



APPEALS TO CIVIL SERVICE COMMISSION

PM-38-04

Section: 38-00, DISCIPLINE AND APPEALS

I. PURPOSE AND SCOPE

The Civil Service Commission, City of Memphis Government, is appointed by the Mayor and approved by the City Council. Every employee of the City of Memphis Government has a right to request an appeal before the Civil Service Commission; however, the Civil Service Commission is limited by the provisions as set forth in the City of Memphis Charter, Article 34.

II. POWER OF THE CIVIL SERVICE COMMISSION

The Civil Service Commission shall have the power and it shall be its duty to conduct hearings to review disciplinary actions limited to suspensions, dismissals, or demotions of any employee not exempted from the provisions of this Article. In the course of any hearing, the Civil Service Commission shall have power to administer oaths, to subpoena and require the attendance of witnesses within the City and the production by them of books and papers pertinent to any matter of inquiry, and to examine such witnesses under oath in relation to any matter properly involved in such proceedings. For such purposes, the Commission may invoke the power of any court of record in the City, or judge thereof, to compel the attendance and testimony of witnesses and the production of books and papers in compliance with such subpoena. (Reference, City of Memphis Charter, Article 34, Section 6.)

III. THE AUTHORITY OF THE CITY

The City may terminate, suspend, or demote an employee for just cause, and the employee shall be given a written notice of the reason(s) for the action taken in accordance with PM-38-01, Discipline Policy and Procedures in the City of Memphis Personnel Manual Policies and Procedures. Just cause shall exist when the employer has a reasonable basis for the action taken. Enumeration of the above stated disciplinary actions, which are reviewable by the Commission, shall not be constructed as a limitation on powers of the City to impose other less stringent disciplinary measures which shall not be appealable to the Commission. (Reference, City of Memphis Charter, Article 34, Section 7.)



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IV. WHO MAY APPEAL TO THE COMMISSION

Any employee holding a position not exempted from the provisions set forth in the Memphis City Charter, Article 34, and not in the initial probationary period, who has been suspended in excess of ten (10) days, terminated, or demoted may appeal to the Commission within ten (10) calendar days after notification in writing of such actions. In the event of multiple suspensions, only that suspension which causes the total number of days suspended to exceed five (5) days within a six-month period and any subsequent suspension within said period shall be appealable to the Commission. If any employee has previously elected a remedy other than as provided by federal law, the employee shall not be entitled to a hearing before the Civil Service Commission to consider the merits of the disciplinary actions. In no event shall the ten (10) calendar-day time period for appealing to the Commission be waived. (Reference, City of Memphis Charter, Article 34, Section 8.)

V. AFTER AN APPEAL HAS BEEN FILED

Upon an employee's appeal from termination, demotion, or suspension, a hearing shall be held before the hearing board of the Commission within a reasonable time thereafter, not to exceed sixty (60) days from filing of the appeal unless the time shall be extended by consent of all parties. Any employee who has been indicted by the federal or state grand jury or against whom a presentment or information had been filed shall be granted, upon the employee's request and at the employee's election, a postponement of hearing before the Civil Service Commission until such indictment, presentment, or information had been finally disposed of by a court of competent jurisdiction. The hearing board shall consist of the Chairman and two (2) Commissioners, a majority vote shall be required to reverse or sustain the disciplinary action of the City. The Secretary of the Commission shall have the duty of convening said hearing board. At such hearing, both the appealing employee and the official whose actions are being reviewed shall have the right to be heard and to be represented by themselves or the legal counsel of their choosing. The burden of proof required to sustain the action of the City shall be a preponderance of the evidence. If, after a presentation of the proof, the Commission finds that there exists a



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reasonable basis for the disciplinary action taken, the action of the City shall be sustained. The decision of the Commission shall be appealable by either the City or the employee as provided by state law. (Reference, City of Memphis Charter, Article 34, Section 8.)