COMMISSIONERS:

Barde, Jacob
Bowling IV, Robert
Brannon, Bob R.
De Los Santos, Dalia
Devine, Michael
Ramirez, Terry
Ross, Amy
Williams, Casey Antonio

CIVIL SERVICE COMMISSION

300 N. Campbell – 1st Fl.
El Paso, TX 79901

Telephone (915) 212-1242
Fax (915) 212-0047

TO: Commissioners

FROM: Mary Holguin, CSC Recorder

SUBJECT: CSC AGENDA ITEM # 5, SUPPORTING DOCUMENTATION

DATE: June 30, 2016

Please find attached copies of the following supporting documentation as requested by Commissioner/Secretary Ross to be provided to the Commission for CSC Agenda Item# 5.

- **Rule 5**-Application and Promotional Process and Lateral Transfer Process; **Section 2.**Appeals from Disqualification from Examination (a)-(See attachment #1)
- **Rule 7**-Appeal of Efficiency Ratings; Appeal Process: (See attachment#2)
- **Rule 8**-Suspension, Reduction, Discharge; **Section 8.** Formal Counseling (See attachment #3)
- **Rule 14**-Grievances (#5) (See attachment#4)
- **CSC Bylaws**-Article XIV- Placing Items on Agenda- #(1) and (2) (See attachment#5)

ATTACHMENT #1

RULE 5

RULE 5

Application and Promotional Process and Lateral Transfer Process

Section 1. Filing of Applications.

Except as otherwise provided for herein, applicants for all positions, must file an application with the Human Resource Department not later than the date specified in the job posting and in the manner prescribed in the job posting.

The Human Resources Director, subject to appeal to the Commission, will refuse to examine an applicant, or after examination to certify him as eligible and will remove his name from the eligible list for any of the following reasons, in each case to be fully documented:

(a) He is found to lack any of the minimum requirements established in the classification for the position and grade for which he applies; or

(b) He has been convicted of a felony, or a misdemeanor within seven (7) years from date of conviction, end of parole, or release from prison, which is determined to be job related to the position sought; or (Amended 8/25/09,11/2/10)

(c)He is found by the Commission to have committed any act, either while in the service of the City or otherwise, or to have any deficiency or disqualification which, in the judgment of the Commission, would be sufficient to constitute a just cause for discharge from the Civil Service as defined in Article VI, Section 6.13-3 of the Charter.

Section 2. Appeals from Disqualification from Examination.

a. Applicants who are disqualified from taking an examination may appeal to the Civil Service Commission provided they appeal within three (3) working days from the date of the notice. The three (3) working day period begins the date the notice was emailed. Individuals who appeal must file a written rebuttal in a format prescribed by the Human Resources Director. If the applicant fails to update their contact information or respond within the timelines set, no further action will be taken. (Amended 8/21/07, 8/25/09, 9/17/13)

b. Untimely appeals will not be accepted.

c. If the examination is held before the appeal is heard and determined by the Commission, the Human Resources Director may allow the applicant to take the examination conditionally pending the Commission's determination. If a conditional applicant fails to achieve a passing grade on an examination, the appeal shall be administratively dismissed and the appeal will not be forwarded to the Commission and no further action will be taken. (Amended 8/25/09)

Section 3. Frequency and Examination.

Examinations will be given whenever needed to fill a vacancy for which an adequate list does not exist. (Amended 12/11/84, 1/24/89, 8/21/07)

Section 4. Eligibility.

A person is eligible to take promotional examinations after actual service in a regular position for six months and when he fully meets the qualifications for the class as specified in the job description. The six months of actual service will be deemed to have been met if the employee successfully completes the six months of service by the date the first component of the examination is administered, and the employee is recommended for regular status. (Amended 10/21/97, 8/21/07, 8/25/09, 9/17/13)

ATTACHMENT #2

RULE 7

RULE 7

Appeal of Efficiency Ratings

Appeal Process:

Subject to the provisions of this section, the employee has the right to appeal an evaluation that results in the creation of a Performance Improvement Plan, or that is given upon the completion of a Performance Improvement Plan with an overall rating below the equivalent of "Successful" he considers unfair, discriminatory, or otherwise objectionable. Any appeal must be made to the Commission within twenty calendar days after the employee has had final review on the rating with his Department Head, or person designated. For purposes of any appeal under this section, it shall be presumed by the Commission that the Efficiency Rating accurately reflects the performance of the employee. This presumption may be rebutted by the employee by a preponderance of the evidence. On appeal the Commission will consider only the rater's possible prejudice, the rater's failure to take into consideration facts or factors which should have affected the rating, the rater's considering facts or factors which should not have affected the rating. (Amended 8/25/09, 3/6/12)

Step 1. One or more members of the Commission shall meet and review the appeal. The employee and the Department Head or representative thereof shall present evidence in support of their respective positions. The hearing may be recessed to allow either side an opportunity to gather additional evidence in the event of a claim of surprise. After the hearing is concluded, no further evidence may be received from either party. In cases where less than the Commission as a whole has conducted the hearing, a report shall be submitted to the Commission setting forth all findings adduced at the hearing.

Step 2. Upon consideration of the matters adduced at the hearing, the Commission will render an order denying the appeal, sustaining the appeal and ordering a re-rating of specific factors, the summary evaluation, or the entire evaluation. It shall also set forth in its order the reasons in support thereof.

Step 3. If a re-rating is ordered by the Commission under Step 2, it must be submitted to the Human Resources Director by the Department Head within 60 days, accompanied by a memorandum signed by the Department Head summarizing the changes made to the original evaluation. The memorandum will explain any failure to re-rate according to the Commission's order. In cases where the Commission's order was not followed, in whole or in part, the Human Resources Director shall place an item on the next Commission agenda, and the Department Head shall appear before the Commission to respond to questions from the Commission. After hearing the Department Head, and any response on the part of the Employee, the Commission may take such appropriate action as it deems necessary to determine the appeal. No new evidence may be received by the Commission under this Step.

Resignation Before Hearing:

If an employee resigns employment with the City of El Paso during the pendency of any appeal under this section, the appeal shall be deemed withdrawn, and no further action shall be taken. (Amended 08/21/07)

ATTACHMENT #3

RULE 8

RULE 8; SECTION 8

Section 6. Non-Certification of Suspended Persons.

The names of persons suspended will not be certified from eligible lists during the period of suspension.

Section 7. Election to Forfeit Annual Leave.

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to the approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission, and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

Section 8. Formal Counseling.

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twenty-four (24) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twenty-four (24) month time period between the request and the last-received formal counseling. Formal counselings meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. If a department-specific policy contains a look-back period for formal counselings that conflicts with this Rule's twenty-four (24) month look-back period, the department-specific policy supersedes this provision of the Rule for purposes of progressive discipline and performance evaluations. (Added 8/25/09)(Amended 11/2/10, 3/6/12, 1/20/15)

ATTACHMENT #4

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 #5

CSC BYLAWS

mean it is permissible to "mark all" or to sign up for every item "just in case" they wish to speak when the discussion on an item takes place.

7. At the time that an agenda item is taken up for consideration, the Secretary shall advise the Chair whether persons in the audience have signed up to ask a question regarding an item posted on the agenda. The Chair shall have the floor and may ask the Secretary to call those individuals up to the podium to hear their questions. At that time, the Secretary will announce the agenda item number and call the person to the podium. The Chair may request the Secretary or other staff to respond to the questions raised by the members of the public.
8. No person may speak a second time except by permission of the presiding officer, and further, no person shall be heard a second time until all persons desiring to speak once have been given the opportunity to do so.
9. Personal attacks are not permitted. Members of the public should address their questions to the Commission, not to the staff. The Commission may in turn ask staff to provide input.
10. Members of the public may be asked to leave or be removed from the meeting if it is determined that they are disruptive to the meeting. Such determination will be made by the presiding officer.
11. During the discussion of matters of public hearing before the Commission, persons addressing the Commission may ask questions and make appropriate comments; however, no such persons shall argue an issue with members of the Commission or staff.

ARTICLE XIII – Ex Parte Communications

Pursuant to the Civil Service Rules and Regulations, no Commission member shall communicate, either directly or indirectly, with any person concerning a contested disciplinary or grievance case which is pending before the Commission. If a Commission member receives an ex parte communication concerning a pending, contested matter, such communication shall be disclosed at the next meeting of the Commission. A notation of the substance of the communication and the identity of the individual(s) making the communication shall be made a part of the minutes of the meeting.

ARTICLE XIV – Placing Items on Agenda

1. The Secretary shall prepare the agenda for all meetings of the Commission, and shall receive all requests from members of the public or groups who seek in writing to address the Commission

and place those matters on the agenda as soon as practicable, taking into account the urgency of the request.

2. The placement on the Agenda of an item that has been previously heard and acted upon by the Commission at a prior meeting may only be discussed and acted upon again at a subsequent meeting upon majority vote of the Commission members to rehear the item. Alternatively, the repeated Agenda item may be deleted by majority vote of the Commission members.

ADOPTED BY THE EL PASO CIVIL SERVICE COMMISSION, AT A MEETING OF ITS MEMBERS CURRENT THROUGH THIS 12th DAY OF February, 2015.

Edward Hernandez

Edward Hernandez, Chair

ATTEST:

Linda Ball Thomas, Secretary
Civil Service Commission

APROVED AS TO FORM:

Elizabeth M. Ruhmann
Assistant City Attorney