

ARTICLE 34. - CIVIL SERVICE

Sec. [240]. - Composition of Commission.

There is hereby created a Commission to be composed of fourteen (14) members, to be known as the Civil Service Commission of the City of Memphis.

(Ord. No. 3233, § 4, 8-31-1982; Ord. No. 5512, § 1, 8-20-2013)

Sec. [241]. - Qualifications of members; compensation.

Members of the Civil Service Commission shall be residents of the City of Memphis or maintain their principal place of business within the City of Memphis. This provision shall supersede any other Charter provisions to the contrary relating to residency. Preference for individuals residing within the City of Memphis will be given for appointment to the Commission. The Council of the City of Memphis shall have the power to fix the qualifications and compensation of the members of the Civil Service Commission and to pass such ordinances as may be required to carry out the purposes and provisions of this article. At least seven (7) of [the] Commissioners shall be licensed attorneys, current or former judges and/or individuals with prior experience as an administrative law judge for any local, state or federal agency.

(Ord. No. 3233, § 4, 8-31-1982; Ord. No. 5512, § 1, 8-20-2013)

Sec. [242]. - Appointment of members.

The Mayor shall appoint members to the Commission, with the approval of a majority of the Council, for the following terms: two (2) members for a term of one (1) year, two (2) members for a term of two (2) years, and three (3) members for a term of three (3) years. One of said Commissioners shall be designated by the Mayor to serve as Chairman of the Commission. In the event that the Chairman is unable to attend a Commission hearing, the Mayor shall have the power to designate someone from the Commission membership to serve as substitute Chairman. Subsequent to the initial terms of the Commissioners, as provided for in this section, each Commissioner appointed thereafter shall serve for a term of three (3) years, except in instances when the Commission is expanded. Any additional members shall be appointed in staggered terms consistent with this provision.

(Ord. No. 3233, § 4, 8-31-1982; Ord. No. 5512, § 1, 8-20-2013)

Sec. [243]. - Oath of Commissioners.

The said Commissioners shall qualify and take an oath to uphold the Constitutions of the United States and of the State of Tennessee, and faithfully to discharge the duties of their respective offices neutrally and without bias, and, upon the organization thereof, shall undertake the duties of said office.

(Ord. No. 3233, § 4, 8-31-1982; Ord. No. 5512, § 1, 8-20-2013)

Sec. [244]. - Removal of Commissioners.

Any Commissioner may be removed for just cause during his term of office by a majority vote of the City Council on recommendation by the Mayor, but only after such Commissioner shall have been served with a statement in writing of the reasons alleged to justify his removal, and only after such Commissioner is allowed an opportunity to be represented and publicly heard in his defense before the City Council. Said action of the City Council shall be final.

(Ord. No. 3233, § 4, 8-31-1982)

Sec. [245]. - Powers and duties of Commissioners.

The Civil Service Commission shall have the power and it shall be its duty to conduct hearings to review disciplinary actions, limited to suspensions, dismissals, or demotions of any employees not exempted from the provisions of this article. In the course of any hearing conducted under the provisions of this article, the Civil Service Commission shall have power to administer oaths, to subpoena and require the attendance of witnesses within the City and the production by them of books and papers pertinent to any matter of inquiry, and to examine such witnesses under oath in relation to any matter properly involved in such proceeding. For such purposes, the Commission may invoke the power of any court of record in the City, or judge thereof, to compel the attendance and testimony of witnesses and the production of books and papers in compliance with such subpoena.

Any Commissioner who is a licensed attorney, a current or former member of the judiciary and/or has served as an administrative law judge for any other local, state or federal agency shall be entitled to act as a hearing officer. Each hearing officer shall have the same powers and duties of the Commission.

(Ord. No. 3233, § 4, 8-31-1982; Ord. No. 5512, § 1, 8-20-2013)

Sec. [246]. - Termination, suspension, or demotion of employee.

The City may terminate, suspend, or demote an employee for just cause, and the employee shall be given a written notice of the reasons for the action. Just cause shall exist when the employer had a reasonable basis for the action taken. Enumeration of the above-stated disciplinary actions, which are reviewable by the Commission, shall not be construed as a limitation on powers of the City to impose other less stringent disciplinary measures which shall not be appealable to the Commission.

(Ord. No. 3233, § 4, 8-31-1982)

Sec. [247]. - Appeals to Commission.

Any employee holding a position not exempted from the provisions of this article and not in his initial probationary period, who has been suspended in excess of ten (10) days, terminated, or demoted, may appeal to the Commission within ten (10) calendar days after notification in writing of such action. In the event of multiple suspensions, only that suspension which causes the total number of days suspended to exceed five (5) days within a six-month period and any subsequent suspension within said period shall be appealable to the Commission. If an employee has previously elected a remedy other than as provided by federal law, he shall be barred from appealing to the Civil Service Commission, except that informal appeals within the particular division or within the administration shall not bar an appeal to the Commission. In no event shall the ten (10)-day time period for appealing to the Commission be waived.

(Ord. No. 3233, § 4, 8-31-1982)

Sec. [248]. - Hearings.

Upon an employee's appeal from his termination, demotion, or suspension, a hearing shall be held before a hearing officer which shall be randomly selected from the qualified Commissioners, within a reasonable time thereafter, not to exceed ninety (90) days from filing of the appeal. Any employee who has been indicted by a federal or state grand jury or against whom a presentment or information has been filed shall be granted, upon his request and at his election, a postponement of hearing before the Civil Service Commission until such indictment, presentment, or information has been finally disposed of by a court of competent jurisdiction. Any employee seeking to hold a matter in abeyance may be prohibited from seeking back wages for the period of time that the matter was held in abeyance.

The hearing shall be conducted by the selected hearing officer. The hearing officer may reverse or sustain the disciplinary action of the City. If the hearing officer reverses a termination of an employee, the hearing officer may remand the matter to the City for further discipline or may reverse the termination and impose a suspension if appropriate. The secretary of the Commission shall have the duty of convening said hearing. At such hearing both the appealing employee and the official whose actions are being reviewed shall have the right to be heard and to present evidence and to be represented by themselves or by representative. The burden of proof required to sustain the action of the City shall be by a preponderance of the evidence. If, after a presentation of the proof, the hearing officer finds that there exists a reasonable basis for the disciplinary action taken, the action of the City shall be sustained. The decision of the hearing officer shall be stated in writing and shall include the hearing officer's findings of fact and conclusions therefrom within ninety (90) days of the conclusion of the hearing.

If any party is dissatisfied with the ruling of the hearing officer the decision of the hearing officer may be appealed to the full Commission within fourteen (14) days of the issuance of the findings of fact and conclusions of law. Alternatively, the decision of the hearing officer and/or the Commission shall be appealable by either the City or the employee as provided by State law.

(Ord. No. 3233, § 4, 8-31-1982; Ord. No. 5512, § 1, 8-20-2013)

Sec. [249]. - Director of personnel.

There shall be a Director of Personnel, who shall be appointed by the Mayor with the approval of a majority of the Council. The Director of Personnel shall be subject to removal by the Mayor with the concurrence of a majority of the Council. His term of office shall be the same as that of the appointing Mayor, and he shall continue in office until his successor has been appointed and approved. The Director of Personnel shall be entitled to set forth criteria for advancement based on merit and with the application of sound business principles in the administration of persons, and shall prescribe methods whereby appropriate records of the work of employees may be kept. Said director shall likewise prescribe methods for grading the work of employees in the various departments affected herein, shall measure such work by performance, fidelity to duty, punctuality, proper exercise of judgment, cooperation with superiors and other employees of the City of Memphis, courtesy to the general public, and other pertinent factors, to the end the said departments and the personnel thereof may function for the advancement of efficiency of said departments, and the promotion of public safety and welfare. There shall be no discrimination in the City employment of personnel because of religion, race, sex, creed, political affiliation, or other nonmerit factors, nor shall there be any discrimination in the promotion or demotion of City employees because of religion, race, sex, creed, political affiliation, or other nonmerit factors.

(Ord. No. 3233, § 4, 8-31-1982; Ord. No. 5512, § 1, 8-20-2013)

Sec. [250]. - Classification of officers and positions; exemptions from article.

The Director of Personnel shall classify all offices and positions in the City service according to the duties and responsibilities of each position, provided, however, that the following officers and employees shall be exempted from the provisions of this article:

- a. Officers and judges who are elected by popular vote and their successors;
- b. Members of and employees of the Board of Education;
- c. Members of the board and employees of the Memphis Light, Gas and Water Division;
- d. Division directors who are either now or may be hereafter appointed by the Mayor and Council;
- e. All employees of the legal department;
- f. Members of the various boards and commissions now existing or hereafter created;
- g. All staff employees of the offices of the Mayor and Chief Administrative Officer;
- h. One executive secretary for each board, commission, division director, and for the administrative judge of the City court;
- i. All officers and employees of the Memphis and Shelby County Public Library;
- j. All employees of the City Council office;
- k. Such other officers or employees whose positions, in the judgment of the Mayor, with the concurrence of the City Council, cannot be subject to the rules herein provided, and who shall not be affected by such rules and regulations. The provisions of this subsection (k) shall not allow removal of civil service protection from any employee whose position at that time is covered by this article.

(Ord. No. 3233, § 4, 8-31-1982)

Sec. [250.1]. - Examinations for applicants for employment.

All applicants for employment in positions protected by this article, shall be subjected to competitive job-related examinations under such rules and regulations as may be adopted by the Director of Personnel. The examinations to be provided for shall be of a practical nature and relate to such matters as will fairly test the relative competency of the applicant to discharge the duties of the particular position. These examinations should be developed in conjunction with other tools of personnel assessment and complemented by sound programs of job design to aid significantly in the development and maintenance of an efficient work force and in the utilization and conservation of human resources. No question in any examination shall relate to political or religious opinions or affiliations. The examination shall be conducted and controlled by the Director of Personnel.

(Ord. No. 3233, § 4, 8-31-1982)