

# CIVIL SERVICE RULES

## Civil Service Commission City of Irving, Texas

### **RULE 008(a) General Rules**

- A.** These Civil Service Rules shall constitute the Irving Civil Service Commission Rules, and shall supersede all prior Rules and Rule and Regulation Adoption Orders previously published by this Commission. Provided however, that all pending disciplinary actions charging violation of prior Commission Rules shall continue until conclusion and be determined and resolved under the Rules and Rule and Regulation Adoption Orders in effect at the time of the alleged violation. All future disciplinary hearings, whether involving previously adopted disciplinary rules or those established by this set of rules shall be conducted under the procedural rules adopted herein.
- B.** These Rules are established pursuant to the Commission's rule-making authority under Chapter 143, Texas Local Government Code (TLGC), for the purpose of insuring uniform and fair procedures in the administration of civil service in the City of Irving and complying with statutory requirements. These rules are, therefore, complementary with Chapter 143, TLGC, and should be read in harmony with and as clarification to that statute. The Rules are numbered in such a way as to provide a non-exclusive reference guide to some of the corresponding Sections of Chapter 143, TLGC. In these Rules, a word importing one gender only shall extend to and be applied to include the other gender as needed.
- C.** All proposed future rules and amendments to this Code shall be posted by the Director of Civil Service in the Police Station and each Fire Station for at least seven days prior to a hearing on adoption of such rules by the Irving Civil Service Commission. At the adoption hearing, the Commission may hear from each person desiring to be heard and may adopt such rules with such revisions or amendments as the Commission shall deem advisable.
- D.** The Commission shall select a chairperson and vice chair on an annual basis. The quorum for the Commission shall be two members. Meetings shall take place as needed.

### **RULE 008(c) Disciplinary Rules**

- A.** Any and/or all of the following shall be grounds which prescribe sufficient cause for the Chief of the Fire or Police Department to remove or suspend any member of the classified civil service within the Chief's Department:
  - 1. Conviction of a felony or other crime involving moral turpitude;
  - 2. Violations of the Irving City Charter;
  - 3. Acts of incompetency;
  - 4. Neglect of duty;
  - 5. Discourtesy to the public or to a fellow employee while the firefighter or police officer is in the line of duty;
  - 6. Acts showing lack of good moral character;
  - 7. Drinking intoxicants while on duty, or intoxication while off duty;
  - 8. Conduct prejudicial to good order;
  - 9. Refusal or neglect to pay just debts (provided that filing for bankruptcy shall not be a violation of these rules);
  - 10. Absence without leave;
  - 11. Shirking duty, or cowardice at fires, if applicable;
  - 12. Violation of an applicable Fire or Police Department rule or special order;
  - 13. Conviction of a Class A or Class B misdemeanor, as specified in §143.056(g) TLGC;
- B.** The Chief may suspend or remove a member of the classified service for any act or omission which violates RULE 008(c)A. In addition, and without

limiting the Chief's authority to charge an employee with any action which violates RULE 008(c)A, the following actions are hereby found to constitute violations of one or more of the grounds specified in RULE 008(c)A and may be used to remove or suspend a member of the classified civil service:

1. Insubordination involving either oral or written commands, orders or directives;
2. Loss of certification by the state Commission on Fire Protection Personnel Standards and Education by a member of the Fire Department, or loss of certification by the Texas Commission on Law Enforcement Officer Standards and Education by a member of the Police Department or fire prevention classification in the Fire Department;
3. Accepting money or anything of value from another person in return for retiring or resigning from the employee's civil service position, as specified in §143.088 TLGC;
4. Giving money or anything of value to another person in return for the other person's retirement or resignation from the person's civil service position, as specified in §143.088 TLGC;
5. Engaging in strike against City of Irving, as specified in §143.087 TLGC;
6. Taking an active part in another person's political campaign for an elective position of the City of Irving while in uniform or on active duty as specified in §143.086 TLGC;
7. Entering a plea of guilty or no contest when charged with any felony, any Class A Misdemeanor, any Class B Misdemeanor or those Class C Misdemeanors involving moral turpitude;
8. Receiving probation or deferred adjudication when charged with a felony, Class A Misdemeanor, Class B Misdemeanor or those Class C Misdemeanors involving moral turpitude;
9. Committing any act which would constitute any felony, any Class A Misdemeanor, any Class B Misdemeanor or those Class C Misdemeanors involving moral turpitude, regardless of whether formal charges are filed;
10. Engaging in any sexual activity while on duty, provided that bona fide undercover police

operations which have been approved by appropriate supervisors will not violate this subsection;

11. Use of alcoholic beverages, debilitating drugs, or any substance which could impair the member's physical or mental capacities while on duty, without the knowledge and permission of the appropriate supervisor;
12. Knowingly or intentionally revealing a part of a promotional examination to an unauthorized person, or receiving from an authorized or unauthorized person a part of a promotional examination for unfair personal gain or advantage as specified in §143.032(h) TLGC. For purposes of this subsection, "authorized person" shall only include the Director of Civil Service and his staff, the Civil Service Commission, and any person while such person is present at a Commission hearing on promotional examination appeals. All other persons, for purposes of this subsection, are unauthorized.

C. Conviction for engaging in a strike against the City of Irving under §143.087 TLGC is hereby found to constitute grounds for automatic dismissal.

**RULE 008(e) Posting Rules**

For purposes of §143.008(e)(2) TLGC, the Fire Department Administration Office at 845 W. Irving Boulevard shall be considered the Central Fire Station. The Criminal Justice Center at 305 North O'Connor Road shall be considered the Central Police Station. The Fire and Police Departments shall make space for the required postings of rules at the above mentioned locations.

For purposes of §143.008(e)(1) and (3) TLGC, all mailing shall be done by placing the new rules in an appropriate envelope, sufficiently addressed, with proper postage, and depositing the same in a receptacle, or with an employee, of the United States Postal Service.

**RULE 010 Hearing Procedure**

Appeals to the Civil Service Commission are provided for disciplinary suspensions, either temporary or indefinite, and for promotional pass-overs. A public hearing before the Commission is provided for a recommended demotion.

A. Appeal of Suspension, Removal, or Promotional Pass-over

## 1. Scheduling Hearing

Upon receipt of an appeal of a suspension, removal or promotional pass-over by a firefighter or police officer, the Director of Civil Service shall immediately schedule a Civil Service Commission hearing to be held not earlier than twelve (12) days nor later than thirty (30) days after receipt of the appeal.

## 2. Postponement

a. If the suspended firefighter or police officer or a representative thereof requests a postponement in writing, the Commission hereby agrees to such request provided such request:

- 1) Is conveyed to the Director of Civil Service (a facsimile is acceptable);
- 2) Is signed by the firefighter, police officer or a representative thereof;
- 3) Is signed by the Chief or a representative thereof; and
- 4) Sets a definite time and date which was predetermined by the Director of Civil Service to be available for a hearing by the Commission.

b. If the Chief or the Chief's representative objects to the new date, the Commission shall hear such objection as soon as possible, but at least by the date the original hearing was scheduled. If such postponement would cause material disadvantage to the Chief, the Commission shall decide whether to hold the hearing on the originally scheduled date or to find a meeting time that is agreeable to the Commission and Appellant.

## 3. Hearing Procedures

a. In all appeals of discipline to the Commission, the Chief of the Department may be represented by a member of the Office of the City Attorney, outside council, a person designated by the Chief or the Chief may represent himself.

The Appellant may represent himself or may be represented by an attorney, union or association representative or another person selected by the Appellant.

Parties may have more than one

representative, but only one of the representatives of a party shall be designated the lead counsel or representative and that person shall be the only one to make opening or closing remarks and make objections.

b. In the appeal of any discipline, the Chief of the Department shall have the burden of proof. The Chief must prove factual allegations by a preponderance of the evidence. In the event the Chief does not prove all facts alleged in the charging letter, the Commission shall consider whether the discipline being appealed is appropriate based on the facts which have been proven in deliberating their action on the appeal.

c. The Chief or his representative may make opening remarks on the case not to exceed three (3) minutes in length. The Appellant or his representative may then make opening remarks not to exceed three (3) minutes in length. The Commission may extend the time for opening remarks for good cause, apportioning the time equally between the chief and the Appellant.

d. The order of presentation is that the Chief presents evidence first and, when concluded, the Appellant presents evidence. The Commission shall be guided, but not necessarily bound, by the Texas Rules of Evidence and the Texas Rules of Civil Procedure as applicable. There shall be no discovery, depositions, no security costs, summary judgments or other matters which have no application to a hearing before the commission under Chapter 143, TLGC.

Witnesses shall be questioned on direct by the party calling the witness and may then be cross-examined by the other party.

The charging letter or, for an appeal of a promotional pass-over, the written correspondence from the Chief to the Commission required by §143.036(f) TLGC and letter of appeal shall be considered as pleadings in the case and shall be considered by the Commission without the necessity of formal introduction. In addition, these Civil Service Rules shall be admitted upon submission by the Director of Civil Service. In the case of a Hearing Examiner, the Director of Civil Service may send a copy of these rules to the Hearing Examiner by

mail and they shall likewise be considered admitted without the necessity of written certification.

Notarized affidavits filed with the Commission by giving copies to the Director of Civil Service and in possession of both sides fifteen (15) days prior to the hearing may be admitted unless good cause is shown to exclude same. This shall not operate to exclude relevant departmental memos.

At the conclusion of Appellant's evidence, Chief may present rebuttal witnesses and others. When the Chief concludes, the Appellant or his representative may present rebuttal witnesses and others.

The Commission, and any member thereof, shall be able to ask questions of any witness, the Chief or his Departmental representative or the Appellant or Appellant's representative at any time.

- e. At the conclusion of evidence, the Chief or his lead representative may make initial concluding arguments to the Commission, then the Appellant or his representative may present closing arguments. The Chief or his lead representative may then make final closing arguments.

Unless otherwise specified by the Commission before closing arguments begin, each side will be allowed a total of ten (10) minutes for closing arguments in all appeals except indefinite suspensions for which each side will be allowed a total of twenty (20) minutes. The Chief's lead representative may divide the total time between initial and final closing arguments as the Chief or his lead representative may see fit.

- f. At the conclusion of closing arguments, the Commission may deliberate its decision in private, but may not consider evidence not presented at the hearing. The Commission shall follow the requirements of §143.053 TLGC in rendering a decision. The vote on the decision shall be done in public.

The decision of the Commission may be announced orally. The Civil Service Commission shall reduce its decision to writing, and have the decision signed by the

Commissioners voting in favor. The signatures of two concurring Commissioners are sufficient to create a final decision.

Said decision shall be signed no later than thirty (30) days after the date the Commission receives the notice of appeal. However, if the Appellant and Commission agree to postpone the hearing to a definite date pursuant to the authority provided by §143.053(b) TLGC, the Commission shall sign the written decision at the conclusion of the hearing. When a decision to postpone to a definite date is agreed to, such date shall be the beginning date for the hearing, and such agreed postponement shall include all work days (excluding Saturdays, Sundays and City holidays) necessary to present evidence, hear arguments, allow for deliberation by the Commission and two (2) additional days for the Commission to reduce its decision to writing. The Commission shall forward the decision to the Parties.

#### 4. Subpoenas

##### a. Subpoena Request

Either the Appellant or the Chief may request a subpoena or subpoena duces tecum in writing at least ten (10) days prior to the hearing on a completed subpoena form supplied by the Director. The Parties shall be responsible for the service of their own subpoenas, and not the Civil Service Commission.

##### b. Execution

The Commission is authorized to issue subpoenas, which may be signed by either the Chairman or the Director of Civil Service; however, if the Commission declines to issue the subpoenas, the Commission will make a written report to the person or the representative of the person requesting the subpoena no later than the third day before the date of the hearing stating the reason it will not subpoena the requested material.

##### c. Penalty

A person failing to appear pursuant to a subpoena issued for an Appeal of a Disciplinary Suspension, or for any other reason, shall be in violation of the

Commission's general investigatory powers under §143.009 and §143.010 TLGC. The Commission may take whatever action deemed appropriate for the purposes of a fair hearing if a person fails to respond to a subpoena, including, but not limited to, rescheduling the hearing, admission of affidavits which do not meet the requirements for affidavit admission or other remedies including but not limited to seeking enforcement of the penalties provided in §143.016 TLGC.

d. Subject Matter

- 1) Subpoenas shall not be issued for items which are in the possession of the Director of Civil Service, and therefore available on request, such as, but not limited to:
  - a) Copies of General Orders, S.O.P.'s, etc.;
  - b) Any individual's civil service file kept by the Director of Civil Service;
  - c) Irving Civil Service Rules and Regulations;
  - d) City of Irving's personnel files on Appellant.
- 2) Subpoenas issued for items which are privileged, such as attorney work product, confidential informant names and addresses, home addresses of police officers, items made confidential from the requester by law and such other matters as the Commission deems confidential at the hearing, need not be produced.

**B. Demotion Appeals**

1. In order to involuntarily demote an employee, the Chief shall file with the Director of Civil Service a letter recommending that the employee be demoted. The Director shall immediately begin to schedule an item on a meeting for the Commission to decide whether or not probable cause exists, based on the Chief's letter. If the Commission finds probable cause does exist, it shall order a full and complete public hearing on such recommended demotion, and shall be responsible for giving

the ten (10) day notice required under §143.054(c) TLGC. The Commission shall hear the recommended demotion on the date and time indicated unless, upon receipt of the notice of hearing, the police officer or firefighter appeals the recommended demotion to an independent, third party hearing examiner under §143.057 TLGC.

2. To the extent practical, the Commission shall follow the same procedure set forth in RULE 010A.3. to decide whether or not to accept the Chief's recommendation.

**RULE 012 Director of Civil Service**

- A.** The Director of Civil Service shall serve as secretary to and perform all work incidental to the Civil Service System in Irving including, but not limited to:
  1. Developing, administering, and grading beginning position and promotional examinations;
  2. Posting lists of examination materials;
  3. Typing and publishing Civil Service Rules and mailing and posting those rules in compliance with §143.008(e) TLGC;
  4. Keeping the records of the Commission; and
  5. Posting required notices under the Open Meetings Act.
- B.** The Director is authorized to act for the Commission in regard to all matters save and except that the Commission alone shall adopt Civil Service Rules, classify positions, hear appeals of promotional examination grades, appeals of promotional pass-overs, appeals of disciplinary suspensions, and appeals of demotions or other matters as prescribed by Chapter 143, TLGC. The Director may delegate actions to his staff as necessary.

**RULE 013 Department Head**

- A.** A person appointed as Chief or as Acting Chief of the Fire or Police Department, shall not be considered as a member of the classified service for purposes of testing, appointment or removal from the position as Department head or for purposes of determination of sick leave, vacation leave or injury leave. A Department head duly appointed from outside the Department shall be eligible for the

unused sick leave bonus available to non-civil service employees, and shall not be entitled to be paid for unused sick leave upon leaving the position of Chief as if covered by §143.045 TLGC.

- B. A person appointed Chief who holds a position in Irving within the classified civil service in the Department at the time of the appointment shall automatically return to the position held upon leaving the Chief's position except as provided in §143.013 TLGC. The removal of the person as Chief to the position last held does not create any new positions and if the placement of the former Chief into the position last held results in more persons than authorized for that position, then the number of persons in the position shall be reduced to the authorized number in accordance with the procedures set forth in §143.085 TLGC.

**RULE 014 Person Classified Immediately Below Department Head**

- A. The Chief of the Department, under Irving City Ordinance Nos. 4394 and 4395, may appoint persons to the rank immediately below Department head pursuant to §143.014 TLGC. The Chief may appoint this position directly or ask the Director of Civil Service to prepare a competitive examination, interview and/or assessment center to help the Chief select an appointee immediately below the rank of Chief.
- B. Although §143.014 TLGC limits the number of persons who may be appointed by the Chief to positions immediately below Department head, the City of Irving City Council may create more positions immediately below the rank of Chief than the Chief may appoint. These positions in excess of the number the Chief appoints shall be filled by competitive examination, and only removed for cause, in the same manner as other positions in the Department within the classified civil service.

**RULE 021 Classification**

- A. The following classifications, from lowest to highest, are established for the Irving Police Department:
  1. Police Officer
  2. Sergeant
  3. Lieutenant
  4. Captain
  5. Assistant Chief of Police

- B. The following classifications, from lowest to highest, are established for the Fire Suppression Division of the Irving Fire Department:

1. Firefighter
2. Fire Equipment Operator
3. Fire Lieutenant
4. Fire Captain
5. Fire Battalion Chief
6. Assistant Fire Chief

- C. The following classifications are established, from lowest to highest, for the Fire Prevention Division of the Irving Fire Department:

1. Fire Prevention Specialist
2. Fire Prevention Lieutenant
3. Assistant Fire Marshal
4. Fire Marshal

**RULE 022 Physical Requirements**

The physical requirements for the Police and Fire Departments (which shall be tested for only after a conditional offer of employment) are as follows:

- A. No mental, nervous, organic, or functional disease likely to interfere with safe performance of duties. No loss of body part(s) or other structural defect or limitation likely to interfere with performance of duties.
- B. Telebinocular visual acuity correctable to 20/20 (Snellen); field of vision in the horizontal meridian of not less than 140 degrees; ability to distinguish the colors red, green and yellow.
- C. Hearing shall not be less than 10/20 in the better ear for conversational tones without a hearing aid.
- D. Shall not be addicted to the use of narcotics or habit-forming drugs or the excessive use of alcoholic beverages or liquor.

**RULE 023 Eligibility for Beginning Position**

- A. Pursuant to the Civil Service Commission's general rule-making authority under §143.008(a) TLGC and

the duty under §143.008(b) TLGC to provide for civil service appointment of persons with good moral character, who are physically and mentally fit, and are competent to discharge the duties of the appointment, no person may be certified by the Director of Civil Service as suitable for a beginning position in the Police Department who is shown through a background check or interview process to:

1. Fail to meet the standards prescribed by the Texas Commission on Law Enforcement Standards and Education;
2. Have not attained the age of 21 years at the time the position is offered to the candidate;
3. Have displayed a pattern of conduct within the last five (5) years which evidences that an applicant is:
  - a. Without good moral character;
  - b. Physically or mentally unfit; or
  - c. Incompetent to discharge the duties of the appointment or employment.
4. Specific conduct [within the previous five (5) years] which shows unsuitability under RULE 023E.1., 2. or 3. may include but not be limited to:
  - a. Possession or use of controlled substances;
  - b. Perjury or other false swearing;
  - c. Repeated misuse of alcoholic beverages;
  - d. Membership in any organization which advocates the overthrow of the government by force, or which has adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States;
  - e. Fail to meet driving standards prescribed by the City of Irving;
  - f. Any other act which shows lack of good moral character or incompetence to discharge duties.
5. Have made false or misleading statements or to have engaged in substantial omissions in completing any applications, personal history

statements, or other background material in an effort to be employed in the Police Department.

6. Have been eliminated in the applicant hiring process adopted in RULE 026.
7. Have failed to provide proof of education, (such as diploma, transcript, General Equivalency Diploma or other proof which is acceptable to the Chief) that satisfies minimum requirements specified as an Associate's degree or equivalent (60 hours) with a 2.0 GPA or higher on a 4.0 scale from an accredited college or university, with the following exceptions:
  - a. Applicants who have completed three or more years of active military service and have exited active duty under honorable conditions as prescribed by TCLEOSE within 18 months prior to application must have a high school diploma or General Equivalency Diploma;
  - b. Applicants who have completed three or more years of active military service and have exited active duty under honorable conditions as prescribed by TCLEOSE more than 18 months but less than 36 months prior to application must have completed 30 or more college hours from an accredited college or university with a 2.0 GPA or higher on a 4.0 scale;
  - c. Applicants who have been employed as a full-time certified peace officer for three or more years during the period immediately preceding the submission of their application must have a high school diploma or General Equivalency Diploma;
  - d. Applicants who were employed by the City of Irving as Detention Officers prior to July 1, 2007, must have completed 30 or more college hours from an accredited college or university with a 2.0 GPA or higher on a 4.0 scale.
8. Be unable to intelligently read and write the English language
9. Fail to possess a valid Texas driver's license; or, if not a Texas resident, fail to possess a valid driver's license in the applicant's home state or jurisdiction.

- B.** Pursuant to the Civil Service Commission's general rule-making authority under §143.008(a) TLGC and the duty under §143.008(b) TLGC to provide for civil service appointment of persons with good moral character, who are physically and mentally fit, and are competent to discharge the duties of the appointment, no person may be certified by the Director of Civil Service as suitable for a beginning position in the Fire Department who is shown through a background check or interview process to:
1. Have been convicted of, received deferred adjudication for or probation for a misdemeanor involving moral turpitude, or for a felony, bribery, official oppression, or arson;
  2. Have been convicted within the previous five (5) years of, or found guilty by deferred adjudication, or received probation for driving while intoxicated, possession of controlled substance, fleeing from police or resisting arrest;
  3. Have formal charges pending for offenses described in RULE 023A. or B.;
  4. Have not attained the age of 21 years at the time the position is offered to the candidate;
  5. Have displayed a pattern of conduct within the last five (5) years which evidences that an applicant is:
    - a. Without good moral character;
    - b. Physically or mentally unfit; or
    - c. Incompetent to discharge the duties of the appointment or employment.
  6. Specific conduct [within the previous five (5) years] which shows unsuitability under RULE 023E.1., 2. or 3. may include but not be limited to:
    - a. Theft of goods or services including but not limited to acts of robbery, forgery, burglary, fraud or other unlawful misappropriation above the Class C Misdemeanor level;
    - b. Violence against another person unless done in self-defense or defense of others;
    - c. Sexual assault or indecency;
    - d. Abuse of or indecency with a child;
  7. Have made false or misleading statements or to have engaged in substantial omissions in completing any applications, personal history statements, or other background material in an effort to be employed in the Fire Department.
  8. Have been eliminated in the applicant hiring process adopted in RULE 026.
  9. Have failed to provide proof of completion of high school, such as a diploma, transcript, General Equivalency Diploma or other proof which is acceptable to the Chief.
  10. Have failed to provide proof of U.S. citizenship.
  11. Be unable to intelligently read and write the English language.
  12. Have failed to apply proof of discharge for applicants who have served in any capacity in the military services. Applicants who have completed three (3) or more years of active military service and have exited active duty under honorable conditions must supply documentation of their discharge.
  13. Fail to possess a valid Texas driver's license; or, if not a Texas resident, fail to possess a valid driver's license in the applicant's home state or jurisdiction.
- e. Possession or use of controlled substances;
  - f. Perjury or other false swearing;
  - g. Repeated misuse of alcoholic beverages;
  - h. Membership in any organization which advocates the overthrow of the government by force, or which has adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States;
  - i. Fail to meet driving standards prescribed by the City of Irving;
  - j. Received three (3) or more days off work for incompetence;
  - k. Been away from work without leave;
  - l. Any other act which shows lack of good moral character or incompetency to discharge duties.

14. Failed to meet the standards prescribed by the Texas Commission on Law Enforcement Standards and Education, if the person is being appointed to fire prevention classification.

#### **RULE 025 Entrance Examination Procedure**

- A. There are separate entrance examinations administered for the beginning positions of Police Officer, Firefighter and Fire Prevention Specialist.

Applicants taking the Police Officer entrance examination are allowed to register for the examination at any time prior to the start of the examination. Registration for the examination on the date of the exam will take place at the examination site.

Registration for Fire entrance examination is conducted continuously. Regardless of an applicant's status on previous or current lists, to be eligible for notification of the next exam, applicants must register prior to the cutoff date, which date is established by the Civil Service Commission or Director of Civil Service acting on behalf of the Commission. Applicants who have registered for the exam will be notified by mail of the exact date, time and place the exam will be held and are required to return the notification letter by the specified date if they intend to take the exam. Only registered applicants who have returned their letter to, or under circumstances approved by the test administrator, otherwise notified Human Resources staff, will be allowed to take the test. Applicants are responsible for notifying the Human Resources staff when their address changes. Obvious errors for which, in the test administrator's opinion, the City of Irving is responsible will not prevent a registered applicant from taking the entrance examination.

- B. Applicants who have an "honorable" discharge from the armed forces of the United States shall receive an additional five (5) points added to their passing grade on the entrance exam, provided that official documentation, such as a DD-214, is presented to the Director of Civil Service or his designee at the examination site.
- C. Applicants will not be allowed to review the entrance examination before the examination is administered or after the applicant completes the examination.
- D. The Director of Civil Service, because of any good and sufficient reason, may postpone, reschedule or cancel a police or fire entrance examination.
- E. Applicants must present a driver's license or other identification acceptable to the Director or his designee to be permitted to take the examination.

- F. Any person which the Director of Civil Service or his designated representative finds to be cheating on the examination shall not be permitted to submit the examination for scoring.

- G. An applicant who is a natural-born or legally adopted child of a firefighter who previously suffered a line-of-duty death while covered by Chapter 143 TLGC and who receives a passing grade on the entrance exam, shall be ranked at the top of the respective Fire eligibility list, provided that official documentation, as specified below, is presented to the Director of Civil Service or his designee prior to that respective examination date.

1. Proof of line-of-duty death of the parent by:
  - a) Verification from the Fire Marshal of the State of Texas, the National Fallen Firefighters Foundation or the United States Fire Administration; *and*
  - b) Verification that, at the time of the parent's death, the decedent was a firefighter appointed and covered by Chapter 143 TLGC or its predecessor, Article 1269m, Vernon's Revised Texas Civil Statutes.
2. Proof of relationship with the deceased firefighter, i.e., birth certificate or court adoption order.

#### **RULE 0251 Reappointment after Resignation**

A police officer who voluntarily resigns from the Irving Police Department, and who desires to return to service with the Irving Police Department, may be reappointed to the rank of police officer without taking another departmental entrance examination in accordance with the following:

- A. The person shall complete a City of Irving employment application and submit that to the Director of Civil Service through Human Resources staff.
- B. The Director of Civil Service shall immediately forward the application to the Police Department for processing in the same manner as other applicants who have taken an entrance examination.
- C. The Chief of Police may choose to process the former officer or not, within the Chief's discretion. If the Chief does process for appointment a former

officer who is not on the current eligibility list and finds that reappointment of the person would be in the interest of the Irving Police Department, the Chief shall forward that person's name to the Director of Civil Service for appointment to a vacant position by the Chief Executive Officer. Such person shall be placed at the head of any list of three persons forwarded to the Chief Executive Officer. In case there is more than one former officer forwarded to the Director of Civil Service for reappointment, the Chief may specify order of placement on the list.

- D. If the person is reappointed in accordance with this process, the person shall receive previously accrued seniority only for purposes of promotional examinations. Other benefits based on seniority shall be determined by City of Irving policies and procedures.

**RULE 026 Process for Filling Beginning Positions**

The following process begins with the successful completion of the Civil Service entrance examination that is administered by the City of Irving Director of Civil Service. From this point on, all the applicants are considered in rank order of their grades on that exam plus any points available for being honorably discharged from the armed services of the United States, from the highest grade to the lowest.

An applicant who at any point in this process fails to meet any scheduled appointment, fails to provide any required paperwork by the specified deadline, or otherwise fails to perform as required by the Irving Fire Department, Irving Police Department, or City of Irving Human Resources staff, may be deemed unsuitable for employment. Applicants may also be deemed unsuitable for employment based on any relevant factual information indicating that the applicant is unsuitable for employment. Applicants deemed unsuitable for employment are removed from the process and not considered further.

When an applicant is deemed unsuitable for employment, the Chief of the investigating Department will notify, in writing, the Director of Civil Service of the reason(s) for the determination.

The following steps are all required, but their order may be varied to suit the circumstances.

**A. Step One - Eligibility List is Issued**

The Director of Civil Service provides the Department with an Eligibility List (the List) of Applicants. The List is comprised of the names and scores of the applicants who successfully complete the entrance examination. The List is

ordered by the scores, from highest to lowest. Tied scores are ordered in the following manner: first, in favor of a current employee in the department for which the examination is held; second, by the score on the examination; third, by a computer-assigned random number. From this point on, applicants are considered strictly in the order in which they appear on the List.

The List expires when it no longer contains the required number of applicants to form a Certification from Eligibility List (see *Step Twelve*) or when its expiry date arrives. The normal expiry date for the Fire Department is one year after the date the entrance examination is given. For the Police Department, it is six months after the date the entrance examination is given. The Civil Service Commission may, by order, and not necessarily by Rule amendment, change the expiry date for the eligibility list for any position. Having received the List, the Department is provided or generates the following documents for each applicant:

1. City of Irving employment application;
2. Departmental applicant background questionnaire.

**B. Step Two - Determining the Number of Positions to Fill**

The City Council determines the number of positions allocated to the Department. The Department determines the number of positions to be filled based on vacancies in approved positions. Using past experience as a guide, the Chief determines the number of applicants required. The goal is to have a large enough pool to provide the required number of new employees without spending time and money evaluating more persons than necessary.

**C. Step Three - Notification of Physical Fitness or Agility Test**

The Department selects a date for the physical fitness or agility test to be held. Applicants are notified of the date, time and appropriate attire for this test.

**D. Step Four - Physical Fitness or Agility Test**

A separate physical fitness or agility test shall be given for each type of beginning civil service position.

1. The physical fitness or agility test for the Fire Department's beginning position of Firefighter is a series of events designed to measure the ability of applicants to perform physical tasks that they may reasonably be expected to

encounter as firefighters. It is periodically reevaluated and will continue to be revised as needed to reflect actual requirements of the job. All applicants from the same eligibility list shall be subject to the same physical fitness or agility test. Details of the current specific events utilized in the test can be obtained from the Director of Civil Service.

2. The physical fitness or agility test for the Fire Department's beginning position of Fire Prevention Specialist is a series of events designed to measure the ability of applicants to perform physical tasks that they may reasonably be expected to encounter as Fire Prevention Specialists. It is periodically reevaluated and will continue to be revised as needed to reflect actual requirements of the job. All applicants from the same eligibility list shall be subject to the same physical fitness or agility test. Details of the current specific events utilized in the test can be obtained from the Director of Civil Service.
3. The physical fitness or agility test for the Police Department's beginning position of Police Officer is a series of events designed to measure the ability of applicants to perform physical tasks that they may reasonably be expected to encounter as police officers. It is periodically reevaluated and will continue to be revised as needed to reflect actual requirements of the job. All applicants from the same eligibility list shall be subject to the same physical fitness or agility test. Details of the current specific events utilized in the test can be obtained from the Director of Civil Service.

**E. *Step Five - Persons are Selected for the Polygraph Test***

A selected number of applicants are given notification instructing them to report for the polygraph test.

The administration of the test may be performed by a private agency and the results are returned to the Department.

**F. *Step Six - Background Check***

The previously described City of Irving employment application; Departmental applicant background questionnaire; pre-polygraph interview form; and the "Department Personal History Statement for Applicants" may be used as basis for this background investigation. The applicant's references and other people may be contacted and interviewed. A standard credit check is obtained on each

applicant. The applicant's work history, driving record and criminal record will be documented.

Applicants will be deemed unsuitable for employment if the background check demonstrates that the applicant has deliberately falsified or failed to provide requested information. Similarly, applicants who lack eligibility according to the requirements of RULE 023 or who have violated provisions of RULE 008(c) will be deemed unsuitable for employment.

**G. *Step Seven - Drug Screen and Alcohol Test***

The applicant is instructed to report for a standard drug-screening laboratory test. The test type used is a urine analysis. The applicant may also be instructed to report for a breathalyzer examination to test for alcohol impairment. (A reading of greater than .04% blood alcohol shall be considered failing and render the applicant unsuitable.)

**H. *Step Eight - Letter of Initial Disqualification for Cause***

Individuals who do not pass the background check, the physical fitness or agility test, or the drug screen test are not to be certified as suitable for a beginning position. A letter stating the cause is sent to the Director of Civil Service by the Chief or his designee. Any applicant who is found to be unsuitable shall have the opportunity to discuss such finding with the Director of Civil Service, however, no right of appeal to the Civil Service Commission shall exist for any applicant found unsuitable.

**I. *Step Nine - Oral Interview***

The applicants who have passed the physical fitness or agility test, drug screen tests and background checks, are requested to report for the oral interview process. At the interview, the applicant is presented to an Interview Board. The Interview Board is comprised of members of the Department selected by the Chief of Department or his designee, and at least one member of which is from one of the lowest two classifications in the Department.

The applicant is closely questioned on any areas that the background check indicated as problematic.

Each board members is issued an evaluation form and asked to provide their written opinion of the suitability of the applicant. The evaluation forms and attendant files are delivered to the Chief of Department at the conclusion of all the interviews.

**J. *Step Ten - The Director of Civil Service Receives Applicants' Files***

All of the files of applicants who are processed are reviewed by the Chief of Department. A memo to the Director of Civil Service is written for each applicant with the Department's determination of suitability or unsuitability.

**K. *Step Eleven - Request for Certified Eligibility List***

The Chief of the Department, or his designee, sends a memo to the Director of Civil Service requesting a certified eligibility list of suitable applicants to allow vacancies to be filled. The Director of Civil Service, acting on the Commission's behalf, determines which, if any, applicants are deemed unsuitable for employment and removes them from further consideration.

**L. *Step Twelve - Certification From Eligibility List***

Upon receipt of the Chief's memo, the Director of Civil Service prepares a "Certification From Eligibility List", which certifies qualified, suitable individuals from whom the vacancies are to be filled. The "Certification From Eligibility List" shall number two more than the number of vacancies to be filled, and shall consist of those applicants remaining on the Eligibility List taken in order until the required number is reached.

**M. *Step Thirteen - Conditional Offer of Employment***

The first applicant on the "Certification From Eligibility List" selected by the Chief Executive Officer in accordance with §143.026 TLGC, is conditionally offered employment based upon passing a medical physical examination. In addition, with the exception of applicants for positions in fire emergency activities classifications as approved by ordinance, applicants must pass a psychological examination which is scheduled by the Police or Fire Department. The applicant reads and signs the "Conditions of Employment" form.

**N. *Step Fourteen – Psychological Evaluation***

Applicants must be certified by a licensed psychologist or psychiatrist appointed by the board to be in satisfactory psychological and emotional health appropriate to the duties and functions of a professional police officer or Fire Department personnel in a fire prevention class as approved by ordinance. Certification by a licensed psychologist is not required for personnel in fire emergency activities classifications.

Applicants who fail to be certified as psychologically fit to perform the duties of a police officer or a fire prevention personnel by a licensed psychologist or psychiatrist are deemed unsuitable. In accordance with §143.022 TLGC, applicants deemed unsuitable under this cause may request another examination by a board of three psychiatrists, or psychologists, as appropriate, appointed by the commission. The applicant must pay for board examination. The board's decision is final.

**O. *Step Fifteen – Medical Examination***

Applicants must be declared physically sound and medically free from defect which may adversely affect the performance of the duties of a police officer or firefighter. To this end, applicants must be certified by a licensed physician appointed by the board in accordance with Chapter 143 TLGC to meet or exceed the physical requirements established by the Commission for the position for which application has been made.

In accordance with §143.022 TLGC, applicants deemed unsuitable under this cause may request another examination by a board of three physicians, appointed by the commission. The applicant must pay for board examination. The board's decision is final.

**RULE 027 Eighteen (18) Month Probationary Period**

- A.** A person appointed to a beginning position in the Fire Department must serve a probationary period of eighteen (18) months beginning on that person's date of employment as a firefighter or academy trainee if that person must then attend a basic training academy necessary for initial certification by the Texas Commission on Fire Protection.
- B.** A person appointed to a beginning position in the Police Department must serve a probationary period of eighteen (18) months beginning on that person's date of employment as a police officer or academy trainee if that person must then attend a basic training academy necessary for initial certification by the Commission on Law Enforcement Officer Standards and Education.

**RULE 029 Promotional Exam Notice**

The thirty (30) day notice of examination required by §143.029(b) TLGC will not further describe the list of promotional materials, the number of questions taken from each source, nor the chapter used in each source.

### **RULE 032 Promotional Exam Process**

- A.** Promotional examinations will contain no less than 100 nor greater than 150 multiple choice questions.
- B.** The Commission will post for at least ninety (90) days:
  - 1. Newly added police or fire promotional examination sources. After the required posting such sources may be used for promotional exams and remain valid until withdrawn.
  - 2. Withdrawn police or fire promotional examination sources.
- C.** One seniority point is given for each full year of service (prior or present) completed, and one twelfth (1/12th) point is given for each additional full month of service (prior or present) completed, in a classified civil service position within the employee's current City of Irving department.
- D.** A minimum of three (3) persons shall be required to take a promotional exam.
- E.** No examinee will be shown another's answer sheet.
- F.** The Director of Civil Service may, because of any good and sufficient reason, postpone or cancel a police or fire promotional examination.
- G.** Any person admitted to the examination area after the test has started must complete the exam by the same time as applicants who arrived on time.

### **RULE 033 Promotional Examination Grades**

- A.** A firefighter examinee must score seventy (70) points or more to pass the examination. Seniority points shall then be added to the passing grade to create a promotional list for firefighters. Seniority points shall be added to the examination score of police officer examinees without regard to their raw examination score, then a promotional list shall be created of examinees whose examination score, plus seniority points, equals seventy (70) points or more.
- B.** If the total score (including passing examination score plus seniority) results in a tie, the following order of steps shall apply in breaking the tie:
  - 1. Highest examination score;
  - 2. Time in grade;

- 3. Position on the eligibility list used to obtain examinees' current classification;
- 4. Random numbers assigned by the computer.
- C.** The Director of Civil Service may correct any obvious error or mistake in the grading of the examination, or the computation of the raw or total score on an eligibility list.

### **RULE 034 Promotional Examination Appeals**

- A.** During the five (5) day appeal period following a promotional examination, each eligible promotional candidate may examine the person's promotional examination and answers by visiting the specified location during office hours as established at the time of the examination. No electronic devices, personal papers, books, notebooks or briefcases may be brought in during this visit.
- B.** Appeals must be made in writing and include a reasoned statement explaining the examinee's belief as to which (if any) answer or answers should be accepted as correct. Support for an appeal may include factors such as:
  - 1. Another answer choice being an equally valid answer to the question and coming from the same source.
  - 2. A typographical, copying or other error significantly altering the meaning of the question or answer in such a way as to render the approved answer invalid.
- C.** Factors that do not support an appeal include, but are not limited to, typographical errors or omissions that are disclosed to the examinees and are verbally corrected during the examination.
- D.** No examinee will be shown another's answer sheet.
- E.** At the promotional examination appeal hearing, the time for oral presentation for each appealed question will be limited to three (3) minutes, unless a different time is set by the Commission at the hearing. Only one person will be allowed to speak at a time and only one speaking turn will be allowed per person. This rule does not limit the ability of the Commissioners to ask questions of the appellant(s) or others participating in the discussion. The appellant(s) will have a maximum of one (1) minute each to rebut arguments against their appeal.

Any additional written material to be presented at the hearing must be made available to the

Commission within ten (10) calendar days of the date of the examination.

“working day” shall be considered to be twelve (12) hours, so that such firefighter will be entitled to earn 180 hours of sick leave with pay each year.

**RULE 041 Salary**

All members of the classified civil service shall be eligible to participate in the City of Irving employee suggestion program and the Police Department’s Referral Bonus program on the same basis as non-civil service employees of the City. Participation shall be on a voluntary basis and shall not be considered part of the duties of a member of the classified civil service. Any financial incentives awarded by the City of Irving pursuant to the employee suggestion program are awarded on the basis of benefit to the City as a whole, and shall not be considered as part of a civil service member’s base salary. Unless sooner amended or repealed, this rule shall be in effect as long as the program is administered by the City of Irving.

**RULE 041(c)1 Seniority for Beginning Positions**

The determination of where a newly-hired Police Officer will be placed, for purposes of seniority pay, will be made based on completed and unbroken whole years of service [other than *de minimus* breaks in service of thirty (30) days or less which are normally encountered when changing employment] as a certified peace officer with any public law enforcement agency. Beginning pay will commence on the date the officer reports to work and will be at a step commensurate with a current City of Irving Police Officer with equal years of experience. Thereafter, employees will progress within the pay structure according to current City of Irving Pay Plan Procedures.

**RULE 045(a) Accumulation and Payment of Sick Leave**

- A. A firefighter or police officer is allowed sick leave with pay accumulated at the rate of one and one-fourth (1¼) full working days for each full month employed in a calendar year, so as to total fifteen (15) working days to a person’s credit each twelve (12) months.
- B. In the case of each police officer, for purposes of the accumulation of sick leave, a “working day” shall be considered to be eight (8) hours, so that a police officer will be entitled to earn 120 hours of sick leave with pay each year.
- C. In the case of each firefighter who normally averages a fifty-three (53) hour work week, for purposes of the accumulation of sick leave, a

- D. In the case of each firefighter who is paid as an exempt employee or who works a forty (40) hour, or an average forty (40) hour, work week schedule not counting overtime, for purposes of the accumulation of sick leave, a "working day" shall be considered to be eight (8) hours, so that such firefighter will be entitled to earn 120 hours of sick leave with pay each year.

**RULE 046(a) Vacations**

- A. Each firefighter or police officer is entitled to earn a minimum of fifteen (15) working days vacation leave with pay each year.
- B. In the case of each police officer, for purposes of the accumulation of vacation leave, a “working day” shall be considered to be eight (8) hours, so that a police officer will be entitled to earn a minimum of 120 hours of vacation leave with pay each year.
- C. In the case of each firefighter who normally averages a fifty-three (53) hour work week, for purposes of the accumulation of vacation leave, a “working day” shall be considered to be twelve (12) hours, so that such firefighter will be entitled to earn a minimum of 180 hours of vacation leave with pay each year.
- D. In the case of each firefighter who is paid as an exempt employee or who works a forty (40) hour, or an average forty (40) hour, work week schedule not counting overtime, for purposes of the accumulation of vacation leave, a "working day" shall be considered to be eight (8) hours, so that such firefighter will be entitled to earn a minimum 120 hours of vacation leave with pay each year.

**RULE 053 Appeal of Disciplinary Suspension**

- A. A suspended firefighter or police officer who appeals a suspension shall be scheduled to be heard by the Civil Service Commission unless a hearing examiner is specifically requested. The Director of Civil Service is authorized on behalf of the Commission to agree with the Appellant on postponing a date for hearing beyond thirty (30) days, so long as RULE 010 is met.
- B. When a person receives a letter of indefinite suspension, and such person appeals the suspension, the person may receive payment for all unused compensatory time and vacation leave. If the appeal

is successful, compensatory time and vacation time which have been paid are not restored.

While an appeal of an indefinite suspension is pending, the Appellant may choose to be paid for unused sick leave upon leaving the classified service in accordance with §143.045(c) TLGC.

- C. If an indefinite suspension is overturned on appeal, any accrued sick leave for which the person was not paid when terminated will be returned to the person's sick leave account.

**RULE 056 Appeal For Recovery of Back Pay**

- A. Whenever a firefighter or police officer has been temporarily suspended under §143.056(a) TLGC, then found not guilty of the indictment or complaint, and appeals for back pay under §143.056(e) TLGC, the issue to be determined by the Commission or Hearing Examiner is whether or not, under a preponderance of the evidence, the firefighter or police officer committed any of the criminal acts alleged in the indictment or complaint. If the firefighter or police officer is found by the Hearing Examiner or Civil Service Commission to have committed any of the acts alleged, including lesser included offenses above the level of Class C Misdemeanor, no back pay shall be awarded. If the firefighter or police officer is found by the Hearing Examiner or Civil Service Commission to have committed none of the acts alleged, and no lesser included offenses above the level of Class C Misdemeanor, full back pay shall be awarded.
- B. Conviction of a lesser included offense above the level of Class C Misdemeanor shall result in a finding that the firefighter or police officer shall not have a basis to appeal to the Commission for back pay.
- C. Entry of an Order of Deferred Adjudication, because it is founded on a plea of "Guilty" or "No Contest" shall be proof that the actions alleged were committed.

**RULE 057 Hearing Examiners**

- A. When a hearing examiner is properly requested in place of the Civil Service Commission, such hearing examiner is bound by all rules and laws (including the Open Meetings Act) applying to the Civil Service Commission except as specifically varied by Chapter 143, TLGC.
- B. When an appeal is filed requesting a hearing examiner, the Director of Civil Service shall

immediately request a list of seven (7) names from the American Arbitration Association without waiting to hear if the Appellant and the Chief have agreed to a hearing examiner. If agreement is reached, the agreed person shall be the hearing examiner. If agreement is not reached, then the parties shall pick a name from the list provided in accordance with §143.057 TLGC. If a name is not selected within five (5) days of receipt, the Director of Civil Service shall require the Appellant and the Chief or their representatives to appear in person or telephonically before the Director or his designee to select a name from the list.

**RULE 072 Military Leave of Absence**

- A. A civil service member may enlist or be called to active duty in the United States military service. The Civil Service member shall follow the procedure set forth in §143.072 TLGC, in order to obtain a military leave of absence. The Director of Civil Service may confirm the granting of the military leave of absence upon proper written request from the member, and shall report the same to the Civil Service Commission at the next meeting. If the member shall fail to apply for the military leave of absence, the Chief of the member's department may apply for military leave of absence on the member's behalf.
- B. A Civil Service member shall receive a leave of absence, but not a military leave of absence, to engage in initial training or annual duty in the military reserves or National Guard. Such leave of absence shall be awarded by the Director of Civil Service with a report following to the Civil Service Commission at the next meeting.
- C. After the granting of a military leave of absence by the Civil Service Commission and the start thereof, the Director of Civil Service shall treat the position as vacated and shall initiate the normal procedure for filling a vacancy. A grant of a leave of absence by the Director of Civil Service under Subsection B. shall not require that the position be filled.
- D. If the person who takes the position of the member who is granted military leave of absence is in a beginning position with the department (Police Officer, Firefighter or Fire Prevention Specialist) at such time that the member returns from military leave of absence, the person shall retain their position if there are any vacancies in the identical beginning position of the department. If there are no vacancies, the person who replaced the member receiving military leave of absence shall be laid off, but shall be given a preferential right to the next subsequent vacancy.

## **RULE 081 Fitness for Duty**

- A.** If the Chief questions whether a firefighter or police officer is mentally or physically fit for duty, the Chief may request a report under §143.081 TLGC, on a form approved by the Commission, and give a copy of such request to the firefighter or police officer and the Commission. The Chief may continue the police officer or firefighter in regular assignment or may place the person on special leave with pay.
- B.** Failure of the firefighter or police officer to return the report of the physician, psychiatrist or psychologist selected by the firefighter or police officer within ten (10) days of the Chief's request shall be considered grounds for disciplinary action, unless within four (4) days of the Chief's request, the person provides a statement from the person's physician, psychiatrist or psychologist that no appointments are available within that ten (10) day time period. In no case shall a person requested by the Chief to provide the report specified herein return said report later than twenty-one (21) days after the Chief's initial request, and such failure shall be grounds for disciplinary action.
- C.** If the Chief believes the person is unfit for duty and questions the report, the Chief may place the person on special leave with pay and request that the Commission appoint another physician, psychiatrist or psychologist as appropriate to examine the person. If there is a difference in reports, the Commission shall appoint a board of three (3) pursuant to §143.081(f) TLGC. The person must see all three (3) physicians, psychiatrists or psychologists as quickly as doctor's appointments are available. If the report of the board of three (3), or two (2) of the three (3), finds the person unfit for duty, then the result is final and the person is no longer a member of the classified service.