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40**RULE XXII**
Appeals, Hearings, and Investigations

Section A. Appeals from administrative decisions

The Civil Service Commission shall accept and review any appeal from a decision of the Personnel Director, by an Appointing Authority, an employee or an applicant. Review of appeals from the following types of administrative decisions shall be governed as follows:

1 Review by commission

a Applications, examinations and ratings

- (1) Rejection of applications, examination ratings, experience or other qualifications, and removal of names from the eligible list are subject to review by the Personnel Director and appeal to the Commission. Requests for reconsideration of such items shall be made in writing to the Personnel Director within 10 calendar days of the notice of the rejection, rating or removal from the eligible list and should contain sufficient pertinent information to enable re-evaluation of the original decision.
- (2) The request for reconsideration must include a statement of each reason why the applicant believes the original decision was not proper, what factors were not given adequate weight and why the applicant believes reconsideration is warranted.
- (3) The Personnel Director will reconsider the rating or decision, notify the applicant in writing of his decision and of the applicant's right of appeal to the Commission.
- (4) Appeals must be in writing, contain specific reasons for appealing and be received in the Division of Personnel within 10 calendar days of notification of the Personnel Director's decision.
- (5) Acceptance of an application, amendment of the examination rating, or restoration to an eligible list shall not affect any certification or appointment which may have been made from the eligible list prior to the change.

b Classification or reclassification of position

- (1) If an employee or Appointing Authority believes that a position has been improperly classified or reclassified, an appeal requesting review by the Commission may be submitted within 10 calendar days of written notification of such classification or reclassification.
- (2) An employee classification appeal will be accepted only for the position currently occupied by the appellant.
- (3) Each appeal submitted shall include a statement of the basis for the appeal and any exhibit or written material setting forth all facts which the appellant desires to have considered.
- (4) The Commission may require the appellant to complete forms and may require additional information prior to consideration of the appeal.
- (5) The Commission or designated Commission member may hold a hearing or review the written record to determine the facts in each case and the Commission shall make its decision on the basis of the facts.

c Nature of commission review

Rule XXII: Appeals, Hearings and Investigations

41 (1) Review of appeals from decisions of the Personnel Director may be conducted at regular
 42 Commission meetings, or such other time as the Commission may direct. The Commission
 43 shall act upon a requested review within 30 calendar days of the receipt of such written
 44 requests.

45 (2) The Commission may permit the appellant to be heard, if so requested.

46 (3) The decision of the Commission shall be final. Any applicant, employee, or Appointing
 47 Authority affected by a decision under this section shall be notified of the Commission's
 48 decision in writing.

49 Section B. Appeals from reduction in pay, demotion, suspension and discharge

50 1 General provisions

51 a Any permanent employee reduced in pay, ordered suspended for longer than 30 calendar days in
 52 any 12-month period, involuntarily demoted, or discharged, may appeal to the Commission from
 53 such action by filing a written request for a hearing together with a written answer to the charges
 54 made against the employee. An appeal must be received in the Division of Personnel within 10
 55 calendar days after receipt of the notice of reduction in pay, suspension, demotion, or discharge
 56 and shall set forth the substantive reasons for believing that the action of the Appointing Authority
 57 was improper. The right of appeal shall not apply to an employee suspended for more than 30
 58 calendar days in any 12-month period who has been charged with or is under investigation by a
 59 competent law enforcement authority for the violation of a municipal, county, state, or federal
 60 ordinance, statute or law affecting the employee's employment with St. Louis County or an
 61 employee who is involved in a matter which could be the basis of discharge under Section B. of
 62 Rule XXI, Suspensions and Discharge, and the right of appeal shall not apply to pretermination
 63 suspensions.

64 b Upon receipt of the appeal the Personnel Director shall forward a copy to the Appointing Authority
 65 and the Commission.

66 c The Personnel Director may mail to the appellant a form on which the appellant shall state the
 67 specific reasons for appeal and the specific remedy sought. The completed form must be returned
 68 to the Personnel Director within 10 calendar days of receipt.

69 d The Commission shall set a date for hearing the appeal as soon as possible after receipt of the
 70 appeal.

71 2 Hearing procedure

72 a In conducting hearings and investigations the Commission shall act as a body, but special
 73 investigation and detailed work may be delegated to a member, to the Personnel Director or to a
 74 person or agency designated by the Commission. Hearings may be held by the Commission, or by
 75 any member thereof authorized to serve as the hearing officer, but the decision shall be rendered
 76 by the entire Commission after consideration of all testimony and evidence adduced at the
 77 hearing.

78 b All hearings held under the provisions of these rules shall be public, except that in a hearing on a
 79 suspension for more than 30 calendar days in a 12-month period, or a dismissal, the Commission
 80 may grant an employee's or Appointing Authority's request for a closed hearing consistent with
 81 Chapter 610 R.S. MO.

82 c All hearings shall be informal and shall not be subject to the technical rules relating to evidence
 83 and witnesses.

Rule XXII: Appeals, Hearings and Investigations

84 d The appellant shall appear personally before the Commission and may not be excused from
85 answering questions and supplying information. Either party may be represented by legal counsel
86 at such hearings.

87 e Hearings involving several appellants having a common issue may be considered jointly or
88 individually, at the discretion of the Commission.

89 f In the course of any hearing or investigation, the Commission, members of the Commission, or the
90 Personnel Director shall have the power to administer oaths, to subpoena and require the
91 attendance of witnesses and the production of records and documents pertinent to any matter of
92 inquiry. Each member of the Commission shall have the power to examine such witnesses under
93 oath in relation to any matter involved in the proceeding.

94 g Merit system employees shall be required to attend and testify without subpoena. If any
95 employee shall willfully refuse to testify or answer any questions relative to the matter being heard
96 by the Commission on any grounds, other than rights secured to individuals by the Fifth
97 Amendment to the United States Constitution, the employee shall forfeit his position and shall be
98 summarily discharged. The Commission may take such notice of and draw such inference from an
99 appellant's refusal to testify based upon Fifth Amendment grounds as the law shall allow. A merit
100 system employee who is required to be present as a witness at an appeal hearing before the
101 Commission and who is otherwise eligible shall receive overtime compensation from the
102 employee's Appointing Authority as provided in the Commission Pay Plan Rule. The earning of
103 compensatory time under this provision shall be subject to any administrative regulations which
104 the Commission finds necessary for the control of such compensatory time.

105 h Unless incapacitated, failure of the appellant to appear at the hearing shall be deemed a
106 withdrawal of the appeal and the action of the Appointing Authority shall become final.

107 3 Decision of commission

108 a The Commission may affirm, modify or reverse the Appointing Authority's action.

109 b Compliance with Commission decisions on appeal is mandatory for the Appointing Authority. If the
110 action of the Appointing Authority is affirmed by the Commission, the effective date shall stand as
111 issued by the Appointing Authority.

112 c If the action of the Appointing Authority is reversed the employee shall be reinstated to the same
113 position, or one of like seniority, status and pay, and shall be reimbursed by the employing
114 department for lost pay, in an amount determined by the Commission, provided that earnings
115 from private or other public employment, unemployment compensation, workers' compensation,
116 retirement benefits, or reasonable value of any maintenance given during the period of suspension
117 or discharge shall be deducted from this amount.

118 d If the action of the Appointing Authority is modified by the Commission, retroactive pay and/or
119 other benefits shall be in accordance with and proportionate to the extent of such modification or
120 as set forth in the Commission's decision.

121 e The Commission shall issue written Findings of Facts and Conclusions of Law and render a decision
122 within a reasonable time after the hearing. Copies of the decision shall be furnished to the
123 Appointing Authority and the employee.

124 Section C. Authority for investigations

Rule XXII: Appeals, Hearings and Investigations

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- 1 The Commission may upon its own initiative make inquiries or investigations and hold public hearings as it deems warranted regarding the administration and effect of the Charter, Ordinance and these rules.
- 2 The Commission shall receive and consider any suggestion or complaint by the public, an employee or Appointing Authority in any matter concerned with the administration of the Charter, Ordinance and these rules as they relate to personnel administration, and after consideration, investigation or hearing shall initiate any remedial action it deems warranted.