

RULES AND REGULATIONS OF THE  
CIVIL SERVICE COMMISSION FOR  
THE CITY OF FORT SMITH,  
ARKANSAS  
POLICE DEPARTMENT

June 28, 2017

Section 1: Civil Service Rules - Examination Policy

- 1:01 All examinations and interviews referred to in these rules shall be open and competitive, and shall be designed to test the qualifications of applicants for employment and candidates for promotion.
- 1:02 Written examinations for employment and promotion may be given for the Police Department on the first Monday in April and/or the first Monday in October of each year or: (i) at any other time(s) approved by the Civil Service Commission; or (ii) unless prohibited by law, at any other time(s) set by the Police Department with the approval of the Police Chief. The same examination for employment may be administered on multiple occasions within a testing period of not more than ten (10) days in order to accommodate a greater number of applicants. In such instance, the Police Department shall take such steps as are necessary to ensure that no applicant is given information about any content of the written test by any other applicant who previously tested during the same testing period. If a written examination for employment or promotion is held pursuant to date(s) specifically set by the Civil Service Commission, the Civil Service Commission shall meet sufficiently in advance of the date(s) for such examinations so as to give the notice required by Section 1:03 of these rules. If a written examination for employment or promotion is held pursuant to date(s) specifically set by the Police Department: (i) the Police Department shall confirm with the City Attorney's Office that the examination date(s) proposed are consistent with the requirements of law; (ii) the Police Department shall promptly provide written notice of the date(s) for such written examination to the Civil Service Commission by delivering such written notice to the Human Resources Director, or his/her designee, who shall then promptly deliver the notice (preferably electronically but by any other means of providing actual notice) to all Civil Service Commissioners; (iii) upon request of any Civil Service Commissioner, a special meeting of the Civil Service Commission shall be called and the Civil Service Commission shall either approve such examination date(s) or shall direct that such examination(s) shall not occur, but in the absence of any such request by a Civil Service Commissioner made within five (5) business days after written notice of such examination date(s) to the Human Resources Director, or his/her designee, such examination date(s) shall be conclusively deemed to be approved by the Civil Service Commission.
- 1:03 At least ten (10) days before the date of any such examination that will have an effective period of one year, and at least sixty (60) days before the

date of any examination that will have an effective period of longer than one year, a notice of such examination stating the date, time, location, and purposes thereof, shall be published in a newspaper having a bona fide circulation in the City of Fort Smith, and shall be posted at the Fort Smith Police Department, the Municipal Office Building of the City of Fort Smith, and such other location(s) as may be required by law, or as is required for accreditation purposes as directed by the Chief of Police, at such time. Such notice may, but is not required to be, posted at any additional location(s), including on one or more internet websites, deemed prudent by the Department of Human Resources of the City of Fort Smith or by the Chief of Police. [LE 34.1.1] [LE 34.1.5]

- 1:04 The same written examination shall not be given for promotion on two successive occasions nor shall identical examinations be used for examining different positions.
- 1:05 All examinations shall be conducted impartially, and instructions pertaining to the examinations shall be made available to all candidates.
- 1:06 At least one member of the Civil Service Commission shall be present during the administration of all written employment and promotional examinations given by the Commission. The Commission shall bear sole responsibility for grading all written employment and promotional examinations. The Commission may delegate the administration of written examinations and/or the duty to have a proctor present during the administration of all written employment or promotional examinations to the Department of Human Resources of the City of Fort Smith or the Human Resources Director, or his/her designee, of the City of Fort Smith.
- 1:07 Following the administration of a written employment or promotional examination, an applicant may review his or her own test results. Requests to review the results must be made, in writing, within ten (10) days of the date of the administration of the test, to the Human Resources Director, or his/her designee, for the City of Fort Smith. During the review process, the applicant may not copy any test question in any form whatsoever. [LE 34.1.3.e]
- 1:08 As soon as is practicable after the examination, the Commission shall complete its review of the examination process and prepare the

appointment or promotional eligibility list. The list shall be certified within ninety (90) days upon completion of the examination process and such list shall be in full force and effect from the date of certification for such time frame as may be established by the Commission. Unless the Commission designates a longer effective period for eligibility lists that is not less than one (1) year, nor more than two (2) years, all lists for appointments or promotions as certified by the Commission shall be effective for the period of one (1) year. If, upon the date of certification, a prior eligibility list is still effective, then the certified eligibility list shall not supersede the prior list until such prior list has been exhausted for any one rank or for all ranks, or expires. [LE 34.1.6.d]

- a. If the Commission designates an effective period for the eligibility lists of more than one (1) year under this section, a person shall be eligible for examination for advancement from a lower rank to a higher rank if the person is within twelve (12) months of meeting the time in service requirements for eligibility. However, if that person takes the examination and then is placed on the eligibility list for promotion, the person shall not be promoted from the eligibility list until the person meets the minimum service time requirement in the lower rank as established by the Commission.
- b. If the period of the eligibility list is for more than one (1) year, the extended time period shall be established and certified at least ten (10) days before a component of the test is administered to an employee.
- c. After the eligibility list is certified, the effective time period for that list shall not be extended.
- d. At the expiration of this period, all right of priority under the list(s) shall cease.
- e. In the event of a tie in score for the probationary appointment list between one or more individuals, the tiebreaker will be as follows to determine seniority: 1<sup>st</sup> tiebreaker - Civil Service written test score; 2<sup>nd</sup> tiebreaker - Civil Service oral interview score; 3<sup>rd</sup> tiebreaker - Police Department oral interview score; 4<sup>th</sup> tiebreaker - physical agility examination time; 5<sup>th</sup> tiebreaker - coin flip.
- f. In the event of a tie in score for the promotional list between one or more individuals, the tiebreaker will be as follows: 1<sup>st</sup> tiebreaker - Time in current rank; 2<sup>nd</sup> tiebreaker - seniority as established in the

probationary appointment list.

- g. For ranks where there may not be openings during the effective period of a list, the Civil Service Commission may establish rules to create the eligibles list on an as-needed basis. To determine said eligibles list, the Civil Service Commission shall authorize special examinations per these rules. Said examinations are to be conducted in accordance with Sections 1, 13, and 14 herein.
  - h. If the Civil Service Commission creates an eligibles list on an as-needed basis and a vacancy is created as a result of death, termination, resignation, demotion, retirement, or promotion, the Chief of Police shall notify the Civil Service Commission within five (5) business days, and the Civil Service Commission shall schedule an examination to establish an eligibles list from which an appointment or promotion shall be made unless the position is determined to be eliminated or not funded by the governing body of the City.
- 1:09 The certified eligibility list shall be posted within ten (10) days of the certification at the Fort Smith Police Department and the Municipal Office Building of the City of Fort Smith.
- 1:10 Any applicant for employment or any candidate eligible for promotion who has attempted any fraud, deception, or who otherwise attempted to gain an unfair advantage with reference to the examination process shall be ineligible for appointment or promotion respectively and shall be removed from the eligibility list. If the person attempting to commit fraud, deception, or gain an unfair advantage is a member of the Police Department, that person shall be subject to additional disciplinary action. The Police Chief shall be charged with making a finding of a violation of this rule. His/her decision regarding possible disciplinary action and/or removal from the eligibility list shall become final unless the applicant requests a hearing as established by the rules.
- 1.11 During the testing process for any probationary position within the Police Department, no hat wear, hat(s), cap(s), glove(s), digital or smart watch, or sunglasses shall be allowed to be worn for any purpose unless necessary for medical purposes as unquestionably documented by medical records of the applicant or as documented by a written and signed statement from a medical or osteopathic physician, physician's assistant, advanced practice registered nurse, chiropractor, psychologist, counselor licensed by the

Arkansas Board of Examiners in Counseling, Licensed Clinic Social Worker, or other licensed medical professional within the State of Arkansas providing treatment or medical services to the applicant for a probationary position that is satisfactory within the judgment of the Human Resources Director, or his/her designee. Documentation supporting the need for such above item(s) shall be delivered in writing (by email, in person delivery, or through other means of actual delivery within the designated time period) to the Human Resources Director, or his/her designee, no later than three business days before any scheduled probationary examination in which the individual submitting the documentation desires to participate. It is not the intention of the Civil Service Commission to deny to any person having a medical need for such above item(s) the right to use such item(s) for medical purposes in order to take the Civil Service Examination and any doubt as to the adequacy of such documentation shall be resolved by the Human Resources Director, or his/her designee, with any doubts resolved in favor of the applicant and whose decision shall be final and unappealable. All applicants for any probationary position for the Police Department shall be made aware, in writing, of this requirement within an adequate time to permit compliance with this rule.

- 1.12 Any person applying for any probationary position with the Police Department shall be required, as part of the application process in order to be qualified to take the Civil Service Examination, to state under oath that such applicant is not presently a member of, nor has he or she ever been a member of, or monetary contributor to, any organization, association, group, or other entity that advocates or promotes the unlawful or violent overthrow of the United States Government or any State Government, the unlawful use of violence or force against any United States citizen(s), or the unlawful killing of any law enforcement officer(s) or firefighter(s).

## Section 2: Probationary Appointment Policy - Application for Employment

- 2:01 No person shall be eligible for appointment to the Fort Smith Police Department who has not arrived at the age of twenty-one (21) years.
- 2:02 Applications for employment to the Fort Smith Police Department must be received by the City of Fort Smith's Human Resources Department at

least thirty (30) days prior to the date of the written Civil Service Examination. Applicants must furnish with their application the following information:

- a. A copy of their birth certificate,
- b. A copy of their high school diploma or certificate of General Education Development (GED),
- c. Military discharge papers, if applicable,
- d. Valid driver's license, and
- e. Social Security Card

2:03 Once the requirements of section 2:02 have been completed, applicants will be notified of (a) the date, time, and location of the written Civil Service entrance examination; and (b) the date, time, and location of the physical agility examination.

2:04 All applicants for employment by the Fort Smith Police Department must successfully complete the Fort Smith Police Department's physical agility examination. This examination shall replicate tasks and activities typically required to be performed by a police officer.

2:05 All applicants must successfully achieve a score of at least seventy (70) percent on the written entrance examination administered by the Civil Service Commission. Failure to complete successfully this examination will disqualify the applicant from further consideration for employment.

### Section 3: Probationary Appointment Policy - Background Investigation

3:01 No person who has been convicted of a felony shall be considered for appointment to the Fort Smith Police Department.

3:02 No person shall be considered for appointment to the Fort Smith Police Department who has been convicted of a misdemeanor that involves a crime of theft, of violence (including domestic violence), or of drug usage.

3:03 Once the requirements of sections 2:04 and 2:05 have been met, the

applicant will complete a thorough background questionnaire designed to be used during the applicant's background investigation conducted by the Fort Smith Police Department.

Section 4: Probationary Appointment Policy - Police Department Oral Interview

- 4:01 Applicants will submit to an oral interview conducted by the Chief of Police, or by a panel of representatives designated by the Chief of Police. The purpose of the oral interview will be to determine such things as the applicant's motivation, appearance, demeanor, attitude, ability to communicate, and suitability for the rigors demanded of a police officer. The panel will consist of five officers appointed by the Chief. Two of the officers will hold the rank of police officer, one will hold the rank of sergeant, one will hold the rank of lieutenant, and one will hold the rank of captain or major.
- 4:02 A record of the oral evaluation process shall be made that is adequate and in conformity with the practicalities of the situation in showing the basis of rating the interview.
- 4:03 All applicants must achieve a score of at least seventy (70) percent during the oral interview conducted by the Fort Smith Police Department. Failure to achieve this score will disqualify the applicant from further consideration of employment.

Section 5: Probationary Appointment Policy - Civil Service Commission Oral Interview

- 5:01 Applicants will submit to an oral interview conducted by the members of the Civil Service Commission. The purpose of this oral interview will be to assess the applicant's fitness, reputation, and character.
- 5:02 All applicants must achieve a score of at least seventy (70) percent on the oral interview conducted by the Civil Service Commission. Failure to achieve this score will disqualify the applicant from further consideration of employment.



Section 6: Probationary Appointment Policy - Civil Service Hiring  
Eligibility List

- 6:01 All applicants who successfully complete all phases of the Civil Service hiring process, including the written and both oral examinations (as required under Fort Smith Police Department Civil Service Commission Rules 2:05, 4:03, and 5:02), shall have their names placed on a hiring eligibility list. The applicants' names shall be listed in descending order from the highest to lowest of the total aggregate score achieved on the written and two oral examinations.
- 6:02 For the purpose of public safety, an "emergency staffing process" may be declared by the Chief of Police, when the number of vacant police officer positions has or will reach three (3) or more, either without a current eligibility list or with a current eligibility list that once exhausted would still leave three (3) or more vacant positions and when a normal examination process cannot be completed in time to fill vacancies in a timely manner. If an emergency staffing process is declared by the Chief of Police: (i) the Police Department shall promptly provide written notice of such declaration to the Civil Service Commission by delivering such written notice to the Human Resources Director, or his/her designee, who shall then promptly deliver the notice (preferably electronically but by any other means of providing actual notice) to all Civil Service Commissioners; (ii) upon request of any Civil Service Commissioner, a special meeting of the Civil Service Commission shall be called and the Civil Service Commission shall either approve such emergency staffing process declaration or shall direct that such emergency staffing process shall not occur, but in the absence of any such request by a Civil Service Commissioner made within five (5) business days after written notice of such emergency staffing process declaration to the Human Resources Director, such emergency staffing process shall be conclusively deemed to be approved by the Civil Service Commission.
- a. An emergency staffing process shall include the same processes required during a normal examination process, with the exception of any time restrictions (Rules 1:02, 1:08, 2:02, and 7:04) which are suspended during an emergency staffing process. Only applications from individuals who are

full-time state certified officers from any state shall be accepted during an emergency staffing process. The emergency staffing process shall be utilized only for gathering applicants for entry-level, patrol positions within the Department.

- b. The emergency staffing process may begin anytime the above described situation exists, whether there is or will be a normal examination process overlapping with the emergency staffing process or not.
- c. Eligibility lists created during an emergency staffing process shall be certified for six (6) months.
- d. Regardless of the type of eligibility list, normal examination process or emergency staffing process, when two lists exist, the first list to be certified shall be exhausted prior to any hiring from the second list.
- e. All efforts will be made to avoid the need for an emergency staffing process, to maintain the integrity of the normal examination process, but the Civil Service Commission recognizes that hiring and training standards set forth by the Commission on Law Enforcement Standards and Training (CLEST) combined with a lengthy hiring process can create very long periods of time during which hiring cannot occur; thereby creating critical staffing levels.

#### Section 7: Probationary Appointment Policy - Appointment

- 7:01 When a position for probationary police officer becomes vacant, the Civil Service Commission shall certify to the Chief of Police the three (3) candidates standing highest on the eligibility list.
- 7:02 The Chief of Police, in his/her sole discretion, will select for appointment one (1) of the three (3) candidates standing highest on the eligibility list certified by the Civil Service Commission, unless the position is determined to be eliminated or not funded by the governing body of the City of Fort Smith.
- 7:03 After selection of an applicant, all remaining applicants, including those certified but not selected by the Chief of Police, will remain on the eligibility list.
- 7:04 The applicant selected for employment will be given notice that he or she is being tendered a conditional offer of employment. If unable to reach the

candidate by oral or electronic notification, the candidate will be notified by certified mail. The applicant will also be informed that he or she has ten (10) days from receipt of the first notice to accept the conditional offer of employment and, upon failure to accept the offer, that applicant shall forfeit his or her rights under the eligibility list, unless the applicant makes written application to the Civil Service Commission within such ten (10) day period and receives, at the discretion of the Commission, additional time in which to accept the offer.

- 7:05 Upon failure of an applicant to accept a conditional offer of employment, the Chief of Police, in his/her sole discretion, will select one from the three (3) names standing highest on the eligibility list. This procedure shall be repeated until a selected applicant from the eligibility list accepts the conditional offer of employment. The Commission shall be notified of the person accepting the offer.

Section 8: Probationary Appointment Policy - Conditional Offer of Employment

- 8:01 Once an applicant has accepted the conditional offer of employment, the applicant shall undergo a physical examination, furnished by the City of Fort Smith. The physical examination shall be conducted by a licensed physician who must certify that the applicant is in good health and is physically capable of performing the essential job functions of a police officer. The physician must also certify that the applicant should be able to see and be free of visual problems affecting visual acuity including distance, near, color, depth and peripheral factors that will affect performance of essential job functions. The weight of the applicant must also be in proper proportion to the height. Failing any part of the physical examination shall disqualify the candidate from consideration for appointment. [LE 32.2.7]
- 8:02 Once an applicant has accepted the conditional offer of employment, the applicant shall submit to a drug test provided by the City of Fort Smith. The drug test may be administered at the time of the pre-employment physical examination described in section 8:01. Refusal by the applicant to submit to the drug test will disqualify the applicant from consideration for appointment.
- 8:03 A confirmed positive drug test indicating illegal drug use will disqualify

the applicant from consideration for appointment. Re-testing procedures will be consistent with the Fort Smith Police Department's Drug Free Workplace policy.

- 8:04 Once an applicant has accepted the conditional offer of employment, the applicant will be administered a polygraph examination. [LE 32.2.4]
- 8:05 An applicant appointed to a position must serve a probationary period of twenty-four (24) months before the appointment is complete. The Police Chief may discharge the appointee during the probationary period, for any reason, by written notice of such discharge. All such discharged appointees may have an exit interview with the Department of Human Resources of the City of Fort Smith. [LE 32.2.10]
- 8:06 Once an applicant has accepted the conditional offer of employment, the applicant shall undergo a psychological examination, furnished by the City of Fort Smith, to determine the applicant's emotional stability. A determination of a lack of emotional stability to withstand the pressures of modern police work shall disqualify the candidate from consideration for appointment. [LE 32.2.8]

#### Section 9: Promotional Policy

- 9:01 No police officer shall be eligible for examination for advancement to the rank of sergeant until he or she has served no less than five (5) consecutive years sworn service from the last date of hire. A police officer must possess a "General Certificate" issued by the Arkansas Commission on Law Enforcement Standards and Training in order to be eligible for examination for advancement to the rank of sergeant. [LE 34.1.6.c]
- 9:02 No sergeant shall be eligible for examination for advancement to the rank of lieutenant until he or she has served no less than one (1) year in the rank of sergeant. A sergeant must possess an "Intermediate Certificate" issued by the Arkansas Commission on Law Enforcement Standards and Training in order to be eligible for examination for advancement to the rank of lieutenant. [LE 34.1.6.c]
- 9:03 No lieutenant shall be eligible for examination for advancement to the rank of captain until her or she has served no less than two (2) years in the rank

of lieutenant. A lieutenant must possess an "Advanced Certificate" issued by the Arkansas Commission on Law Enforcement Standards and Training in order to be eligible for examination for advancement to the rank of captain. [LE 34.1.6.c]

9:04 No captain shall be eligible for examination for advancement to the rank of major until he or she has served no less than two (2) years in the rank of captain. A captain must possess a "Senior Certificate" issued by the Arkansas Commission on Law Enforcement Standards and Training in order to be eligible for examination for advancement to the rank of major. [LE 34.1.6.c]

9:05 Service in the lower rank on the basis of temporary appointment shall not be considered service for the purpose of determining whether an individual has served for the requisite period in the lower rank.

#### Section 10: Promotional Policy - Request for Testing

10:01 An eligible officer desiring to be examined for promotion shall submit a written request to the City of Fort Smith's Human Resources Department by the deadline, as specified on the testing announcement by Human Resources personnel.

#### Section 11: Promotional Policy - Physical Examination

11:01 Although a physical examination is not generally required as a prerequisite to promotion, the Civil Service Commission reserves the right to require any candidate for promotion to undergo a reasonable, suitable physical examination to determine whether the candidate can fulfill the physical functions and obligations of the rank to which such person has applied for promotion. Such examination may be required either before or after the promotional examination, or during the probationary period after the promotion has been made.

#### Section 12: Promotional Policy - Examinations

12:01 Promotion shall be based upon open, competitive examinations, approved and administered by the Civil Service Commission. Such examinations may include all or any combination of written examinations or oral interviews or practical examinations, including assessment centers. [LE 34.1.3.b]

12:02 The candidate must attain a score of at least seventy (70) percent on the approved open competitive examination process. If at any time during the promotional process, the candidate's score will not be sufficient to sustain a seventy (70) percent combined score, the candidate will be disqualified from further promotional testing and the candidate's name will be precluded from being placed on the promotional eligibility list.

- a. For assessment center testing, the company hired shall utilize its own validated scoring process to rank qualified candidates. At times, there may exist a necessity to limit the number of candidates to participate in an assessment center. A written pre-test, prepared and administered by the same company that will administer the assessment center, may be used to determine eligibility to proceed to the assessment center. The Chief of Police shall determine the number of candidates allowed to proceed through the assessment center process, and this number shall be included in the initial testing announcement. Those candidates scoring at least 70% on the written pretest will be ranked in order by score. In the event of a tie, tiebreakers shall be utilized as outlined in subsection (f) of Rule 1:08 of these rules. The number of candidates who will be allowed to proceed to the assessment center process will be selected in rank order from this list until the designated number of candidates has been reached. [LE 34.1.3.a] [LE 34.1.6.a]
- b. The pretest and the assessment center shall be separate components of the testing process. Those candidates who proceed to the assessment center will be ranked solely based upon the results of the assessment center without regard to the candidate's score on the written pretest. The rank order of candidates in the assessment center will be based solely on the ranking process of the testing company.
- c. Assessment centers are a powerful tool for making promotional decisions. An assessment center, conducted by a third party independent of the police department, uses a series of simulated on-the-job challenges to gauge a candidate's ability to perform the target

job. Individual and group job simulations offer in-depth information and insight on an individual's strengths, weaknesses, and overall performance potential. The performance of candidates is evaluated by trained assessors, providing information unattainable from written tests, interviews or any other source.

- 12:03. Any oral interview given shall be conducted by an evaluation board comprised of a minimum of three (3) officers appointed by the Chief of Police and senior in rank to the examinee. If an oral interview is being conducted as part of an assessment center promotional process, then the company hired to complete the assessment center testing shall facilitate the oral interview panel. The purpose of the oral interview will be to determine the suitability for the promotion sought. [LE 34.1.3.a] [LE 34.1.3.d]
- 12:04 A record of the oral evaluation process shall be made that is adequate and in conformity with the practicalities of the situation in showing the basis of rating the interview.
- 12:05 The candidate's aggregate score shall be the total of all open competitive examinations as determined by the department head. [LE 34.1.3.a] [LE 34.1.6.a]
- 12:06 A record of the assessment testing process shall be made that is adequate and in conformity with the practicalities of the situation in showing the rating of the candidate. [LE 34.1.3.a] [LE 34.1.6.a]

### Section 13: Promotional Policy - Promotional Eligibility List

- 13:01 All promotional candidates attaining a minimum combined score of seventy (70) percent on the open competitive examination shall have their name placed on a "Promotional Eligibility List". Those names on this list will be ranked in order, according to the highest total aggregate scores to the lowest total aggregate scores. For assessment center testing, the company hired shall utilize its own validated scoring process to rank qualified candidates. [LE 34.1.6.a] [LE 34.1.6.b]
- 13:02 When a position becomes vacant and subject to being filled by promotion, the Civil Service Commission shall certify to the Chief of Police the three (3) candidates (and ties) standing highest on the eligibility list for

appointment to that rank of service. The Chief of Police will then select for promotion one (1) of the three (3) persons so certified, unless the position is determined to be eliminated or not funded by the governing body of the City of Fort Smith. The Civil Service Commission will be notified of the selection. After promotion of the individual, all remaining candidates for promotion, including those certified but not selected, will remain on the eligibility list. [LE 34.1.6.e]

- 13:03 Promotions shall be made from the eligibility list in effect on the date the vacancy occurs, unless such list has been exhausted. Once a vacancy occurs, promotions shall be made within a reasonable period of time, giving due consideration to the administrative duties of the Police Department.
- 13:04 Unless the position is determined to be eliminated or not funded, as set forth in Section 13:02, a promotion shall be made within sixty (60) calendar days of a vacancy created by death, termination, resignation, demotion, retirement, or promotion. If a promotion has not been made within that time period, any member of the Police Department on the current eligibility list for promotion may present a grievance to the Civil Service Commission. The grievance will be adjudicated according to the grievance procedures outlined in these rules.
- 13:05 A promotion to any rank in service other than the Police Chief shall not be deemed complete for a period of six months, and the Police Chief may reduce to his or her previously held rank any promoted member of the Department during that six months period for any reason. A written notice of such reduction in rank shall be given by the person making the reduction and such notice shall state the reasons for such action; provided, however, that such notice and accompanying reduction in rank shall not be considered as granting to the member so reduced in rank a right of hearing or trial before the Civil Service Commission or appeal there from nor shall the requirement of stating the reasons there for be considered as a requirement that reduction only be for good cause. Any promoted member subsequently reduced in rank by the Police Chief pursuant to this rule shall be removed from the current eligibility list. However, nothing shall preclude the member from participation in future promotional testing so long as the member meets the minimum requirements in effect at that time.
- 13:06 Except as provided in subsection (b) below, a temporary promotion or appointment for a vacancy created by death, termination, resignation,



demotion, retirement, or promotion shall not be made for longer than sixty (60) days when there is a current eligibles list.

- a. Except as provided in subsection (b) below, in the absence of a current eligibles list, a temporary promotion or appointment may be allowed for a vacancy created by death, termination, resignation, demotion, retirement, or promotion until an eligibles list is certified unless the position is determined to be eliminated or not funded by the governing body of the City of Fort Smith. A temporary promotion for a vacancy created by death, termination, resignation, demotion, retirement, or promotion shall not last longer than sixty (60) days.
- b. If an appeal is filed in connection with a vacancy that is created by a termination or demotion, the vacancy may be filled by the Chief of Police by a temporary promotion until all appeals in connection with the termination or demotion are exhausted.
- c. A vacancy that is created by vacation, bereavement leave, medical leave, military leave, or suspension on a day-to-day basis may be filled by a temporary promotion on a day-to-day basis as vacancies occur.
- d. An increase in salary beyond the limits fixed for the grade by the rules of the Civil Service Commission may be allowed while an employee is working outside of his or her grade while temporarily promoted to fill a vacancy under this rule.

#### Section 14: Civil Service Rules - Discipline or Grievance Procedures

- 14:01 Members of the Police Department may be disciplined by the Chief of Police for violations of the Rules of the Civil Service Commission, the Rules and Regulations of the Fort Smith Police Department and for any other lawful purposes. Disciplinary action taken in regards to the Chief of Police shall be taken by the City Administrator.
- 14:02 Disciplinary action may include any of the following: oral reprimand; written reprimand to be placed in the employee's employment record; suspension for not longer than thirty (30) calendar days, with or without pay; reduction in rank or compensation, or discharge.

- 14:03 Any member reduced in rank or compensation (a suspension without pay shall not be considered a reduction in pay); suspended for three (3) days or more; or discharged after promotion or appointment is complete, shall first be presented with the reasons for such discharge or reduction in writing signed by the Chief of Police. In the event of disciplinary action with reference to the Chief of Police, such notice shall be signed by the City Administrator. [LE 26.1.6]
- 14:04 Any member of the Police Department who has a grievance relating to the matters covered by these Rules and Regulations may present such grievance in writing to the Civil Service Commission by the close of business on the third business day after the date on which the alleged grounds for the grievance arose and request a hearing thereon. [LE 34.1.3.e]
- 14:05 The person so discharged, suspended, or reduced shall have the right within ten (10) days from the date of such written notice to request a trial before the Civil Service Commission. The Civil Service Commission shall within fifteen (15) days after a request for trial is made, fix a date for the trial. If a request for trial is not made within ten (10) days from the date of service of notice, the discharge, reduction or suspension shall become final and no trial shall be granted pursuant to the provisions of Ark. Code Ann. §14-51-301 and §14-51-308. [LE 26.1.6]
- 14:06 The Civil Service Commission shall hold a hearing on any such grievance or upon any such request for trial. The written notification of disciplinary action, the reply to such notice, and/or the request for hearing shall constitute a part of said hearing and shall be filed with the record of the hearing. The Department of Human Resources of the City of Fort Smith shall make arrangements to have such hearings stenographically reported. No hearing provided for herein shall be construed as giving the individual involved any right of appeal to the judicial system other than is provided by law. [LE 34.1.3.e]
- 14:07 Any request that any member of the Civil Service Commission recuse from participating in any hearing or trial shall be submitted in writing to the Commission no later than ten (10) days prior to the scheduled hearing or trial. The written request shall state the reasons for the requested recusal and the factual basis for the request. A copy of this rule shall be provided to the grievant or their representative at the time notice is received requesting a hearing or trial before the Civil Service Commission.

14:08 After such hearing or trial the Civil service Commission shall vote publicly in open session and announce its decision and as soon as is practicable after such hearing or trial, the Civil Service Commission shall announce its decision and notice thereof shall be presented in writing to the person requesting the hearing or to such person's representative and to the City of Fort Smith's Human Resources Department. Both the City and the affected employee have the right to appeal the decision of the Commission. Any appeal taken from the Commission's decision to the Sebastian County Circuit Court shall be pursuant to the procedures set forth in Ark. Code Ann. § 14-51-308, as may be amended from time to time. [LE 34.1.3.e]

14:09 Ark. Code Ann. § 14-51-308 requires the Civil Service Commission to ensure that the transcript and evidence of any proceeding being appealed from the Civil Service Commission to the Circuit Court will be made available for filing in the Circuit Court once the appealing party has paid the cost of preparing the transcript. The Civil Service Commission finds that requiring the prompt posting of a monetary deposit in an amount equal to the total estimated charges of the Court Reporter for preparing the transcript of proceedings before the Civil Service Commission will expedite the appeal process and will otherwise serve the interests of justice.

14:10 Upon the filing of a notice of appeal from any decision of the Civil Service Commission to the Sebastian County Circuit Court or an appeal to any other court, by a party other than the City of Fort Smith, immediate notice shall be given to the Court Reporter in the proceeding by the Department of Human Resources. The Court Reporter shall have the right, within three (3) business days thereafter, to provide a written estimate of the Court Reporter's total charges for preparing the transcript and exhibits in such proceeding and such estimate shall be the amount of the deposit required by Section 15:11 of these Rules and Regulations. In the absence of a specific estimate from the Court Reporter within the three (3) business day time period set forth above, the amount of the deposit required by Section 15:11 of these Rules and Regulations shall be equal to One Hundred Twenty-Five Dollars (\$125.00) for each hour of trial or hearing proceedings that were held or conducted before the Civil Service Commission in the matter being appealed. The number of hours of the trial or hearing proceedings that were held before the Civil Service Commission shall be determined by the Human Resources Director of the City of Fort Smith. The appealing party shall be promptly notified, by the Department of Human Resources of the City of Fort Smith, of the amount of the deposit upon determination of the amount of such deposit in accordance with these Rules and Regulations.

- 14:11 Within ten (10) days after being notified of the amount of the deposit required by Section 15:10 of these Rules and Regulations from any action or decision of the Civil Service Commission, the appealing party, unless such appeal is taken by the City of Fort Smith, shall post a monetary deposit in the amount determined by the Department of Human Resources in the amount determined in accordance with Section 15:10 of these Rules and Regulations with the Department of Human Resources of the City of Fort Smith. The monetary deposit shall be made payable to the City of Fort Smith and may be paid by cash, cashier's check, money order, or any other form of cash equivalent deposit acceptable to the Human Resources Director of the City of Fort Smith. The Court Reporter shall have no obligation to begin preparation of the transcript until the deposit is posted as set forth in these Rules and Regulations unless he or she is otherwise required to do so by law or regulation of the State of Arkansas.
- 14:12 The deposit required by Section 15:11 shall be held in a bank account overseen by the Department of Human Resources or as may be otherwise required by ordinance or other policies of the City of Fort Smith. In the event of any interest being earned on such deposit, the interest shall be retained by the City of Fort Smith for its services in overseeing and disbursing the funds from the deposit.
- 14:13 At the time that the transcript and evidence are fully prepared and available to be filed with the Circuit Court, the Court Reporter shall promptly notify the appealing party's attorney or the appealing party, if not represented by an attorney. In the event that the deposit is insufficient to pay the total cost of preparing the transcript, the appealing party shall be responsible for paying the deficiency prior to receiving the transcript. In the event that the deposit is greater than the cost of preparing the transcript, as determined by the actual charges of the Court Reporter when the transcript is completed, the excess amount shall be promptly refunded to the appealing party's attorney or directly to the appealing party, if the appealing party is not represented by an attorney, or as is otherwise specifically directed in writing by the person posting the deposit required by these Rules and Regulations at the time that the deposit is posted.
- 14:14 Any person aggrieved by the requirements of Section 15:10 and/or Section 15:11 of these Rules and Regulations may request a hearing before the Civil Service Commission by filing a written grievance, in accordance with Section 15:04 of these Rules and Regulations, within ten (10) days after being notified of the amount of the required deposit determined

pursuant to Section 15:10 of these Rules and Regulations.

14:15 In any trial or hearing before the Civil Service Commission lasting more than eight (8) total hours, the Court Reporter may request to receive, from the monetary deposit required by Section 15:11, an amount equal to up to one-half of such deposit upon his or her certification to the Human Resources Director of the City of Fort Smith that he or she is promptly commencing the transcribing of the trial or hearing. Upon such certification, one-half of the deposit required by Section 15:11 of these Rules and Regulations shall be delivered by the Department of Human Resources to the Court Reporter. All amounts otherwise due from the deposit to the Court Reporter shall be paid from the deposit at the time that the transcript is finalized and, if such deposit is insufficient to pay the full charges of the Court Reporter, all remaining charges shall be promptly paid by the appealing party to the Court Reporter prior to delivery of the transcript to the appealing party.

14:16 The provisions of Section 15:09 to 15:15 of these Rules and Regulations shall have no impact upon any required appearance fee or other fee due from the City of Fort Smith, or its attorneys, to the Court Reporter for his or her appearance or services at any hearing or trial before the Civil Service Commission.

#### Section 15: Civil Service Rules - Reinstatement Policy

15:01 Before any member of the Fort Smith Police Department is reinstated to the Department following a leave of absence without pay for ninety (90) days or more, whether the leave of absence shall have been based upon a physical disability or otherwise, such member shall submit himself or herself to a physical examination by a licensed physician provided by the City and obtain from the physician certification that the member is capable of performing the functions of the position to which he or she would be reinstated.

#### Section 16: Civil Service Rules - Miscellaneous Provisions

- 16:01 Unless otherwise required by law, the Secretary of the Civil Service Commission shall be the Human Resources Director, or his/her designee, of the City of Fort Smith. The Secretary shall be charged with the responsibility of maintaining records of all proceedings, including examinations, of the Civil Service Commission. All documents that are required to be filed with the Civil Service Commission shall be personally delivered to the Human Resources Director, City of Fort Smith, 623 Garrison Avenue, Suite 310, Fort Smith, Arkansas 72901 or such future address that is actually utilized for the office of the Human Resources Director and which is published on the official internet website of the City of Fort Smith as the location for the Department Human Resources for the City of Fort Smith. Documents may also be filed by sending through mail, courier, facsimile, or electronic mail but are considered filed only if they are actually received in a timely fashion by the Human Resources Director. Any person wishing to file a document through such means should contact the Human Resources Director to verify actual receipt of the document sent by mail, courier, facsimile, or electronic mail.
- 16:02 The number of positions within the Police Department, the pay policies, and fringe benefit policies are all matters which the Civil Service Commission considers to be within the scope of authority of the governing body of the City of Fort Smith.
- 16:03 As used throughout these rules and regulations, the terms "Chief," "Police Chief," and "Chief of the Police Department" are synonymous. In the event of a vacancy in the office of the Chief of the Police Department, such terms (insofar as they impose a duty or obligation under these rules and regulations on the Chief of the Police Department) shall be deemed to include, in the following order: (i) the Acting Police Chief, if any; or (ii) the Police Department official handling the responsibilities and duties imposed on the Chief of the Police Department under these rules and regulations.

#### Section 17: Civil Service Rules - Amendment and Adopt of Rules

- 17:01 The Rules of the Civil Service Commission shall be adopted and amended only after a majority vote of the Commission.
- 17:02 Prior to the adoption of the Rules or Amendments hereto, a public hearing shall be held on such proposal. Notice of the public hearing shall be given by publication at least ten (10) days prior to the date of such public

hearing in a newspaper having a bona fide circulation in the City of Fort Smith, and by posting such notice in the Fort Smith Police Department and in the Municipal Office Building of the City of Fort Smith. Such notice, as published and posted, shall state the date, time, place, and purpose of such public hearing and shall state that copies of the Rules to be considered may be inspected at the City of Fort Smith's Human Resources Department, during business hours, prior to the date of such hearing.

Section 18: Attestation, Certification, and Recording of Minutes, Records, and Orders

- 18:01 Unless otherwise required by law, the approval or attestation of any minutes, records, or orders of the Civil Service Commission by individual Commissioners may be made by in-person signature (including an actual signature scanned into an electronic document and transmitted by electronic mail), electronic signature, or facsimile signature on one or more approval or signature pages. All such approval or signature page counterparts shall be considered a single document and shall be made part of the official records of the Civil Service Commission.
- 18:02 The Secretary of the Civil Service Commission shall sign any minutes, records, or orders of the Commission and make a handwritten notation of the date that such minutes, records, or orders were made an official part of the records of the Civil Service Commission. All minutes, records, and orders shall become an official part of the Commission's records on the date that such written minutes, records, or orders are prepared by the Secretary, or provided to the Secretary by the commission or Chairman of the Commission, without regard to whether attestation or approval by a majority of the Commissioners (in accordance with Section 19:01) has occurred.
- 18:03 The Commission may, but is not required to, utilize a file stamp to note the date of filing of any minutes, records, or orders with the Commission. The Secretary shall be charged with the duty to select a file stamp, if he or she desires to utilize a file stamp. If and when a file stamp is selected, it shall be the official file stamp of the Civil Service Commission until

changed by a majority vote of the Commission. Even if a file stamp is utilized, the Secretary shall comply with the provisions of Section 19:02 regarding signing and making a handwritten notation of the date that any minutes, records, or orders become part of the official records of the Commission.

18:04 The Commission may, but is not required to, use an official seal to comply with any request to certify its records, minutes, or orders. The Secretary shall be charged with the duty to select a seal if he or she desires to utilize a seal for certification purposes. If and when a seal is selected, it shall be the official seal of the Civil Service Commission until changed by a majority vote of the Commission. In the event that a seal is not used to certify records, minutes, or orders, the Secretary shall certify any such records, minutes, or orders with his or her signature and a notary seal along with a statement from the Secretary indicating that the Civil does not have a seal that it uses to certify its records, minutes, or orders.