

**RULES AND REGULATIONS
OF THE
PERSONNEL APPEALS BOARD
OF
THE CITY OF HUBER HEIGHTS, OHIO
FOR THE
NON-EXEMPT EMPLOYEES OF THE CITY OF HUBER HEIGHTS**

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Definitions:

A. For the purpose of these Rules, the following words and phrases shall have the meanings ascribed to them respectively unless the context in which they are used clearly states or implies otherwise:

1. **Appointing Authority** – As set for in Article VI, Section 6.02 of the City Charter, the City Manager shall be the appointing authority for all officers and employees of the City, except those appointed by the City Council.
2. **Board** – the Personnel Appeals Board, as established by Article VIII, Section 8.04 of the City Charter.
3. **City** – the city of Huber Heights, Ohio
4. **Council** – the council of the city of Huber Heights, Ohio.
5. **Counsel** – an attorney or other representative acting on behalf of the City or an appellant.
6. **Department Director** – an employee designated by the City Manager as having supervisory and/or administrative responsibilities over one or more of the City's departments and/or divisions.
7. **Employee, Exempt** – An employee in a classification or position which is exempted from the competitive examination requirements by or pursuant to Article VIII, Section 8.02 of the City Charter.
8. **Employee, Non-Exempt** – An employee in a classification or position which is not exempted from the competitive examination requirements by or pursuant to Article VIII, Section 8.02 of the City Charter.
9. **Employee, Permanent** – an employee who has successfully completed the prescribed probationary period immediately following initial appointment and has been assigned to a permanent classification.
10. **Personnel Director** – The Personnel Officer of the City of Huber Heights as provided for in Section 8.03 of the City Charter.
11. **Party** – any party to the hearing before the Personnel Appeals Board, i.e. the employee, City Manager, City of Huber Heights, Department Director, or the Board.

B. Those words not specifically defined herein shall be given their common meaning unless the context in which they are used states or implies otherwise.

Rule I
General Provisions

Section 1.01 Adoption of Rules

These rules and regulations of the Personnel Appeals Board of the City of Huber Heights are hereby adopted in accordance with the authority conferred upon said Board by Article VIII, Section 8.04 of the City Charter.

Section 1.02 Applicability of Rules

- A. These Rules and Regulations shall only apply to personnel in the non-exempt positions of the City. Non-exempt positions are those which have not been exempted from the competitive examination requirements by or pursuant to Article VIII, Section 8.02 of the City Charter.
- B. In accordance with the provisions of Article VIII, Section 8.02 of the City Charter, the following positions are exempt from the open competitive examination requirements:
 1. City Manager;
 2. Clerk of Council;
 3. Directors of Departments and their assistants, Division heads, and the Director of Personnel;
 4. Assistant City Managers and assistants to the City Manager;
 5. Secretary to the Manager and personal secretaries to all heads of departments and divisions, or subunits thereof, and secretaries of boards and commissions;
 6. City Attorney, assistant or Acting City Attorneys and the City's prosecutor and assistant prosecutors;
 7. Any office or position requiring professional or scientific skills or knowledge;
 8. Unskilled laborers, as determined by the Manager;
 9. Seasonal or part-time employees, as determined by the Manager;
 10. All officers and employees appointed or whose appointment is approved by the Council under its Charter authority;

11. Volunteer members of any fire department and members of any police auxiliary unit of the City; and
12. Members of boards, commissions and other agencies and all elected officials of the City.

Rule II
Organization

Section 2.01 Membership

- A. The Personnel Appeals Board shall consist of three members who shall be appointed by the City Council for three-year terms. The terms of office shall be overlapping, with one term to expire each year.
- B. Each member of the Board shall be a qualified elector of the municipality. No member shall hold or be a candidate for any elected City office or City employment.
- C. It shall be the duty of each member of the Board to attend the meetings of the Board and to take action reasonably needed to conduct the business and affairs of the Board.
- D. Each member shall serve without compensation.
- E. The Chairman shall notify the City Council of any vacancies which occur on the Board and shall request an expeditious appointment to fill the vacancy.
- F. The Board shall administer and enforce the rules and regulations herein prescribed relative to the non-exempt Civil Service employees in the City of Huber Heights.

Section 2.02 Election of Officers

- A. At its first meeting each year, the Board shall elect or appoint its own officers who shall remain in office until successors are appointed under the provisions of this Section.
- B. The officers of the Board shall consist of the following:
 1. Chairman – the Chairman or, in his absence, the Vice-Chairman shall preside at all meetings of the Board. The Chairman, subject to these Rules, shall decide all points of procedure according to Roberts' Rules of Order unless otherwise directed by a majority of the Board in

session at that time; and shall perform any other duties required by law or these Rules.

2. Vice-Chairman – the Vice-Chairman shall perform the duties of the Chairman during the absence or disability of the Chairman.
3. Secretary – The Secretary, subject to the direction of the board, shall conduct all correspondence of the Board; shall generally supervise the clerical work of the Board, including the sending of all notices required by law or these Rules.

C. Vacancies in office shall be filled through the regular election procedure at the first meeting following the appointment of a new member of the Board.

Rule III
Meetings and Attendance

Section 3.01 Regular Meetings

Regular meetings of the Board for the purpose of hearing appeals or transacting other business shall be held as necessary on such date, time and place as the Board shall establish.

Section 3.02 Attendance

Three unapproved or unexcused absences by any board member within a calendar year shall be cause for removal. Should any member miss three (3) meetings in any calendar year, without Board approval that information should be reported to the City Council along with a request for a replacement for the absent member.

Rule IV
Conduct of Meetings

Section 4.01 Open Meetings

All regular meetings of the Board shall be open to the public except for sessions called to discuss items specifically exempted under Section 121.22 of the Ohio Revised Code, also known as the Ohio Sunshine Law.

Section 4.02 Quorum

Two (2) members of the Board shall constitute a quorum.

Section 4.03 Voting

On any question put to a vote, each member present shall cast a vote unless excused by the Chairman for reason of a personal or private interest in the matter under consideration. Abstentions shall be counted as votes.

Section 4.04 Action by the Board

All actions of the Board shall have the concurrence of at least two (2) members of the Board, except as otherwise provided by these Rules.

Section 4.05 Minutes

The Secretary shall keep or cause to be kept minutes of the proceedings of the Board showing the vote of each member upon each question. The minutes shall be kept in the Office of the Clerk of council and, along with other official actions, shall be open to the public.

Rule V

Duties of the Board

Section 5.01 Employee Appeals

Pursuant to Section 8.04 of the City Charter, the principal duty of the Board shall be to hear appeals upon the request of any officer or employee in the non-exempt service who is aggrieved by an action of the Personnel Director, the City Manager, or any department head, under rules or regulations promulgated pursuant to Division (B)(1) of Section 8.03 of the Charter.

Section 5.02 Other Duties

The board shall perform other duties as may be stipulated in these Rules and Regulations and the City Charter.

Rule VI

Procedure Upon Appeal

Section 6.01 Scheduled Hearing

When any full-time, permanent employee or officer in the non-exempt service files a written request for a hearing before the Personnel Appeals Board. The written request must be filed with the Personnel Appeals Board within ten (10) days of the date of the action or Order that is being appealed. The Board shall promptly set a date and

time for a hearing on the appeal. The Board shall give written notice to the City Manager or his designee and to the employee of the time and place of the hearing.

Section 6.02 Witnesses and Records

- A. Pursuant to Section 8.04 of the City Charter, in conducting hearings on employee appeals, the Board has the authority to subpoena witnesses and require attendance of witnesses and production of documents/records.
- B. At any time an appeal has been filed, the Board shall have the authority to inspect the personnel record of the officer or employee in the non-exempt service who appealed the supervisory action to the Board.

Section 6.03 Conduct of Hearing

- A. Any hearing which is conducted by the Board in response to an appeal by an employee pursuant to Section 8.04 of the City Charter shall conform with the following guidelines:
 1. The City Manager or his designee shall present evidence in support of the action taken.
 2. The appellant shall then present evidence in his/her defense.
 3. The Board may hear rebuttal evidence, if offered.
- B. The Board, at its discretion, may hear arguments and/or accept briefs and may establish the deadlines for submitting said briefs. Briefs are to be filed with the Board and served on the adverse party.
- C. The Board is under no obligation to follow strict legal rules of evidence or procedure. The Board has the full authority to admit or exclude testimony or other evidence and to rule upon all objections. Testimony shall be under oath or affirmation and is subject to cross-examination.
- D. The Board has the latitude to determine the manner and conduct of each hearing.
- E. The Board may question witnesses and require the submission of specific documents or other pertinent information which it feels is necessary to establish the validity of the evidence presented during the hearing.

Section 6.04 Representation by Counsel

The City Manager or his designee and the appellant may be represented by counsel.

Section 6.05 Ruling by the Board

- A. The Board shall review all evidence and after due consideration, the Board shall provide a decision in writing to the appellant and to the City Manager or his designee within thirty (30) days of the hearing. The decision must be made by a majority of the Board.
- B. As to any supervisory action involving a non-exempt employee, the Board may affirm, disaffirm or modify the order of the Appointing Authority as to any disciplinary action involving suspension without pay for more than five (5) days, or demotion, or dismissal. Regarding any disciplinary action involving suspension for five (5) days or less without pay, or involving any lesser disciplinary action, the Board may affirm or disaffirm the disciplinary action.
- C. The findings and decision of the Board are to be certified to the appointing authority and to the appellant and/or the appellant's representative.
- D. If the appellant or the appellant's representative does not appear before the Board at the scheduled hearing time, such failure shall be considered grounds for dismissal of the hearing and no further action by the Board shall be necessary.

Section 6.06 Appeal of Ruling by Board

Any of the parties may appeal the decision of the Board to the Court of Common Pleas, in accordance with Chapter 2506 of the Ohio Revised Code.

Rule VII

Changes in Rules and Regulations

Section 7.01 Effective Date

- A. These Rules may be amended, repealed, or supplemented at any time and new rules adopted, provided that any such change will not be effective until seven (7) days following the approval of the change by a motion of the Board.
- B. Notwithstanding the above, the Board may suspend the seven-day waiting period when it determines that circumstances warrant such suspension. A motion to suspend the waiting period shall require the unanimous approval of the Board members who are present at the meeting wherein such motion is made.

Rule VIII
Savings Provision

Section 8.01 Savings Clause

Should any provision of these Rules and Regulations, as may be amended, repealed, or supplemented from time to time, be held unlawful, unenforceable or otherwise invalid by any judicial or legislative tribunal of competent jurisdiction, then such decision or legislation shall apply only to that specific provision. The remaining provisions of these Rules and Regulations shall remain to be in full force and effect.

Adopted: 2/28/12

Kimberley S. Horner
Chairman

Debra Downing
Secretary

Effective Date: 2/28/12