, grade, or pay. The Commission may direct a lesser penalty than that given, but shall not direct a greater penalty. The findings of the Commission shall be certified in writing to the appointing officer, and the decision shall be enforced by him/her.

- (e) If the appointing officer does not properly notify the accused or the Commission of an action taken, upon application of the accused, the Commission shall set aside a date, within fifteen (15) days of the action, for a hearing. The hearing shall be by the same procedure and be conducted under the same principles as stated in part (d) of this rule.

- (f) If a member of the Commission cannot attend a hearing on the date set by the Commission, the Commission may at its discretion adjourn the hearing to the next earliest possible date.

- (g) If the Commission affirms the action taken, the accused shall have the right to appeal such decision to the Circuit Court in the City of Portsmouth. Procedures for such an appeal are as stated in the Portsmouth City Charter. Such an appeal is available for the purpose of a review as to the determination of whether the action taken was made in good faith for cause.

***RULE 36
REPRIMAND***

Any letter of reprimand, censure, or admonition must be authorized and signed by the department head. A copy of the letter must be given to the member of the classified service and to the Civil Service Commission. The letter shall become a part of the member's Civil Service personnel record but shall be removed from such record after a period of one year.



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RULE 37
PENALTIES

Any person who willfully violates any Civil Service provision as stated in the Portsmouth City Charter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of or not less than one hundred dollars or more than one thousand dollars, or by imprisonment in the City jail for not longer than one year, or by both such fine and imprisonment. The court of original and unlimited jurisdiction in criminal matters shall have jurisdiction over any such violations. If such convicted person be in the classified service, he/she shall be dismissed therefrom by the court, in addition to any penalty imposed for such violation.

RULE 38
AIDES, AUXILIARY, CADETS

Aides, auxiliary, cadets, or other selected persons in a similar officially-recognized job experience and training program, upon recommendation of the appointing officer attesting to superior performance on the part of the trainee, as an exception to these rules, may be given special consideration for certification to an eligibility list as a candidate for appointment.