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CIVIL SERVICE COMMISSION

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TO: Commissioners

FROM: Mary Holguin, CSC Recorder

SUBJECT: CSC AGENDA ITEMS #4, 5, 6 SUPPORTING DOCUMENTATION

DATE: May 5, 2016

Please find attached copies of the following supporting documentation as requested by Commissioner Williams to be provided to the Commission for CSC Agenda items# 4, 5, and 6.

- Rule 1 (See attachment #1)
- El Paso City Charter Sections: (See attachment#2)
6.1-1
6.1-2
6.1-8
- Rule 14 (See attachment #3)
- Commission Policy on Grievances that have been denied or delayed (See attachment#4)

ATTACHMENT # 1

RULE 1

RULE 1
Civil Service Commission

Section 1. Appointment.

At such time as vacancies occur in the Civil Service Commission, City Council, will, in accordance with Article III, Section 3.7B of the City Charter, appoint such members as are required to fill Commission vacancies. (Amended 6/21/94; 7/31/07)

Section 2. Officers.

a. Chair. The Chair shall be elected from the Commission by majority vote. The Chair shall preside over all meetings of the Commission; call the meetings to order at the time they are scheduled to convene; ensure that a quorum is present; put to vote all motions that are in order; initiate general consent when appropriate; recognize Commissioners and others present at the meeting who desire to speak; enforce such statutory provisions and rules affecting the Commission's meetings, including rules of debate; maintain order and decorum; rule on parliamentary inquiries, points of order, and any other motions that require action by the Chair; appoint committees of the Commission as needed, and perform such other duties as naturally inhere in that office. When, in the judgment of the Chair, it is necessary to limit the time that members of the public may address the Commission, he shall impose reasonable time limits to ensure economy of time while allowing those who wish to address the Commission adequate opportunity to voice their views. (Amended 7/11/06)

b. Vice Chair. The Vice-Chair shall be elected from the Commission by majority vote. The Vice-Chair shall enjoy the same duties as the Chair in the absence of the Chair or upon the inability or refusal of the Chair to exercise its duties, and shall be governed by the same constraints as the Chair.

c. Secretary. The Secretary, who need not be a member of the Commission, shall supervise the Commission recorder, and shall review and assist the Commission Recorder with the preparation of all minutes of Commission meetings, which minutes shall record the time and place of each meeting of the Commission, the names of those Commissioners present and absent, summaries of discussion on matters before the Commission and the votes given by the Commission, except when acts are unanimous. The Secretary will cause the minutes to be written and presented for approval or amendment. The minutes or a copy certified by the Chairman will be open to public inspection and filed with the Municipal Clerk in accordance with City ordinance. The Secretary shall also prepare the agenda for all meetings of the Commission and receive all requests from members of the public or groups who seek in writing to address the Commission and place those matters on the Commission's agenda as soon as practicable, taking into account the urgency of the request; sign all documents as required by statutory provisions or the Rules of the Commission; prepare reports as required by law, or these Rules and as otherwise directed by the Commission; post meetings of the Commission or its committees as required by law; require the assistance of the Director of Human Resources and Commission Recorder in the discharge of the duties specified in this paragraph; and perform such other duties as naturally inhere in that office.(Amended 7/31/07)

Section 3. Election.

The Chair and Vice-Chair will be elected at the regular meeting in February of each year, and will serve until their successor assumes the office. The Secretary is appointed by the Commission and serves at the pleasure of the Commission. In the event any officer's position becomes vacant for any reason, the Commission will immediately designate a replacement to serve the unexpired portion of the term. The

filling of an unexpired term does not constitute a term for purposes of Sec. 6.1-9 of the City Charter. (Amended 7/11/06;7/31/07; 1/20/15)

Section 4. Removal of Officers.

The Chair and Vice-Chair may be removed from office for any cause specified in Article VI, Section 6.1-10 of the Charter or for substantial failure to perform the duties of their office. The procedure for removal will be the same as provided for the removal of Commissioners as set forth in Sec. 12 of this Rule, provided that the Commission will sit in lieu of Mayor and Council. In such action, the officer involved will not preside or participate as a voting member in the proceeding. No other Commissioner will be disqualified from voting. Removal will be effected by a two-thirds vote of the voting members of the Commission present at the meeting at which removal is considered. (Amended 7/31/07)

Section 5. Committees.

Committees shall be appointed as provided in this Rule and shall remain constituted until the completion of the assigned task. The ranking member of the Committee shall serve as Chair unless otherwise appointed by the Commission. The Chair shall have the responsibility of reporting to the Commission, as needed or required, concerning the mission tasked to the committee. (Amended 7/31/07, 6/1/10)

Section 6. Procedural Rules.

a. Action by the Commission. All actions by the Commission shall be upon Motion, duly made and seconded. (Amended 7/31/07)

(1) Any Motion before the Commission may be amended with the consent of the Commissioner making the motion, or in the refusal of such consent, upon Motion to Amend, duly made and seconded. The Motion to Amend must be given priority over the main motion. Thereafter, discussion shall proceed on the main motion, as stated or amended. A second to any motion is a prerequisite to discussion and action on the motion. A Motion to reconsider any action by the Commission may be made at anytime in accordance with the Charter, provided however, that such motion may not be made or seconded by a Commissioner who voted with the minority on the matter the subject of the Motion to Reconsider. Discussion on any motion may be closed with unanimous consent by the Chair, and, failing unanimous consent, upon motion calling the question, duly seconded and without discussion. (Amended 7/11/06)

(2) The following matters are privileged and must be taken up by the Commission when they are raised: Motions to Adjourn or Recess, Points of Order, and Appeals to the Ruling of the Chair or Presiding Officer.

b. Voting. Any member of the Commission may vote on any Motion, provided, however that the Chair or presiding officer shall vote only in the event of a tie. No member of the Commission may vote upon any motion involving himself. Motions shall pass upon a majority vote of Commissioners present, provided further, that any Motion to Reconsider a prior action of the Commission shall only be made and seconded by Commissioners who voted with the majority in the original action.

c. Appeal from a Ruling by the Chair. Any Commissioner may appeal any ruling by the Chair as to any point of order or any other matter ruled upon by the Chair on its own initiative. The appeal is appropriate for discussion which, in the absence of unanimous consent, may be terminated by motion, duly seconded, calling the question, upon which the issue before the Commission shall be whether the ruling of the Chair shall be sustained. The ruling of the Chair shall be sustained in the absence of a majority vote against the ruling.

Section 7. Robert's Rules of Order.

Although not adopted as the Rules of the Commission, Robert's Rules of Order may be considered as advisory authority in resolving any issues related to any of the provisions of Sections 2-7 of this Rule. (Amended 7/31/07)

Section 8. Suspension of Rules.

Except as prohibited by law, the Rules set forth in Section 6 of this Rule may be suspended temporarily by the Chair or by a majority vote of the Commission, to facilitate the flow of discussion, or for other purposes. No vote may be taken on any pending motion while the Rules are suspended. The suspension shall be effective only for the duration of the agenda item during which they were suspended, provided further that at any time after the Rules have been suspended, the Chair may invoke their applicability, subject to the provisions of Section 6c of these Rules. (Amended 7/31/07)

Section 9. Commission Recorder.

The Commission Recorder serves at the pleasure of the Commission. Disciplinary action, other than termination, may be taken against the Commission Recorder by the Secretary of the Commission only with the concurrence of two thirds of the Commission present and voting. If the Commission Recorder position becomes vacant, the Human Resources Director shall advertise the position for two weeks. The Human Resources Director shall review and pre-qualify all applicants. All applications will be referred to the Civil Service Commission for their review. The Commission shall select from the applications the top five for interviews and shall make their selection after the interview process has been completed. (Amended 5/31/05, 07/11/06 and 7/31/07)

Section 10. Public Employee's Right to Privacy

The public's interest in public meetings and disclosure of minutes of open meetings is expressly recognized; however, the employee's rights to or interests in privacy are also acknowledged. There are those limited instances when a public employee's individual interest in confidentiality might outweigh the public interest in disclosure. The Commission can, on its own motion, hear any proceedings in Executive Session in accordance with Section 551.074 of the Texas Government Code (Open Meetings Act). (Amended 7/31/07, 3/6/12)

In any proceeding before the Commission which has been posted for public discussion by the Commission, the City or any employee under the jurisdiction of the Commission may request that the Commission hear the matter in Executive Session, as may be permitted under Section 551.074. An employee who is the subject of any deliberation or hearing before the Commission may request and receive a public hearing on the matter, as provided in Section 551.074. (Amended 7/31/07)

Section 11. Removal of Commissioner for Cause.

a. Removal of a Commissioner for any cause specified in Article VI, Section 6.1-10 of the Charter will be effected only in the following manner: (Amended 07/31/07)

- (1) Written charges specifying the acts or omissions complained of will be filed with the City Clerk and the Secretary of the Commission.
- (2) A copy of such charges will be given to the Commissioner against whom they are brought. (Amended 3/6/12)
- (3) Such written charges will be sworn to and open to inspection by the public.

- (4) After a period of not less than five days nor more than thirty from the date such charges are filed, the City Council, at a meeting previously announced, will hear the charges. (Amended 8/31/04)
- (5) The accused Commissioner will be permitted to be present throughout the proceedings in person and by counsel, and will be given a full and fair opportunity to be heard in his defense. (Amended 8/25/09)
- (6) At the conclusion of the hearing, if the Council by affirmative vote of at least two thirds of the entire Council, except as may be limited in "c" below, finds the charges sustained, the accused Commissioner will be removed. (Amended 7/31/07)

b. Upon presentation to the Mayor of a written complaint signed and sworn to by not less than ten members of the classified service of the City, specifying the acts or omissions which are the basis (in accordance with Article VI, Section 6.1-10 of the Charter) for the requested removal of a Commissioner it will be the duty of the Mayor to file charges against the accused Commissioner, who will thereupon be entitled to a hearing in the form and manner prescribed above.

c. Where charges are preferred against a Commissioner by the Mayor (unless being filed by the Mayor as set forth in "b" above) or by a Representative, the Mayor or Representative, will be disqualified to sit as a member of the Council in the hearing of the charges so preferred. In such case the remaining members of the Council will hear and determine the charges.

Section 12. Hearing Officers.

a. Hearing Officers will be selected by the Commission on the basis of their knowledge, skills, training and experience in the field of labor relations. (Amended 7/11/06, 7/31/07, 9/02/08))

b. A former Commissioner may not be hired as a Hearing Officer for a period of twelve (12) months after serving on the Civil Service Commission. (Added 9/02/08)

c. A former Hearing Officer shall not, during the twelve (12) months after having served as a Hearing Officer for the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter or grievance. Further, a former Hearing Officer, after having served as a Hearing Officer for the Commission, shall not represent a classified employee on any matter, before the Commission or Hearing Officer appointed by the Commission, that was before such person during the time he served as a Hearing Officer. (Added 9/02/08)

Section 13. Restriction on Representation of Employees by Former Commissioners.

A person shall not, during the twelve (12) months after having served and left the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter or grievance. Further, a Commissioner, after leaving the Commission, shall not represent an employee on any matter, before the Commission or a Hearing Officer appointed by the Commission, that was before the Commission during the time that such Commissioner served on the Civil Service Commission. (Added 7/29/08)

Section 14. Ex Parte Communications

Commissioners or Hearing Officers, may not initiate, permit, or consider ex parte communications or other communications to be made outside the presence of the parties, concerning the merits of a pending complaint or appeal. Pending is defined as a complaint or appeal that Commissioners or Hearing Officers know has been filed or should reasonably foresee will be filed. Commissioners or Hearing Officers shall not participate in rendering the decision in a case where they have participated

in the case in an advocacy role. This Rule does not prohibit either the Commission or Hearing Officer from communicating with the legal advisor to the Commission. (Amended 7/13/04)

Section 15. Non Discrimination

The City shall administer the Civil Service Rules and charter provisions in a manner consistent with federal, state and local laws concerning equal employment opportunity. (Amended 7/31/07, 3/6/12)

Section 16. Policy Creation

Any Civil Service Rule that is being removed and replaced as a Human Resource policy that is subsequently amended, added to, or deleted will be posted for notation on both the Civil Service Commission and City Council agenda. (Added 3/6/12)

ATTACHMENT # 2

EL PASO CITY CHARTER SECTIONS:

6.1-1

6.1-2

6.1-8

CITY CHARTER - ARTICLE VI

Section 6.1 - CIVIL SERVICE COMMISSION.

Section 6.1-1 - GENERAL.

The Civil Service system exists to ensure a personnel system that is based solely on merit. The Civil Service Commission of El Paso exists for the purposes of overseeing the City's Civil Service system, the purpose of which is to ensure fairness, economy and efficiency in the selection process and personnel system created for the classified employees, and performing the duty of hearing grievances by or against classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

Section 6.1-2 - FUNCTIONS AND DUTIES OF THE CIVIL SERVICE COMMISSION.

Special meetings shall be held as required for the proper discharge of the duties of the Commission, due notice having been given. Five members of the Commission will constitute a quorum. It shall be the duty of the Commission to:

- A. Recommend to the Council:
 - 1. Adoption of Rules for the administration of the Civil Service provisions of this Charter, and
 - 2. Thereafter, appropriate amendments.
- B. Investigate matters concerning the enforcement and effect of the Civil Service provisions of this Charter in the manner prescribed by the Rules or by established Commission procedure.
- C. Hear and determine appeals or complaints as may be further prescribed in the Rules.
- D. Oversee the Civil Service provisions of this Charter ensuring fair and equitable treatment of all persons coming before the Commission.
- E. Appoint hearing officers.

Section 6.1-3 - APPOINTMENT.

The Commission shall consist of nine persons appointed by the Council. All members serving on the Commission when this amendment takes effect will continue to serve until their terms of office expire. Appointments shall be for three-year terms, provided however, the terms of all members as established on the effective date of this amendment shall be extended such that all terms shall end on January 31st of the next-following year, as applicable. All terms thereafter shall commence on February 1st. Commissioners serving consecutive terms shall be limited to two full successive three-year terms, regardless of the date of their original appointments. No person may serve as a member on the Commission for more than a total of ten years throughout their lifetime and no person may be appointed as a member on the Commission if, serving out the full length of the term to which they would be appointed would result in the person having more than a total of ten years of lifetime service. The one-time extension of a term under this section to provide for the uniform termination and commencement dates of the terms shall not be included in the calculation of the lifetime service of a member of the Commission.

Section 6.1-4 - QUALIFICATIONS.

Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, the Public Service Board, or any entity that has a contract with the City to operate or manage any City facility or department, nor hold any salaried public office or other employment compensated by the City, and any violation of this provision shall be deemed malfeasance in office and cause for removal therefrom. At least two Commissioners must hold or have retired from positions other than managerial or professional. No more than three Commissioners may be former city employees, and any such Commissioners are not eligible

for appointment until two years following separation from the City. Any Commissioner may be either actively employed or retired.

Section 6.1-5 - COMPENSATION.

Members of the Commission shall serve without salary.

Section 6.1-6 - RULES.

- A. Rules. The Rules shall be consistent with the principles and practices of the civil service system incorporated in this Article. They shall be adopted by the Council by ordinance, after considering recommendations of the Commission.
- B. Procedures for Adoption. The Human Resources Director shall submit to the Commission proposed Rules for its review and recommendation to the Council. Failure by the Commission to recommend approval, modification or disapproval of proposed Rules within sixty days after receipt shall constitute authority for the Council to proceed without a recommendation from the Commission.
- C. Changes, Additions or Deletions. Proposed changes, additions or deletions to the Rules shall be processed through the Commission to the Council in the same manner and subject to the same standards as for the basic Rules as set forth in A and B above.
- D. Council Action. The Human Resources Director shall submit the Commission's recommendations regarding proposed Rules to the Council without delay. Failure by Council to approve, amend and approve, or deny the Commission's changes within sixty days after the Commission's action shall result in their automatic adoption. In the event of disagreement, the Council may deny or amend the Commission's changes, additions or deletions only by a two-thirds majority vote of the Council.

Section 6.1-7 - POWER TO SUBPOENA WITNESSES.

The Commission shall have the power to subpoena witnesses, require the production of evidence and administer oaths. The Council shall provide, by ordinance, penalties for contempt for failing or refusing to obey a subpoena or to produce evidence, and shall have the power to punish any of these acts of contempt in the manner provided in the ordinance. Costs incident to actions under this section shall be borne by the party requesting the subpoena.

Section 6.1-8 - JURISDICTION.

The Commission will have jurisdiction over all employees in the classified service.

Section 6.1-9 - ORGANIZATION.

The Commission shall elect from its members a Chairman and a Vice-Chairman, each for a term of one year. The Chairman may not be re-elected for successive terms.

Section 6.1-10 - REMOVAL.

Members of the Commission will not be removed from office except for incompetence or nonfeasance, misfeasance or malfeasance in office, such as neglect of duty or refusal to perform the duties imposed by this Charter. Action may be initiated in writing by any member of the Council or Commission. Any removal will require an affirmative vote of two-thirds of the Council.

Section 6.1-11 - NON-DISCRIMINATION.

The City shall afford equal employment and benefit opportunities to all qualified individuals in compliance with all applicable laws, without regard to their race, gender, gender identity, sexual orientation, marital status, color, religion, ethnic background or national origin, age, disability, or any other characteristic or status that is protected by federal, state, or local law.

ATTACHMENT # 3

RULE 14

RULE 14
Grievances

An employee has the right to file and process a grievance as provided in this Rule. Any employee disciplined for failure to comply with any rules, regulations, policies, or procedures as promulgated hereunder, shall have the right to appeal as set forth in the City Charter or the Civil Service Rules and Regulations. Employees shall have the right to file a grievance that meets the requirements of Rule 14 regarding any rule, regulation, policy or procedure promulgated hereunder. (Amended 7/31/07, 3/6/12)

The Human Resources Department will counsel and advise employees and supervisors in utilizing this grievance procedure by interpreting City policies and procedures, lending objectivity to the process, preventing delays in the process, and resolving conflicts between employees and supervisors, if possible. Complaints concerning possible sexual harassment are to be investigated in accordance with the City's Sexual Harassment Policy. Complaints involving discrimination may be resolved under a separate grievance procedure available from the Human Resources Department.

Any written grievance shall contain a precise statement of the complaint, including any departmental or Civil Service Rule which is alleged to be violated, a statement of the facts and parties involved and the specific remedy which the employee is seeking. (Amended 7/31/07)

Grievances shall proceed as follows:

- (1) The employee should discuss the problem with the immediate supervisor within ten working days of the incident giving rise to this grievance. The supervisor shall then gather all the facts, analyze the facts and make a decision. He should then notify the employee verbally, not later than five working days following the initial discussion, of the supervisor's decision.
- (2) If the employee is dissatisfied with the supervisor's response, he should submit the grievance in writing on an appropriate form to be provided by the Human Resources Department within five working days to the next level supervisor. That supervisor will then review the grievance, have the immediate supervisor complete the immediate supervisor's statement, complete the next level supervisor's statement on the form, and notify the employee of his decision within five working days. The next level supervisor shall also return the completed form to the employee and send a copy of it to the Department Head. (Amended 8/25/09)
- (3) If the employee is still dissatisfied with the response to his grievance, he shall submit the grievance to the Department Head within ten working days. The Department Head or designated manager shall investigate the grievance and schedule a meeting with the employee within five working days to discuss the grievance. After the meeting, the Department Head has ten working days to notify the employee and the supervisor of his decision. The Department Head should complete the appropriate statement on the grievance form, return it to the employee and forward a copy to the Human Resources Department. (Amended 8/25/09)
- (4) If the employee is still dissatisfied with the Department Head's decision he should file the grievance form with the Human Resources Department within ten working days of receiving the decision from the Department Head. The Human Resources Director or assignee will then gather all facts, review policies and procedures, and meet with the employee and people in the department if necessary. The Human Resources Director shall ordinarily complete his findings and determinations within thirty working days after the receipt of the grievance. If the determination cannot be completed within the thirty days, the Human Resources Director may notify the grievant in writing of an extension of fifteen working days. The Human Resources Director will then communicate

findings and determinations on the grievance, by completing the form and returning it to the employee, and forwarding a copy to the Department Head. (Amended 8/25/09, 3/6/12)

(5) If a classified employee is not satisfied with the findings and determinations, he may appeal to the Civil Service Commission within ten working days from the date the Human Resources Director's determination is e-mailed or delivered to the grievant. The Secretary of the Civil Service Commission will place the grievance on the next available agenda for the Civil Service Commission. (Amended 3/6/12)

This grievance procedure applies only to those employees who are not covered under collective bargaining agreements. Employees covered under such agreements shall use the grievance procedures specified by the terms of their contract. This grievance procedure is not in addition to the grievance procedure in the Collective Bargaining Agreements.

The time limits set forth herein are jurisdictional and may be extended by mutual agreement of the parties at any time. Failure by the grievant to comply with the prescribed time limits or the mutually agreed extensions, except for good cause, will result in denial of further processing of the grievance. Failure by management to comply with its prescribed time limits or the mutually agreed extensions will allow the grievant to avail himself of the next higher level in the process. The burden of proof in a non-disciplinary grievance is upon the employee by a preponderance of the evidence. (Passed 02/23/88) (Amended 01/9/96, 8/25/09, 3/6/12)

ATTACHMENT # 4

**COMMISSION POLICY ON GRIEVANCES
THAT HAVE BEEN DENIED OR DELAYED**

POLICY ON GRIEVANCES THAT HAVE BEEN DELAYED OR DENIED APPEAL
TO THE CIVIL SERVICE COMMISSION

When the Human Resources Director (HRD) receives and has made the determination that a grievance pursuant to Step Five of the City of El Paso Employee Grievance Procedure (an appeal to the Civil Service Commission (CSC)) should be denied or delayed because the rule, policy, procedure or regulation alleged to have been violated falls outside the purview of the CSC and/or that the CSC does not have the authority to grant the relief sought by the employee or for any other reason, the CSC shall be provided the opportunity to review the grievance and the HRD's response to the grievant and make a determination of whether or not to hear and act on the grievance. This determination by the CSC shall proceed as follows:

- A. The Human Resources Director will prepare a written response to the Grievant/Appellant employee ("Employee") addressing the following points, which shall be reviewed and approved by the City Attorney or her designee:
 1. The rule, policy, procedure or regulation alleged to have been violated.
 2. Restatement of the Employee's complaint and remedy sought.
 3. Explanation of why the Employee's grievance does not fall within the purview or into a category that can be acted upon by the CSC or was delayed (e.g., the CSC lacks jurisdiction to grant the remedy sought, the CSC lacks the authority to act under the rule alleged to have been violated, the grievance is not ripe, the Employee did not follow the grievance procedure, etc.).

- B. The Secretary for the Civil Service Commission will place on the next available Commission agenda an item for discussion and action identifying the subject grievance by the Employee's name as one that has been denied or delayed submission to the CSC by the HRD. The agenda item will include as back-up: (i) a copy of the written response that was provided to the Employee by the HRD; and (ii) a copy of the completed Employee Grievance Form, including any additional supporting documents supplied by the Employee.

- C. At this meeting, if the Commission wishes to place the denied or delayed grievance on the next available Civil Service Commission agenda for its review and action, it may do so by a majority vote of the Commission.

- D. In the absence of a motion passed by majority vote of the Commission to place the denied grievance on the next available Civil Service Commission agenda for review and action by the CSC, the determination of the HRD (as embodied in her written response to the Employee) shall be final and binding, and the grievance shall no longer be appealable to the CSC.

PASSED and APPROVED on this 10th day of May, 2012.

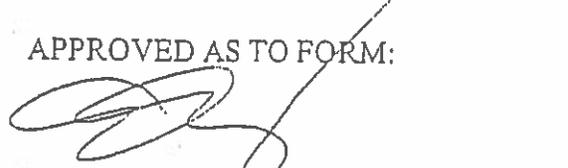


Eileen Karlsruher, Chair
Civil Service Commission

ATTEST:


Linda Ball Thomas, Secretary
Civil Service Commission

APPROVED AS TO FORM:


Elizabeth M. Ruhmann
Assistant City Attorney