

**RULES AND REGULATIONS OF
CITY OF CHEYENNE
FIRE DEPARTMENT CIVIL SERVICE COMMISSION
CHEYENNE, WYOMING**

I hereby certify that the attached is a true and correct copy of the Rules and Regulations of the City of Cheyenne Fire Department Civil Service Commission, reflecting the following amendments: (1) Chapter I, GENERAL PROVISIONS, (2) Chapter II, CLASSIFICATION OF EMPLOYMENT, (3) Chapter III, QUALIFICATIONS AND APPLICATION FOR EMPLOYMENT, (4) Chapter IV, INITIAL APPLICATION AND EXAMINATION FOR EMPLOYMENT, (5) Chapter V, PROMOTIONS AND ELIGIBILITY LISTS, (6) Chapter VI, TERMINATION, SUSPENSION, REDUCTION IN PAY GRADE, OR COMPENSATION, (7) Chapter VII, PROCEDURE FOR THE INVESTIGATION OF ALLEGED BREACHES OF RULES AND REGULATIONS PURSUANT TO W.S.15-5-119(a)(iii), and (8) Chapter VII, RULES OF PRACTICE GOVERNING CONDUCT OF HEARINGS.

These Rules and Regulations supersede and replace those chapters and sections presently on file in the office of the County Clerk of Laramie County. The amendments were adopted pursuant to the authority granted to the City of Cheyenne Fire Department Civil Service Commission by W.S. §§ 15-5-101 through 15-5-121, and W.S. §§ 16-3-101 through 16-3-114.

Prior to adoption by the City of Cheyenne Fire Department Civil Service Commission, the amendments were made available for public inspection and public notice was provided as required.

The effective date of the attached amended Rules and Regulations is immediately upon filing with the County Clerk of Laramie County.

DATED this 20 day of July, 2023.



Mark Hardee, Chairman
Cheyenne Fire Department
Civil Service Commission

2023 JUL 21 P 3:09

LARAMIE COUNTY & CLERK
CHEYENNE, WY

STATE OF WYOMING)
) ss.
County of Laramie)

The foregoing instrument was signed before me, Kylie Soden, a Notary Public, by Mark Hardee, Chairman of the Fire Department Civil Service Commission, this 20th day of July, 2023.

Kylie Soden
NOTARY PUBLIC

My Commission Expires: Oct. 25, 2024



CHAPTER I
GENERAL PROVISIONS

Section 1. Authority. The promulgation of these Rules and Regulations is authorized by W.S. § 15-5-119 and W.S. §§ 16-3-101 *et seq.*

Section 2. Purpose. These Rules and Regulations govern the proceedings of the Cheyenne Fire Department Civil Service Commission (“Commission”); establish the minimum qualifications for initial employment as a sworn firefighter by the Cheyenne Fire Rescue Department (“Department”); provide procedures for the processing of applications for initial employment and the administration of initial employment examinations; provide a process for the promotion of firefighters including the preparation and administration of promotional examinations; govern the classification of firefighters employed by the Department; and establish procedures for the investigation and resolution of alleged breaches of these Rules and Regulations.

Section 3. Definitions. As used in these rules:

- a. **Commission:** Shall mean the Cheyenne Fire Department Civil Service Commission established pursuant to W.S. § 15-5-102(a), which shall consist of three (3) members appointed pursuant to W.S. § 15-5-103.
- b. **Chairman:** Shall mean the individual appointed by the Mayor of the City of Cheyenne to act as Chairman of the Cheyenne Fire Department Civil Service Commission.
- c. **Vice Chairman:** Shall mean the individual elected by majority vote of the members of the Commission to perform the duties of the Chairman in his or her absence.
- d. **Quorum:** Shall consist of not less than two (2) of the three (3) members of the Commission. A contested case hearing may be conducted by less than a quorum of the Commission upon the consent of all parties.
- e. **Breach:** Shall mean a violation of any of these Rules and Regulations.
- f. **Complaint:** In the case of the proposed suspension, termination, reduction in grade, or reduction in compensation of a Firefighter, the Department’s statement of proposed suspension, termination, reduction in grade, or reduction of compensation shall constitute the Complaint. In the case of an allegation that the Department has breached any of these Rules and Regulations, the Complaint shall constitute a written statement filed in the office of the City Clerk alleging such breach.

- g. **Amended Pleadings:** A party may amend a pleading only with leave of the Commission or by stipulation of all parties. Leave should be freely given when justice so requires. The opposing party shall be given reasonable time to respond to any new allegations in an amended pleading.
- h. **Complainant:** In the case of the proposed suspension, termination, reduction in grade, or reduction in compensation of a Firefighter, the Complainant shall be the Department. In the case of a complaint alleging any breach of these Rules and Regulations, the Complainant shall be the Firefighter or other person who has filed a Complaint alleging such a breach.
- i. **Days, Computation of Time:** In computing any period of time prescribed or allowed by these Rules and Regulations, by any order of the Commission, or by any applicable statutes, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made the office of the City Clerk inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor or by the Mayor of the City of Cheyenne. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail, three (3) days shall be added to the prescribed period.
- j. **Department:** Shall mean the City of Cheyenne, Wyoming, Fire and Rescue Department.
- k. **Firefighter or Member:** Shall mean any sworn firefighter who is employed by the Department.
- l. **Oral Skills Test Panel:** Shall mean the panel of persons appointed and qualified by the Chief to conduct oral skills testing pursuant to Chapter V, Section 13.c., of these Rules and Regulations. The Panel shall consist of no less than three (3) and no more than five (5) individuals.
- m. **Respondent:** In the case of a proposed suspension, termination, reduction in grade, or reduction in compensation, the affected Member who has filed an Answer and Request for Hearing shall be the Respondent. In any case in which any Member or other person

has filed a Complaint alleging a breach of these Rules and Regulations, the Respondent shall be the Department.

- n. **Court:** Shall mean the First Judicial District Court, Laramie County, Wyoming.
- o. **Service:** Unless otherwise specified in these Rules and Regulations, complaints, answers and other original or amended pleadings relating to any contested case shall be served in the manner and in accordance with the time limits specified in the Wyoming Rules of Civil Procedure.
- p. **Rules and Regulations:** Shall mean these Rules and Regulations adopted by this Commission.
- q. **Union:** The bargaining agent selected by members of the Cheyenne Fire and Rescue Department pursuant to W.S. § 27-10-103.
- r. **Make Whole Relief:** Shall mean any form of relief that may be awarded by the Commission to place the Complainant as nearly as possible in the position he would have enjoyed had the issue giving rise to the dispute not occurred. Attorneys' fees are not considered part of the make whole relief available under these rules, and the Commission may not award any prevailing party their, or its attorneys' fees. Any party who prevails in a hearing before the Commission may be awarded the costs available to a prevailing party under Rule 501 of the Uniform Rules for the District Courts of the State of Wyoming, provided that a certificate of costs satisfying the requirements of that rule is filed within 20 days of the issuance of the Commission's written decision, and properly served upon all opposing parties.
- s. **Exhaustion of Eligibility List:** An Eligibility List established pursuant to these Rules and Regulations shall be deemed to be exhausted when each of the applicants whose names appear on the list has either been hired or promoted off of the list, has withdrawn from the hiring or promotion process, has become disqualified from employment or promotion, or has declined employment or promotion. In addition, an Entry Level Eligibility List shall become invalid at 11:59 P.M. on the first anniversary of the date that the list was created. In addition, a promotion Eligibility List shall become invalid at 11:59 P.M. on the second anniversary of the date that the list was created. In addition, the Fire Chief may refuse to promote from a promotional Eligibility List pursuant to Chapter V, Section 13 of these Rules and Regulations.
- t. **Chief Examiner:** Shall mean the member or person designated by the Commission to supervise the preparation, administration, and scoring of examinations.

- u. **Promotion:** Shall mean the formal appointment of a Member to a position or rank within the Department pursuant to these Rules and Regulations. The word “promotion” does not include the process by which a Member is designated, pursuant to the provisions of the collective labor agreement between the Department and the Union, to act in a higher job classification or the process by which a Member performs the duties of a particular position pursuant to a temporary assignment.

- v. **Vacant:** For the purposes of all positions within the Department, a position shall be deemed to be “vacant” if the Member who has been formally promoted to that position dies, resigns, retires, is formally terminated, is formally promoted, is voluntarily demoted, or is permanently re-assigned. A position shall not be deemed to be vacant if: (1) the Member, who has been formally promoted to that position, is absent due to illness, injury, disability or other cause; (2) it is expected that the Member will resume the performance of the duties of the position; and (3) the duties of the position are being performed by another Member pursuant to the provisions of the collective bargaining agreement relating to acting in a higher job classification.

- w. **Vacancy:** Shall refer to any position in the Department which is vacant as defined in subsection v., of this Section, and shall also refer to the death, resignation, retirement, promotion, demotion, or re-assignment of any member which causes the staffing of the Department to fall below the minimum levels established in the collective labor agreement between the City and Union. Nothing in these rules shall be construed to require the Department to fill a position if the position is vacant but has not caused the Department to fall below the minimum staffing levels established in the collective labor agreement between the City and Union.

Section 4. Validity of Rules. If any provision of these Rules and Regulations is determined to be invalid by a Court of competent jurisdiction, or if any portion thereof is rendered invalid by legislative action, the remaining portions of these Rules and Regulations shall remain in full force and effect.

Section 5. Amendments. These Rules and Regulations may be amended pursuant to the Wyoming Administrative Procedure Act, W. S. 16-3-101, *et seq.*

CHAPTER II
CLASSIFICATION OF EMPLOYMENT

Section 1. Fire Chief. The Department shall be commanded by one (1) Fire Chief duly appointed by the Mayor with the consent of the Governing Body.

Section 2. Deputy Fire Chief. Assistant to the Fire Chief shall consist of the classifications contained in Chapter 5 of these Rules and Regulations.

Section 3. Community Risk Reduction (CRR) Division. The CRR Division of the Department shall consist of the classifications contained in Chapter 5 of these Rules and Regulations.

Section 4. Fire Suppression Division. The Fire Suppression Division of the Department shall consist of the classifications contained in Chapter 5 of these Rules and Regulations. The Suppression Division includes firefighters who are assigned on the basis of twenty-four (24) hour tours of duty.

Section 5. Fire Support Division. The Fire Support Division of the Department shall consist of the classifications contained in Chapter 5 of these Rules and Regulations.

Section 6. Fire Administration Division. The Fire Administration Division of the Department shall consist of the classifications contained in Chapter 5 of these Rules and Regulations.

CHAPTER III
QUALIFICATIONS AND APPLICATION FOR EMPLOYMENT

Section 1. Entry Level Firefighter. To qualify for initial employment as an Entry Level Firefighter, each applicant shall:

- a. Be a citizen of the United States of America;
- b. Not have been convicted of any felony;
- c. Be not less than the age of majority provided for in W. S. § 14-1-101 at the time of examination;
- d. Have a high school education or its equivalent;
- e. Have the ability to read, speak, and write the English language;
- f. Submit to and pass a physical examination administered by a duly licensed physician designated by the Department;
- g. Submit to and pass a background investigation as determined by the Department.
- h. Subject to verification by the Human Resources Department, each applicant shall be entitled to one or more additional certification points in accordance with the following schedule. The certification points will be added to each applicant's final total score for the written and oral portions of the entry level firefighter examination provided for in these Rules and Regulations.

Firefighter 1 Certification	1.0 point
Firefighter 2 Certification	1.0 point
EMT-B/I/P Certification	1.0 point
Associate's Degree, any field	1.5 points
Associate's Degree in Fire Science or EMS	3.0 points
Bachelor's Degree, any field	3.0 points

*Note: Applicants are only awarded points for one degree. For example, an applicant with two bachelor's degrees is only awarded 3.0 points. An applicant with two associate's degrees is only awarded 1.5 points, unless one of the associate's degrees is in fire science or EMS (in which case the applicant is awarded 3.0 points). The maximum number of certification points for a degree is 3.0.

- i. Certification points for education may be awarded only for degrees that are awarded by accredited institutions of higher learning. An applicant who wishes to claim certification points for education under this subsection must submit official transcripts or other official verification of the award of academic degrees.

- j. Certification points shall also be added to the applicant's final total score if the applicant has been honorably discharged from the military service of the United States in accordance with and subject to the provisions of W.S. §§ 15-5-107 and 19-14-102. The number of certification points to be added to the applicant's final total score shall be as specified in W.S. § 19-14-102(c).

Section 2. Lateral Entry Level Firefighter

- a. Every lateral applicant shall meet the same qualifications as set forth previously in Section 1, Qualifications, I. Entry Level Firefighter, subsections (a) – (j). In addition, the applicant must have been employed with a career fire department for a minimum of two years and be within good standing within the two-year period immediately preceding this application.
- b. The Fire Chief shall have the option when hiring to select off either one of the entry level firefighters lists as outlined in Section 1 and 2 above.

Section 3. Applications for Initial Employment. An applicant may apply for initial employment by completing the application form for the entry level position prescribed by the Department. Completed application forms shall be filed in the offices of the Human Resources Department.

- a. Each applicant shall swear or affirm that the information presented by the applicant is true, correct and complete.
- b. The Commission may reject any application which shows, on its face, that the applicant is not qualified to hold the position being sought. The Commission shall notify the applicant in writing.

Section 4. Probationary Period. Each Member employed by the Department, in any position, shall be on probation for a period of one (1) year from the date of initial employment pursuant to W.S. § 15-5-109. If, during this probationary period, the conduct of the Member has not been satisfactory, the Fire Chief may discharge the Member from service. The Member shall have no right to appeal the discharge to the Commission.

CHAPTER IV
INITIAL APPLICATION AND EXAMINATION FOR EMPLOYMENT

Section 1. Examinations. The Commission shall conduct examinations for initial appointment to the position of Entry Level Firefighter and shall fix the date, place and conditions thereof. Each applicant shall receive written notice from the Human Resources Department or designee of the time and place of the examination. The Human Resources Department shall also notify each applicant of their score on the examination. The notification may be sent by U.S. Mail to the applicant. Oral notification may also be provided to any applicant upon verification of the applicant's identity in accordance with policies and procedures of the Human Resources Department. A roster of examination scores may also be posted on-line through the Office of Human Resources so long as the applicants who sat for the examination are identified only by their examination numbers assigned pursuant to Section 3 of this Chapter.

Section 2. All employment examinations shall be impartial and shall relate only to matters which will test the fitness of the applicants to perform the duties of the position to which the examination pertains. An applicant must obtain a passing score, as specified in these Rules and Regulations, on the written test to be eligible to proceed with the examination process.

Section 3. Prior to and during grading, each written test shall be identified only by a number assigned to the applicant who completed the test.

Section 4. The employment examination for the position of Entry Level Firefighter shall consist of the following:

- a. **Written Test:** An applicant must obtain a score of 75% or more in order to pass this section and proceed to the strength and ability test. When a written test is scored, each applicant will be ranked according to his or her score. The top seventy-five (75) applicants who have achieved at least 75% on the written portion of the examination will be eligible to proceed to the CPAT Strength and Ability Test. If there is a tie for the 75th position, all applicants with an identical score will be eligible to proceed to the CPAT Strength and Ability Test.
- b. **CPAT Strength and Ability Test:** The standards for passing this section shall be published by the Commission prior to each examination. This section shall be scored on a "pass/fail" basis. Each applicant who has passed the written examination and CPAT Strength and Ability Test or has presented a valid CPAT card issued by an accredited CPAT agency, is eligible to proceed to the oral interview.

- c. **Oral Interview:** Prior to administration of this section of the examination, the Department shall publish standards for the oral interview portion of the examination. An applicant must obtain a score of 75% or more in order to pass this section.
- d. The written test score and the oral interview score shall be combined to compute the final average score. An applicant must obtain an average final score of 75% or more to pass the entrance examination. The final passing scores shall be reported to the Commission which shall establish an Eligibility List that shall contain the names of all applicants who have qualified for the position of Entry Level Firefighter pursuant to this Section, who shall be ranked in the order of each applicant's overall score on the employment examination. Applicants with identical overall scores on the employment examination shall be ranked in the order in which their applications for employment were filed in the Human Resources Office.

Section 5. Examination Administration. All examinations shall be conducted by the Commission or such other persons as the Commission may designate.

Section 6. Examination Papers, Inspection, Retention, and Confidentiality. An applicant, or any representative designated by an applicant, may inspect the applicant's examination papers upon written request to the Fire Chief, provided however, that an applicant may not designate another applicant as their representative for this purpose. No applicant shall be permitted to inspect the examination papers of another applicant. Grades of individual applicants may be disclosed to the Commission and shall be maintained by the Human Resources Department in confidential files. Examination papers may be destroyed at any time after the passage of five (5) years from the date of the examination.

Section 7. When an Entry Level Firefighter position is vacant, the Fire Chief shall request that the Commission prepare a Hiring List which shall contain the names of the top five (5) applicants who remain on the Eligibility List for the position of Entry Level Firefighter. The Fire Chief shall select an applicant from the Hiring List. The Fire Chief shall then extend a conditional offer of employment to the selected applicant.

- a. All offers of employment are contingent upon the applicant's successful completion of a physical examination or proof of a current valid fire department physical examination.

Section 8. Validity of Eligibility Lists; Exhaustion; Expiration. An Eligibility List established pursuant to Section 4 shall remain valid until the list is exhausted as defined in these Rules and Regulations. Upon the exhaustion of an Eligibility List, the Fire Chief shall request that the Commission establish a new Eligibility List in accordance with these Rules and Regulations and applicable state laws within fifteen (15) days after its receipt of the Fire Chief's request. The

Commission may, on its own initiative, establish a new Eligibility List when an existing Eligibility List has become exhausted.

Section 9. Physical Examination. Each applicant may be required to pay for the physical examination prescribed by the Department following a conditional offer of employment. The examination must be conducted by a licensed physician designated by the Department and the examining physician must complete the Department's physical examination forms. The applicant must pass the physical examination as a condition of employment.

CHAPTER V
PROMOTIONS AND ELIGIBILITY LISTS

Section 1. Promotional Examinations. Promotion to any officer's or engineer's rank in the department shall be made from an Eligibility List, as identified in Section 11 containing the names of those applicants who have received a final score of seventy percent (70%) or more on the promotional examination.

Section 2. The following ranks are established:

- a. Firefighter
- b. Engineer
- c. Lieutenant of Suppression
- d. Lieutenant of Training
- e. Lieutenant of CRR
- f. Lieutenant of EMS/Coordinator
- g. Battalion Chief of Suppression
- h. Battalion Chief of Support
- i. Battalion Chief of CRR/Fire Marshal
- j. Battalion Chief of Administration
- k. Deputy Fire Chief
- l. Fire Chief

Section 3. Eligibility for Promotion/Appointment to Fire Chief and Deputy Fire Chief.

- a. Appointment and/or selection of a person to the office of Fire Chief and Deputy Fire Chief may be made from within or outside the department and any selection shall be based upon competitive examinations and merit as established by the Mayor and governing body. However, subject to equal qualifications, members of the department from the next lower grade shall be given preference for selection/promotion.
- b. The Fire Chief and Deputy Fire Chief knowingly and voluntarily agree to waive their due process rights to notice and hearing under Wyoming civil service statutory provisions and agree to be governed by the terms and conditions of the City of Cheyenne Rules and Regulations as established.
- c. The Fire Chief and Deputy Fire Chief job qualifications shall be outlined in the City of Cheyenne posted job description and position hiring announcement. The qualifications shall meet the Job Performance Requirements (JPR's) outlined in the National Fire Protection Association (NFPA) Standard 1021 for Fire Officer III & IV.

Section 4. Eligibility for Promotion to Battalion Chief of Suppression, Battalion Chief of Support, and Battalion Chief of Administration.

- a. A Member of the Department is eligible to test for promotion to the position of Battalion Chief of Suppression, Battalion Chief of Support, and Battalion Chief of Administration if they have been formally promoted to the position of Lieutenant of Suppression or have been certified to act as Battalion Chief of Suppression in the one (1) year period immediately prior to the date of the promotional examination. A Lieutenant of Training or EMS may be considered eligible to test for promotion to the positions of Battalion Chief of Support and Battalion Chief of Administration if they are eligible and/or actively on the Lieutenant of Suppression promotion list, have fulfilled all criteria necessary to be a Lieutenant of Suppression actor and shown proficiency.
- b. In the event no eligible Member under subsection a., of this Section applies for promotion to Battalion Chief of Suppression, Battalion Chief of Support, and Battalion Chief of Administration the promotional examination shall be opened to all Members who have been formally appointed to any rank above Engineer and all Members who have been formally promoted to the rank of Engineer. All applicants in this subsection must currently be certified to act as a Lieutenant of Suppression.

Section 5. Eligibility for Promotion to Battalion Chief of CRR/Fire Marshal.

- a. A Member of the Department is eligible to test for promotion to the position of Battalion Chief of CRR/Fire Marshal if they have been formally promoted to the position of Lieutenant of CRR.
- b. In the event no eligible Member under subsection a., of this Section applies for promotion to Battalion Chief of CRR/Fire Marshal the promotional examination shall be opened to all Members who have been formally appointed to any rank above Engineer and all Members who have been formally promoted to the rank of Engineer. All applicants in this subsection must currently be certified to act as a Lieutenant of Suppression.

Section 6. Eligibility for Promotion to Lieutenant of Suppression.

- a. A Member of the Department is eligible to test for promotion to the position of Lieutenant of Suppression if they have been formally promoted to the position of Engineer.

- b. In the event no eligible Member under subsection a. of this Section applies for promotion to Lieutenant of Suppression, the promotional examination shall be opened to all Members who have been promoted to any rank above Firefighter and to all Firefighters who have continuously served the Department for at least four (4) years immediately prior to the date of the promotional examination.

Section 7. Eligibility for Promotion to Lieutenant of EMS/Coordinator.

- a. A Member of the Department is eligible to test for promotion to the position of Lieutenant of EMS/Coordinator if they:
 - (1) have been formally promoted to the rank of Engineer or any rank above Engineer, and
 - (2) has been designated as a Paramedic; and
 - (3) has continuously served as a Paramedic in good standing with the Department for at least one (1) year immediately prior to the promotional examination.
- b. In the event no eligible Member under subsection a., of this Section applies for promotion to Lieutenant of EMS/Coordinator, the Fire Chief shall open the examination to any Firefighter who has at least four (4) years of continuous service as a Firefighter and at least one (1) year of continuous service as a Paramedic in good standing immediately preceding the promotional examination.

Section 8. Eligibility for Promotion to Lieutenant of Training.

- a. A Member of the Department is eligible to test for promotion to the position of Lieutenant of Training if they have been formally promoted to the position of Engineer.
- b. In the event no eligible Member, as specified in subsection a., of this Section, applies for promotion to Lieutenant of Training, the promotional examination shall be opened to all Members who have been promoted to any rank above Firefighter and to all Firefighters who have continuously served the Department for at least four (4) years immediately prior to the date of the promotional examination.

Section 9. Eligibility for Promotion to the Rank of Lieutenant of CRR.

- a. A Member of the Department is eligible to test for promotion to the position of Lieutenant of CRR if they have been formally promoted to the rank of Engineer.

- b. In the event no eligible Member under subsection a., of this Section applies for promotion to Lieutenant of CRR, the promotional examination shall be opened to all Members who have been promoted to any rank above Firefighter and to all Firefighters who have continuously served the Department for at least four (4) years immediately prior to the date of the promotional examination.

Section 10. Eligibility to test for Engineer. Any Member who has at least two (2) years of continuous service to the Department as a Firefighter immediately prior to the promotional examination is eligible to test for promotion to the position of engineer.

Section 11. Establishment of Eligibility Lists. An Eligibility List for the positions of Engineer, Lieutenant of Suppression, Lieutenant of Training, Lieutenant of CRR, Lieutenant of EMS/Coordinator, Battalion Chief of Suppression, Battalion Chief of Support, Battalion Chief of CRR/Fire Marshal, and Battalion Chief of Administration shall be established when a promotional examination for the affected rank or position is completed, and one or more applicants achieves a grade of 70% or greater. Each such Eligibility List shall remain valid until the list is exhausted. If the Eligibility List for Engineer becomes exhausted, a new promotional examination shall be conducted during the months of May, June, or July next following the date of exhaustion of the list. Except for the position of Engineer, the Fire Commission shall announce a promotional examination for a position governed by this Section when the Fire Chief, in their discretion, determines that there is a need for an eligibility list for that particular position or if a member submits a letter of interest to the Fire Chief to take a promotional examination for a rank that does not have a current list. Nothing in this Section shall be construed to require the establishment of a new Eligibility List for any rank or position governed by this Section when a promotional examination is conducted for one of the other ranks or positions.

Section 12. Notice of a promotional examination subject to this Chapter shall be posted in all stations and in the administrative offices of the Department at least thirty (30) days prior to the examination. The Notice shall state the location, time, and date of the examination, the minimum eligibility requirements to apply for promotion to the position for which the examination is being conducted, the deadline to register for the examination by filing an application for promotion to the position in the Human Resources Department, the study materials needed for the examination, and the average score which must be achieved in order to pass the examination. In the event no eligible Member registers for a promotional examination by filing an application for promotion within the time limit specified in the Notice, the Fire Chief shall post one or more additional notices which shall state the lower minimum eligibility requirements for the position as permitted by these Rules and Regulations.

Section 13. Contents of Examinations. The written, practical, and oral portions of the promotional examination shall be reviewed and approved by the Fire Chief prior to administration. Each promotional examination shall contain the following sections:

- a. **Written Portion:** The written portion of the promotional examination will consist of written questions and will constitute 34% of the applicant's final average score. The written portion shall be based upon the duties of the position for which the promotional examination is being conducted. All questions shall be generated by a professional testing company from reference manuals, books, or other materials approved by the Fire Chief. Applicants shall not be permitted to use books, notes, calculators, computers, or other test aids while taking the written portion, unless the use of such devices or aids is approved by the Fire Chief prior to the administration of the written portion. Scoring of the written portion shall be carried to four (4) decimal points.
- b. **Practical Examination:** The practical portion of the promotional examination shall constitute 33% of the applicant's final average score. The practical portion shall consist of psychomotor and/or cognitive exercises designed to test the ability of the applicant to perform the job functions of the position for which the promotional examination is being conducted. Scoring of the practical portion shall be carried to four (4) decimal points.
- c. **Oral Skills Portion:** The oral skills portion of the promotional examination shall constitute 33% of the applicant's final average score. The oral skills portion shall be conducted by an Oral Skills Test Panel as defined in Chapter I, Section 3.1., of these Rules and Regulations. Scoring of the oral skills portion shall be carried to four (4) decimal points.
- d. **Test Scoring.**
 - (1) **Final Average Score:** Once an applicant has passed each portion of the promotional examination, his or her scores on each portion shall be averaged together for a final average score. An applicant must obtain a final average score of 70% or more in order to pass the promotional examination. Scoring shall be carried to four (4) decimal points.
 - (2) **Seniority Points:** Seniority points of one-half ($\frac{1}{2}$) point per year of service, not to exceed ten (10) points, shall be added to the final average score of each applicant who obtained a final average score of 70% or more. Seniority points shall be pro-rated to full months of service based on the applicant's date of hire and the date of the promotional examination. Seniority points shall be carried to four (4) decimal points.

- (3) **Certification Points:** Certification Points shall be awarded to those applicants who possess current certifications(s) or degree(s), defined in the following table, who obtained a final average score of 70% or more. A maximum of five (5) certification points may be awarded. Current certifications must be submitted prior to the written test date. Certification points shall be carried to four (4) decimal points.

Engineer

EMT B or EMT P	¼
AAS in Fire Science or EMS	½
ADO-Pumper	¼
ADO- Aerial	¼
Department Certification to Act	½

Lieutenant

EMT B or EMT P	¼
AAS in Fire Science or EMS	1
AAS, Bachelor's in any field	½
Bachelor's Degree Fire Science, EMS,	1 ½
Fire Officer I	¼
Fire Inspector I	¼
Fire Instructor I	¼
Incident Safety Officer	¼
Department Certification to Act	½

Battalion Chief

Fire Officer II	¼
Fire Inspector II	¼
Fire Instructor II	¼
Incident Safety Officer	¼
AAS in Fire Science or EMS	1
Bachelor's Degree Fire Science, EMS, Emergency Management	1 ½
Department Certification to Act	½

- (4) **Review of Examination Papers:** A Member, and any person designated by the Member in writing, may review their examination scores and papers subject to the following terms and conditions. Neither the Member, nor their designee, shall copy, duplicate, photograph, reconstruct, take notes of or in

any other manner reproduce the content or structure of said examination. A request to review examination papers, including papers relating to the practical and oral skills portions, may be made only after the examination is scored, a raw ranking of the test candidates is completed, and the examination papers and results are delivered to the Human Resources Department. A Member, or their designee, will be allotted a maximum of one (1) hour to examine their test materials, and all such materials shall be examined only once unless further examination is approved by the Fire Chief or their designee. A Member may not designate another applicant who has taken the same promotional examination to review that Member's examination papers and scores.

- (5) **Examination Challenges and Appeals:** After completion of the scoring of a promotional examination, an applicant may appeal any scoring or other grading discrepancies which affected their score. The appeal must be in writing and must be hand-delivered to the Fire Chief within five (5) days after the applicant is advised of his or score. The appeal must state with specificity the applicant's claims regarding scoring inaccuracies or other testing discrepancies. The appeal will be reviewed by a Committee composed of the Fire Chief, the Chief Examiner, a representative of the Human Resources Department, the President of I.A.F.F. Local # 279 or their designee (or, if I.A.F.F. Local #279 is no longer the Union as defined in Chapter I, the president of the Union as defined in Chapter I or his/her designee), and a representative of the City Attorney's office. The Committee shall meet to review the appeal within five (5) days after the receipt thereof. The Committee shall issue a written ruling on the appeal within ten (10) days after receipt thereof. The ruling shall be delivered to the applicant by mail or in electronic format if so requested by the applicant. If the applicant disagrees with the ruling of the Committee, the applicant may appeal to the Commission by filing a Complaint pursuant to Chapter VII of these Rules and Regulations.

Section 14. Final Test Scores; Establishment of Eligibility Lists; Promotions.

- a. After the completion of the grading of a promotional examination, the scores will be forwarded to the Commission for validation, provided however, that in the event any applicant files a Complaint pursuant to Section 12., d. 5, of this Chapter, the Commission shall dispose of the Complaint before establishing the final Eligibility List for the position for which the promotional examination was conducted. The Eligibility List for a particular position, if and when established pursuant to these Rules and Regulations, shall contain the names of all applicants who achieved a final score of 70% or higher. The applicants shall be ranked on the list in the order of their final

scores on the promotional examination with the applicant having the highest final score being ranked number one, the applicant having the next highest score being ranked number two, and so on. In the event two or more applicants have achieved identical final scores, they shall be designated as tied for a particular rank on the Eligibility List.

- b. Each Eligibility List, when established by the Commission, shall be delivered to the Fire Chief. When a position for which a valid Eligibility List has been established becomes vacant, the Fire Chief shall promote a candidate from the Eligibility List, selecting a choice from the three (3) applicants who have the highest rankings on the Eligibility List. In the event an Eligibility List is composed of less than three (3) applicants, the Fire Chief may declare the list exhausted provided that they provide a reasonable explanation for doing so. In that event, the Fire Chief shall post an announcement of a promotional examination for the position and a new Eligibility List shall be established in accordance with this Chapter of these Rules and Regulations.
- c. The Fire Chief may base their selection upon applicant interviews, interviews with supervisors, and other relevant information. An applicant who is one of the three highest ranked applicants on an Eligibility List may request a written explanation from the Fire Chief of the reasons why the applicant was not selected for the position.
- d. An applicant shall be notified by the Fire Chief and the Human Resources Department when the applicant has been promoted from an Eligibility List.

CHAPTER VI
TERMINATION, SUSPENSION, REDUCTION IN PAY, GRADE, OR COMPENSATION

Section 1. Statement of Termination, Suspension, or Reduction in Pay, Grade, or Compensation; Content; Service. In order to terminate, suspend, or reduce the pay, grade, or compensation of any Member who has completed the probationary period and has been regularly employed pursuant to W.S. 15-5-109(b), the Fire Chief shall prepare a Statement of Termination, Suspension, or Reduction in Pay, Grade or Compensation (hereinafter referred to as "Statement"), in the form provided by Sections 2 and 4 of this Chapter. The Statement shall contain the charges and specifications upon which the proposed action is based. The Statement shall be delivered to the affected Member in person.

Section 2. Effective Date of Suspension, Termination, or Reduction in Pay, Grade, or Compensation. The Statement shall read approximately as set forth in Appendix A. The Statement shall state an effective date which shall be no fewer than fifteen (15) days from the date the Statement is delivered to the affected Member. In the event the Member does not appeal to the Commission by filing an Answer and Request for Hearing within the time limits prescribed by this Chapter, the proposed termination, suspension, or reduction in pay, grade, or compensation shall become effective on the date specified in the Statement. If the affected Member files an Answer and Request for Hearing within the time limits prescribed by this Chapter, the proposed termination, suspension or reduction in pay, grade, or compensation shall become effective only upon the order of the Commission.

Section 3. Filing of Statement. The Statement shall be filed with the Commission within three (3) days after the Statement is delivered to the affected Member.

Section 4. Form of Statement of Suspension or Termination. The Statement shall be substantially similar to the form attached to these Rules or Regulations as Appendix A. The form of the Statement may be amended from time to time, without amending these Rules and Regulations, provided however, that the form of the Statement may not be amended in any manner which would change the substantive provisions of these Rules and Regulations.

Section 5. Procedures to Invoke Commission Review of a Proposed Termination, Suspension, or Reduction in Pay, Grade, or Compensation.

- a. Within fifteen (15) days after receipt of a Statement, the affected Member, or a representative acting on his or her behalf, may seek Commission review by filing a written Answer and Request for Hearing. The Answer and Request for Hearing, which may be combined in one pleading, must be filed in the office of the City Clerk, 2101 O'Neil Avenue, Room 101, Cheyenne, Wyoming.

- b. The Answer and Request for Hearing shall be served in the manner provided by the Wyoming Rules of Civil Procedure.
- c. Upon the timely filing of an Answer and Request for Hearing in the manner provided by these Rules and Regulations, the Commission shall issue a Notice of Hearing and such other and further pre-hearing orders as shall be deemed appropriate.

Section 6. Withdrawal of Statement; Withdrawal of Answer and Request for Hearing. The Fire Chief may withdraw a Statement and a Member may withdraw an Answer or Request for Hearing upon the consent of and in accordance with such terms and conditions as may be determined by the Commission.

Section 7. Hearing Procedures; Time for Hearing.

- a. If the Department has filed a Statement of the proposed termination, suspension or reduction in the pay, grade or compensation of a Member, and if the affected Member has filed an Answer and Request for Hearing within the time limits and in the manner specified by these Rules and Regulations, the Commission shall issue a Notice of Hearing, as provided herein, and shall conduct a contested case hearing within ninety (90) days from the date the Statement was filed with the Commission. Any member placed on administrative leave with pay shall continue in that status until the conclusion of the contested case proceedings, including the issuance of a final order, if the contested case hearing is conducted within the ninety (90) day period provided for in this subsection.
- b. In the event the Department seeks a continuance of a contested case hearing scheduled pursuant to subsection a., of this Section, and if a Member has been placed on administrative leave with pay, the Member shall continue in that status until the conclusion of the contested case proceedings, including the issuance of a final order. In the event the affected Member seeks and is granted a continuance, such that the contested case hearing is conducted more than ninety (90) days following the date the Statement was filed with the Commission, that Member shall be placed on administrative leave, without pay, effective on the ninetieth (90th) day after the date of filing of the Statement with the Commission, and the Member shall continue on administrative leave without pay until the conclusion of the contested case proceedings, including the issuance of a final order.
- c. Content of Notice of Hearing. At least thirty (30) days prior to the contested case hearing, the Commission shall issue a Notice of Hearing that shall state the date, time, and place of the contested case hearing. The Notice of Hearing shall be served in the manner provided by the Wyoming Rules of Civil Procedure. The Notice of Hearing

shall further state that the affected Member, Complainant, or other party has the following rights:

1. The right to be represented at the expense of the represented party.
2. The right to confront and cross-examine witnesses.
3. The right to advance disclosure of the identity of each witness to be called by the Department, together with a summary of the testimony which may be given by each such witness in accordance with pre-hearing orders issued by the Commission.
4. The right to present witnesses and to compel the attendance of witnesses in accordance with the Wyoming Administrative Procedure Act and these Rules and Regulations.
5. At the expense of the affected Member, the right to make audio recordings of any proceedings conducted by the Commission or to have the proceedings of the Commission reported by a duly qualified court reporter.
6. The right of an affected Member to examine their personnel file upon request to the Human Resources Department.
7. The right to judicial review of any final decision made by the Commission in the manner provided by law.

d. All proceedings conducted by the Commission following the date of filing of a Statement shall be governed by the contested case provisions of the Wyoming Administrative Procedure Act. (W.S. §§ 16-3-101 *et seq.*)

Section 8. Access to Commission Records.

- a. Access to records in connection with any proceedings conducted by the Commission pursuant to this Chapter shall be governed by the Wyoming Public Records Act and other applicable law. To the extent that records in the possession of the Commission may be disclosed under law, inspection of any such documents shall be permitted, without charge, in the Offices of the City Clerk. The City Clerk may charge for staff time spent compiling records to be copied, and may charge for copies of records, at rates established by the Office of the City Clerk, to the extent permitted by the Wyoming Public Records Act.

- b. Except as may be otherwise ordered by the Commission, and except as provided by law, nothing in these Rules and Regulations shall be construed to prevent the parties to any proceedings before the Commission from inspecting records or documents in the possession of the Commission or of the Department which pertain to that proceeding.

CHAPTER VII
PROCEDURE FOR THE INVESTIGATION OF ALLEGED BREACHES OF RULES AND REGULATIONS
PURSUANT TO W.S. 15-5-119(a)(iii)

Section 1. A Member or any other aggrieved person may file a Complaint with the City Clerk alleging that the Department, or any other person, has committed a breach of these Rules and Regulations. A Member may also file a Complaint to seek Commission review of the decision made by the Committee with respect to scoring or other grading discrepancies under Chapter V, Section 12, d, 5. The Complaint must be filed within fifteen (15) days from the date on which the alleged breach of these Rules and Regulations occurred or within 15 days after the date of a decision under Chapter V, Section 12, d, 5.

Section 2. Content of Complaints. A Complaint alleging a violation of any provision of these Rules and Regulations must set forth the following allegations.

- a. The full name and address of the Complainant;
- b. A short and plain statement of the facts and circumstances which relate to any alleged breach of these Rules and Regulations (or, in the case of Appeals pursuant to Chapter V, Section 12, d, 5, a short and plain statement of the alleged scoring or other grading discrepancies which affected their score); and
- c. The remedy sought by the Member or other Complainant.
- d. The Complaint shall be filed in the office of the City Clerk and served on the Department by personal service on the Fire Chief and the office of the City Attorney.

Section 3. The Department shall file an Answer to a Complaint within fifteen (15) days after service of the Complaint. The Answer shall be served in accordance with the Wyoming Rules of Civil Procedure.

Section 4. Within ten (10) days after the filing of the Department's Answer, the Commission shall conduct a meeting for the purpose of establishing a procedure for the investigation of the allegations of the Complaint. The procedure may encompass all or any of the following matters:

- a. The appointment of an independent investigator or Special Master to conduct an investigation regarding any alleged breach of these Rules and Regulations and to prepare written recommendations to the Commission regarding the correction of any such breaches.

- b. The recommendations of the independent investigator or Special Master shall be made available to the Department and the Complainant or other party to the proceeding. The Commission shall review the written recommendations within thirty (30) days after receipt. The Commission shall adopt the written recommendations unless the Commission, in the exercise of its discretion, determines that the recommendations do not promote the efficiency of the fire service in the City of Cheyenne or the Complainant or other party to the proceeding's objects to the recommendations, in whole or in part.

- c. In the event the Commission, the Complainant, or any other party to the proceeding objects to the written recommendations, the Commission shall enter a scheduling order setting forth deadlines for the filing of additional and amended pleadings, for the conduct of discovery, for the filing of dispositive motions, and for conducting a contested case hearing in accordance with these Rules and Regulations.

Section 5. This Chapter of these Rules and Regulations does not pertain to proceedings relating to suspension or termination of any Firefighter.

CHAPTER VIII
RULES OF PRACTICE GOVERNING CONDUCT OF HEARINGS

Section 1. **Hearing.** This Chapter shall govern contested case proceedings conducted by the Commission for matters arising under Chapter VI and VII of these Rules and Regulations. All contested case proceedings conducted by the Commission shall be governed by the contested case provisions of the Wyoming Administrative Procedure Act. (W.S. §§ 16-3-101 *et seq.*)

Section 2. **Contested Case Hearing Procedures.**

- a. **Quorum and Presiding Officer:** The hearing shall be conducted before a quorum of the Commission. The Chairman of the Commission or a hearing officer appointed by the Commission shall serve as the presiding officer. Upon the written consent and waiver of all parties, a hearing may be conducted by one (1) member of the Commission.
- b. **Appearance of Parties:** Except as provided in Section 2(g), every Complainant and every Respondent named as a party in any proceeding before the Commission shall have the right to attend all meetings, hearings, and contested case proceedings conducted by the Commission regarding that proceeding. Every Complainant and every Respondent has the right to be represented by an attorney in proceedings before the Commission.
- c. **Order of Procedure:** Subject to the discretion of the Presiding Officer, contested case hearings shall be conducted in accordance with the following order of procedure:
 1. The presiding officer shall announce that the Commission is convened to hear the case and shall call the case by title.
 2. All persons who are present to give testimony in the hearings will rise, identify themselves and shall be administered the following oath or affirmation by the Presiding Officer: "Do you promise (or affirm) to tell the truth, the whole truth, and nothing but the truth in the matter now before the Commission?"
 3. No testimony will be received from a witness or party except under such oath or affirmation.
 4. In the case of the proposed suspension or termination of a Firefighter, or a reduction in pay, grade, or compensation, the Department is the Complainant and bears the burden to prove the charges and specifications which justify any such suspension or termination, or reduction in pay, grade, or compensation,

by a preponderance of the evidence. In such cases, the Department shall make the first opening statement summarizing its contentions and anticipated evidence. In the case of a Complaint under Chapter VII of these Rules and Regulations, the Complainant bears the burden of prove any such breach by a preponderance of the evidence and shall make the first opening statement summarizing its contentions and anticipated evidence.

5. In the case of the proposed suspension or termination of a Member, or a reduction in pay, grade, or compensation, the affected Member is the Respondent and shall make the second opening statement. In the case of a Complaint under Chapter VII of these Rules and Regulations, the Department is the Respondent and shall make the second opening statement summarizing its contentions and anticipated evidence.
 6. The Complainant shall then present its case in chief. Witnesses may be cross-examined by the Respondent and may be cross-examined by any member of the Commission. Complainant's exhibits will be marked by the letters of the alphabet, beginning with "A".
 7. The Respondent shall then present its case in chief. Witnesses may be cross-examined by the Complainant and may be cross-examined by any member of the Commission. The Respondent's exhibits will be marked with Arabic Numerals beginning with "1".
 8. The Complainant may offer rebuttal evidence.
 9. The Presiding Officer, in their discretion, may allow evidence to be offered out of order, as herein prescribed, under appropriate circumstances.
- d. **Expert Testimony:** If scientific, technical, or other specialized knowledge will assist the Commission to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise as provided by the Wyoming Rules of Evidence.
- e. **Closing Statements:** Closing statements will be made in the following sequence: (i) Complainant; (ii) Respondent; (iii) Complainant in Rebuttal. The Presiding Officer may limit the time for closing statements, provided that each Complainant and each Respondent shall have equal time and the time for the Complainant's rebuttal shall be deducted from the time allocated to the Complainant for its closing statement.

- f. **Recess:** The presiding officer may recess the hearing upon request of either party or upon their own motion as deemed appropriate.
- g. **Closing Proceedings:** After all participants have been offered an opportunity to be heard, the Presiding Officer shall excuse all witnesses and declare the evidence closed. The evidence in the case may be reopened at a later date for good cause shown by order of the Presiding Officer upon their motion or upon the motion of any party to the proceeding.
- h. **Briefs:** At the request of the parties or upon the motion of the Presiding Officer, parties may be ordered to submit briefs and proposed findings of fact and conclusions of law.
- i. **Deliberation; Decision:** Following the close of the evidence and the submission of briefs and proposed findings of fact and conclusions of law, the Commission shall deliberate in Executive Session to the extent permitted by W.S. § 16-4-405(a)(ii). The decision of the Commission shall be in writing and shall contain Findings of Fact, Conclusions of Law, and provisions relating to the grant or denial of the relief sought by the Complainant. In matters not governed by W.S. § 16-4-405 (a)(ii), all proceedings of the Commission and its deliberations shall be conducted in public.
- j. **Motions:** The Commission, upon adequate notice to all parties, may conduct a hearing on any motion filed in connection with contested case proceedings. In the absence of a request for an oral hearing, the Commission may also dispose of any motion upon the pleadings and briefs of the parties, if any.
- k. **Public Hearing:** Except as provided by Section 2(i), all hearings shall be public.
- l. **Exclusion of Witnesses:** Upon motion of either party or upon the motion of the Presiding Officer, witnesses may be sequestered.

Section 3. Subpoenas. The Commission or one of its presiding officers shall, upon the application of any party, or on its own motion, issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers, or other documents relevant or material to its inquiry.

- a. In the case of the refusal of any person to obey a subpoena issued by the Commission, the Commission or any party to the proceeding may apply to the First Judicial District Court for enforcement of the subpoena pursuant to W.S. § 16-3-107.

- b. The Commission, upon application of any party, or its own motion made before the time specified in the subpoena for compliance therewith, may:
 - 1. Quash or modify the subpoena if it is unreasonable and oppressive, or;
 - 2. Enter such conditions as may be deemed appropriate, including requiring the party which has issued or requested the issuance of a subpoena to pay the reasonable costs of producing books, papers, documents, or other tangible things.
- c. The costs of service and witness and mileage fees shall be borne by the party at whose request a subpoena has been issued. Witness and mileage fees shall be paid at the rate provided by law and by the Uniform Rules for the District Courts of the State of Wyoming.

Section 4. Discovery. The Complainant and Respondent may engage in discovery pursuant to the Wyoming Administrative Procedure Act, § W.S. 16-3-107(g), and the Wyoming Rules of Civil Procedure. Any party may seek to compel discovery pursuant to Rule 37 of the Wyoming Rules of Civil Procedure.

Section 5. Improper Conduct. The presiding officer or chairman may exclude from the hearing room or from further participation in the proceedings any person who engages in improper conduct, except for a party or his attorney, or a witness engaged in testifying.

Section 6. Final Order. The Commission shall make and enter a written decision and order containing findings of fact and conclusions of law, separately stated, granting or denying the relief sought. Certified copies of the Final Order shall be sent by certified mail, return receipt requested, to the attorney of record of any party or to the last known address of any party that is not represented by an attorney. A certified copy of the Final Order may be mailed or hand-delivered to the Fire Chief.

Section 7. Judicial Review. To the extent permitted by the Wyoming Administrative Procedure Act, the Wyoming Rules of Appellate Procedure, and other applicable laws and rules, decisions of the Commission are subject to judicial review as provided by law.

Section 8. Availability of Rules. Copies of these Rules and Regulations shall be available to the public on request and shall be kept on file with the City Clerk/Clerk of the Commission, at 2101 O'Neil Avenue, Room 101, Cheyenne, Wyoming.

Section 9. Attorneys. The appearance, admission to practice before the Commission, and withdrawal of attorneys shall be governed by Rules 101, 102 and 104 of the Uniform Rules for the District Courts of the State of Wyoming.

Section 10. Assistance of City Attorney. The City Attorney shall represent the Commission in all matters, except in matters in which the Department is appearing before the Commission as a party. In such matters, the Commission may obtain advice and other legal services from an attorney retained by the City Clerk pursuant to funding allocated to the City Clerk for this purpose.