

# **CITY OF BEND FIRE & RESCUE REGULATIONS FOR CIVIL SERVICE**

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City of Bend Civil Service is a classified service of all regular, full-time, paid positions within the City of Bend Fire & Rescue, excluding that of Fire Chief and clerical support positions.

## **A. ADMINISTRATION**

- 1) The regulations provided herein shall be applied in compliance with federal, state and local equal opportunity, accessibility and non-discrimination regulations.
- 2) Terms of the Bend Fire Fighters Association agreement and the City of Bend Personnel Policies, whichever are applicable, shall take precedence over related terms of the Civil Service Regulations.
- 3) These regulations may be amended by a majority vote of the Commission. A copy of the proposed amendment and meeting agenda shall be made available to each member of the Commission, the Fire Chief or designee, and the Bend Fire Fighters Association at least 14 calendar days prior to such meeting.
- 4) In all decision making, the Commission will give due consideration to the opinions of City of Bend staff, the Fire Chief or designee, and the Bend Fire Fighters Association.
- 5) For the purposes of this document, "appointing authority" shall refer to the Fire Chief or designee.
- 6) The Fire Chief or designee shall be the Chief Examiner. The Chief Examiner may designate qualified City of Bend employees to assist in the administration of any examination or test to be held for the classified service. Assistance shall be under the direction and control of the Chief Examiner.
- 7) The Civil Service Commission may investigate, or refer to the Fire Chief or designee for investigation, any written complaint alleging violation of the City of Bend Civil Service Regulations. The complaint shall include: address and signature of complainant, the specific regulation allegedly violated, date of alleged violation, and proposed remedy. Should the Civil Service Commission choose to investigate, the findings of that investigation shall be reported to the Fire Chief or designee. If action has not been taken within 30 days thereafter, the Commission shall report the facts to the City Manager for appropriate action.
- 8) Reduction in force and re-employment shall be in accordance with the Bend Firefighters Association contract or the City of Bend Personnel Policies, whichever is applicable. When a reduction is made in the number of employees, notice shall be filed with the Commission in a timely manner, listing the names of employees laid-off.
- 9) Whenever a new, full-time, paid position is created, the Civil Service Commission shall be immediately notified in writing. Such notification shall include a job description.

## **B. TESTING AND ASSESSMENT**

- 1) Whenever necessary to meet or to anticipate the employment needs of the Fire Department the Chief Examiner shall hold tests to determine the fitness of applicants and to establish eligibility lists. Such tests may be written, oral, skills demonstration, Chief Officer interviews, and/or other methods of applicant assessment.
- 2) Examinations shall be held under the direction of the Chief Examiner and subject to oversight by the Commission.
- 3) The Chief Examiner shall see that all those whose applications have been accepted and who present themselves to take the tests for any position shall be given equal opportunity to demonstrate their qualifications. To this end, the Chief Examiner shall, among other things, provide working conditions as nearly uniform as possible.
- 4) In written tests each applicant shall be supplied with a brief written statement of the manner of conducting the tests or, in lieu thereof, the person conducting the tests shall make a brief oral explanation.
- 5) The identification of test papers and their contents shall be concealed. The Chief Examiner shall see that proper precautions are taken to prevent any unauthorized person from securing in advance questions or other material to be used in any test, unless such questions or other material to be used in any test are available to all applicants.
- 6) Test applicants will be given an official identifier other than their name. Any test paper bearing the name of the applicant or any identifying mark other than the official identifier shall be rejected unless otherwise ordered by the Commission. The identification of applicants with their tests shall not be disclosed to persons or agencies grading such tests until the ratings of all tests have been completed.
- 7) Unauthorized memos, pamphlets, books or other sources of information used to assist the applicant in answering the questions or doing the assigned work are not allowed and shall be confiscated by the test administrator. Cell phones and other electronic devices shall not be allowed in the testing areas. The test administrator shall, in all such cases, make a written statement of the circumstances, to be submitted to the Chief Examiner along with the test papers or other work of the applicant. The Chief Examiner may disqualify the applicant as appropriate and must notify the Commission of such action.
- 8) The Chief Examiner shall see that the papers and other submitted work of applicants are scored as soon as practical. Scoring shall be on the basis of 100% for the maximum possible score. An applicant whose score is less than 60% in any one portion of the examination will be considered to have failed the entire exam.

### **C. ENTRY-LEVEL TESTING / ASSESSMENT / SELECTION**

- 1) To apply for any position under Civil Service, an applicant shall submit to the Chief Examiner or designee a form prepared for that purpose. The names of applicants shall not be made public except as legally required or with consent of the applicant.
- 2) An applicant for any Civil Service position must be a citizen or eligible to work in the United States.
- 3) Every applicant for appointment under these regulations shall be no less than 18 years of age.
- 4) Within two weeks after appointment, an applicant must have a current, valid driver's license appropriate to the position.
- 5) Notice of all competitive tests for entrance into Civil Service shall be posted in public at least two weeks prior to the final date for the receipt of applications. The notice shall set forth the position title, the date of the tests, the final date for the receipt of applications, the place or places where applications may be obtained and filed, and such other information as the Chief Examiner deems pertinent.
- 6) Information about the position, process and qualifications shall be furnished in advance to every person who files an application and to all other persons requesting information concerning such tests. This information shall include the dates of the tests, residence and other qualification requirements, the type of tests to be given, and their relative weights.
- 7) A veteran who has successfully completed all phases of the entry-level testing process under Civil Service shall be allowed preference on the eligibility list in accordance with applicable Oregon Revised Statutes.
- 8) Current and former Ambulance Operators employed by the City of Bend wishing to test for the position of Firefighter/Paramedic will have the external testing requirements waived, with the exception of the Candidate Physical Aptitude Test (CPAT) if they meet the following requirements:
  - a) Employed as an Ambulance Operator with the City of Bend Fire Department at the time of testing.
  - b) An Ambulance Operator must be in Good Standing with the City of Bend Fire Rescue at the time of testing.
  - c) Ambulance Operators in Good Standing prior to separation from the City of Bend Fire Department, for reasons besides work performance or misconduct, may have testing requirements waived if they separated employment with the Bend Fire Department within 6 months of the initial testing date.

Ambulance Operators successfully completing the CPAT will be allowed to continue through the testing process, usually consisting of an interview panel, EMS written examination and skills station, and a 90 foot aerial ladder climb. Ambulance Operators must submit a completed application and meet all requirements for the Firefighter/Paramedic position at the time of application.

- 9) The Commission may refuse to grant an examination to an applicant or to certify for appointment anyone whose name is on the eligibility list for any of the following reasons:
  - a) dismissal from the Armed Forces with other than an honorable discharge, unless extenuating circumstances prevail;
  - b) inability to perform the essential functions of the position for which application is made; (c) civilian or military felony convictions; (d) intentional false statement, deception or fraud in any phase of the application, selection, certification or appointment processes.
- 10) When the final score of two or more applicants taking entrance tests is the same, the order on the eligibility list shall be determined by the Chief Examiner.
- 11) When a vacancy exists, the Fire Chief or designee shall consider the three highest candidates on the eligibility list for the vacant position.
- 12) When more than two vacancies exist, the number of candidates to be considered shall be the number of positions for which there are vacancies plus two additional names, provided there are that number on the list. Otherwise, the entire list will be considered. If a candidate waives the appointment, as provided in Item E, the next highest candidate shall be considered.
- 13) When a vacancy or vacancies exist, the Fire Chief or designee shall notify the candidates on the certified eligibility list that they will be considered for appointment contingent upon satisfactory completion of medical tests, which may include: medical physical examination; psychological examination; drug testing; and other medical tests.
- 14) The Fire Chief or designee shall report any appointment to the Commission in a timely manner.

#### **D. PROMOTIONAL TESTING / ASSESSMENT / SELECTION**

- 1) No employee shall be promoted from one position to another without first having passed a promotional examination.
- 2) All promotions from one position to another shall be made from the current eligibility list for that position.
- 3) When a vacancy exists, the Fire Chief or designee shall consider the three highest candidates on the eligibility list for the vacant position.
- 4) When more than two vacancies exist, the number of candidates to be considered shall be the number of positions for which there are vacancies plus two additional names, provided there are that number on the list. Otherwise, the entire list will be considered. If a candidate waives the appointment, as provided in Item E, the next highest candidate shall be considered.
- 5) The Fire Chief has sole discretion to extend the promotional process to external candidates for the ranks of Battalion Chief, Deputy Chief, Assistant Fire Marshal, and Fire Marshal regardless of the number of qualified internal candidates.

- 6) Promotional examinations shall be as provided in Bend Fire & Rescue Policy, Procedure, and Instruction 1100-027.
- 7) When the final score of two or more applicants in promotional tests is the same, the name of the applicant first appointed to the position from which the promotion is sought shall be placed highest on the list.
- 8) A veteran who has successfully completed all phases of the promotional testing process under Civil Service shall be allowed preference on the eligibility list in accordance with applicable Oregon Revised Statutes.

## **E. PREPARATION AND CERTIFICATION OF ELIGIBILITY LISTS**

- 1) From the applications and the reports made by examiners, and following the completion of the scoring of the work of applicants who have taken the tests for any position, the Commission shall prepare, or cause to be prepared, an eligibility list containing the names of applicants. Names shall be arranged in the order of final scores, with the highest first, which shall constitute the positions on the eligibility list.
- 2) The Commission shall examine the eligibility list(s) and, if all applicable criteria have been met, shall certify that the candidates so listed are eligible for consideration for appointment pursuant to Civil Service Regulations.
- 3) The Chief Examiner shall notify each applicant of the score received, whether such score is above or below the minimum required score and, if the score is above the minimum, the applicant's placement on the eligibility list.
- 4) Applicants on eligibility lists will be referred to as candidates. Candidates are subject to further evaluation and background checks prior to appointment.
- 5) Eligibility lists shall continue in force for a period determined at the time the list is authorized, typically two years. The Commission, by action taken before the expiration date, may change the expiration date.
- 6) In case of illegality or fraud in connection with the tests for any position, the whole or any part of any eligibility list may be canceled upon the recommendation of the Chief Examiner and the approval of the Commission.
- 7) A candidate may waive appointment. The candidate who has waived appointment shall retain his or her place on the eligibility list.
- 8) Upon appointment as provided in these regulations, a candidate will be removed from the eligibility list. Additionally:
  - a) If the Fire Chief or designee refuses to appoint a candidate, the Fire Chief or designee shall give reasons to the Commission in writing. The Commission, upon review of the reasons, may remove the candidate from the list.
  - b) If the Fire Chief or designee notifies a candidate of a conditional job offer, and no response is received by the date specified in the notice, the candidate shall be removed from the eligibility list, and the Commission will be notified.

- c) A candidate may request to have his or her name removed from an eligibility list.

## **F. STEP DOWN**

- 1) An employee may apply to step down from a currently held position, provided:
  - a) There is an open step-down position or a position will be vacated by departmental promotion.
- 2) The applicant for a step-down has previously served satisfactorily in the position requested for a period of not less than 12 months in this department or a department of comparable size or larger. Step-down may be made on a voluntary basis, subject to the following requirements:
  - a) The applicant must be able to perform the essential functions of the position requested.
  - b) Approval for step down to the position requested will be at the discretion of the Fire Chief or designee. The Civil Service Commission shall be notified in a timely manner.
  - c) The applicant for step-down may be required to complete applicable examinations and tests certifying ability to perform the requirements of the new position. Once a step-down has been accomplished, the employee waives all privileges and responsibilities of the previous position, and advancement to a higher position must be in accordance with the provisions of these regulations.
  - d) The employee's rate of pay and benefits will be at a level compatible with the new position and time in the service.

## **G. DISCIPLINE**

This regulation is designed to provide accepted guidelines for the administration of employee discipline. The object of disciplinary action is the constructive development, correction and rehabilitation of an employee. However, if constructive disciplinary action fails, discharge may be necessary.

- 1) The Fire Chief or designee is responsible to administer disciplinary action when appropriate.
- 2) The Fire Chief or designee is responsible for communicating the goals, objectives, policies, procedures and regulations of the organization to each employee so that employees understand what is required of them.
- 3) Disciplinary issues shall be approached on a case-by-case basis. Each situation shall be considered on its own merits. Disciplinary action shall be based upon a sound evaluation of all facts, including any extenuating circumstances. However, uniformity in the administration of discipline shall be maintained to the extent that similar cases are treated in a similar manner.
- 4) An employee covered by Civil Service regulations who is also covered by the Bend Fire Fighters Association agreement and/or the City of Bend Personnel Policies shall be subject to discipline and subsequent appeal through only one process. Prior to appeal, the employee shall choose

- the preferred process.
- 5) In lieu of termination, the Fire Chief may elect to demote an employee who has been promoted. The demotion may include an agreement to sustain the employee's rate of pay prior to the demotion. The pay rate will not be subject to collective bargaining agreement or COLA raises until such time as the employee's rate of pay falls within the salary schedule for the classification in which they are working.
  - 6) When a non-probationary employee is discharged, a notice of discharge and a letter stating the reasons for discharge shall be filed with the Commission in a timely manner.
  - 7) When a non-probationary employee is suspended, a notice of the suspension shall be filed with the Commission in a timely manner, showing the reason for the suspension and the period for which the employee is suspended.
  - 8) Prior to the completion of the initial probationary period, employees may be discharged at will.

## **H. GROUNDS FOR DISCIPLINARY ACTION**

It is not the intent of this regulation to specifically enumerate causes for disciplinary action. Several of the areas listed shade into each other leaving management to exercise discretion and judgment in selecting the appropriate grounds for possible action. The list of grounds is to be used as a reference for the possibilities that could arise. See also City of Bend Personnel Policies and Departmental Regulations and Regulations.

Grounds for disciplinary action will generally fall within the following categories:

- 1) **Misconduct:** Characterized by an act or omission constituting a violation of the regulations established for the department or general standards of reasonable conduct that adversely affect the functioning of the City or its staff, including, but not limited to, intoxication while on duty, offensive conduct or use of abusive language toward other employees or the public, unauthorized use of City equipment, or carelessness or negligence in the care and use of City property. See also City of Bend Personnel Workplace Harassment Policy and Alcohol and Drug Policy.
- 2) **Failure to Meet Performance Standards:** Including, but not limited to, failure to complete duties in a timely manner, exercising poor judgment in decisions, inaccuracy, failure to meet safety requirements, or failure to meet the requirements set forth in work plans, job description or grade responsibilities.
- 3) **Incapacity:** Inability to perform the essential functions of the position as set forth in the job description or grade responsibilities.
- 4) **Insubordination:** Willful violation of a rule, policy or procedure or by the refusal to perform work assigned or comply with legally constituted written or verbal instructions of a superior officer.
- 5) **Attendance:** Failure to report for work as scheduled or assigned,

including, but not limited to, absence from work without notice or habitual tardiness. Unauthorized absence of an employee from duty may be grounds for disciplinary action up to and including dismissal. The imposition of disciplinary action or determination that the unauthorized leave is a constructive resignation shall be based on the facts of the situation. A reasonable effort shall be made to contact the employee to determine the circumstances surrounding the absence before taking action. See also federal and state laws on family medical leave.

- 6) **Malfeasance:** Commission of an act which is unethical or unlawful, including, but not limited to, theft of City property, willful damage of City property, or the possession or use of illegal drugs, or dishonest.
- 7) **Other Unfitness to Render Effective Service:** Any other grounds, not falling within the above categories, which prevent an employee from rendering effective service, including, but not limited to, absence because of conviction not related to an employee's job, personal habits on or off the job which affect job performance, or behavior such as open hostility or belligerence to fellow employees or superiors.

## **I. ADMINISTRATION OF DISCIPLINE**

Disciplinary action must be based upon a sound evaluation of all the facts. Only after the facts are known is it possible to determine the nature of the offense and whether or not mitigating circumstances exist.

- 1) In determining what action to take, careful consideration should be given to the following factors:
  - a) Relevance to the work environment and the extent to which it affects performance and the work place.
  - b) Seriousness of the violation.
  - c) Situational factors such as who was involved, where and when it occurred and the accounts of others present.
  - d) The employee's past disciplinary record, seniority, work record, ability to perform duties cooperatively and effectively, and willingness to deal constructively with the situation.
  - e) The employee's verbal or written statement of the incident.
  - f) Action taken with regard to similar cases in the past.
  - g) Whether the corrective action is likely to reduce the probability of recurrence.
- 2) The following information shall be set forth for the purpose of supporting the actions taken, except in minor cases involving verbal or unofficial reprimand:
  - a) Pertinent facts such as employee's name, time and date the event occurred, names of witnesses and their account of what happened, and a summary description of the incident.
  - b) Remarks or response of the employee.
  - c) Supervisor's summary and specific action taken.
  - d) Corrective action required by the employee.
  - e) Signatures, and dates thereof, of the supervisor, employee

and of acknowledged witnesses, if any.

## **J. DISCIPLINARY ACTION**

All disciplinary actions shall be taken in good faith for cause. The course of action will depend upon the seriousness of the infraction or repeated infractions. Isolated minor infractions can generally be handled successfully by frank discussions with the employee. If a reprimand is to be given by an officer, the employee may elect to be accompanied by a representative. However, if corrective action cannot be obtained through this method, further actions may be necessary using the following pattern, listed in order of increasing severity:

- 1) **Verbal Warning or Unofficial Reprimand:** This is the discussion between a supervisor and the employee concerning the behavior or situation in question and appropriate corrective action. Should the supervisor note a minor offense which requires only an oral reprimand, it is not necessary to supply the employee with written documentation. This method of discipline can immediately eliminate misunderstandings and can set desired standards of performance and behavior. Oral warnings should ordinarily be given by the immediate supervisor. It is important that they be given in private. An unofficial reprimand need not be kept in the employee's personnel record, although the supervisor may keep a personal memorandum for future reference. If the verbal warning is documented and placed in the employee's personnel record, a copy shall be provided to the employee.
- 2) **Written Warning or Official Reprimand:** Written warnings are properly used for more serious infractions or for those situations in which previous oral warnings have been given without results. The written warning shall identify areas in which improvements are deemed necessary, and a plan of action should be developed in which expectations, process for achieving goals, and consequences are clearly defined. A copy of the written warning shall be provided to the employee, placed in the employee's personnel record, and shall include those factors listed under Administration of Discipline.
- 3) **Suspension Without Pay:** Disciplinary suspension involves the temporary removal and withholding of pay for a specified period of time for the purpose of securing an improvement in performance or behavior. The suspension without pay shall not exceed 30 days for any single disciplinary charge. The Fire Chief or designee shall notify the employee, the Civil Service Commission, the City Manager, and Human Resources, in writing, in a timely manner after the effective date of suspension. The notice shall include the grounds for the disciplinary action and the specific charges and facts supporting the action as specified under Administration of Discipline.
- 4) **Demotion or Salary Reduction:** When determined to be appropriate, employees may have their salary reduced while retaining their present position, or may be demoted from their present position to one entailing less responsibility with a commensurate reduction in salary. The demotion or

- salary reduction shall be preceded by notice in writing to the Civil Service Commission, the City Manager, and Human Resources, to include the facts as detailed under Administration of Discipline. Disciplinary demotions may not be used as a form of discipline if such action will cause a regular employee in the lower grade to be laid off or if the subject employee is ineligible for employment in the lower grade.
- 5) **Dismissal:** The most extreme disciplinary measure involves the separation of an employee from a position in the City's service. It may be justified on the basis of a single flagrant act or a series of lesser offenses. It should be noted that dismissal of a non-probationary employee implies that other action was not effective or is not an alternative. Written notification to the Civil Service Commission, the City Manager, and Human Resources, shall precede a dismissal. The notification shall include those facts listed in Administration of Discipline. An employee may be suspended with or without pay during the notification period. Written notice that dismissal will follow a suspension constitutes notice of dismissal.

With the approval of the City Manager, the Fire Chief or designee may amend, modify or withdraw a suspension, demotion, reduction in salary or dismissal after written notice has been filed. Such withdrawal, amendment or modification may include restoration of a portion or all of the lost wages and fringe benefits.

## **K. GRIEVANCE PROCEDURES**

**Appeal/Grievance Procedure:** A non-probationary employee who is suspended, demoted, reduced in salary, or dismissed may request an investigation of the disciplinary action before the Civil Service Commission not later than 10 days after the effective date of such action. Such request shall be in writing, and the investigation shall conform to the requirements of Bend Code 1.20.110.

The Fire Chief or designee shall submit a written summary to the Civil Service Commission within 10 days of the effective date of any suspension, demotion, salary reduction or dismissal.

**Rehearing:** The Civil Service Commission will not consider a petition for rehearing unless filed within 30 days after any decision of the Commission restoring a non-probationary employee to duty or affirming the removal of a non-probationary employee.