



DENVER
THE MILE HIGH CITY

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November 6, 2006

NOTICE OF ADOPTION

Amendments to: Rule 14, “Hearing Officer Selection and Qualifications”

Notice of Public Hearing Published: September 22, 2006

Proposed Rules Posted: September 22, 2006 through October 13, 2006

Public Hearing: October 13, 2006

On October 13, 2006 Approved for Adoption with Amendment to Rule 14 § 1(A)

Public Hearing Continued to October 27, 2006 Re: Rule 14 § 1(A)

On October 27, 2006 Amendments to posted Section 1(A) Approved for Adoption

Amendments to Rule 14 § 1(A) Re-Posted October 30 through November 3, 2006

THE COMMISSION HEREBY AFFIRMS the following was accomplished in full compliance with the requirements of Commission Rule 2, Section 4(A), Rule Making:

Publishing on September 22, 2006, a Notice of Public Hearing – Rule Making regarding proposed changes to Commission Rule 14, along with the full text of the proposed section;

Posting said Notice and the full text of the proposed rule changes from September 22, 2006 through October 13, 2006, at the Commission’s office and on the Commission’s web site;

Forwarding on September 22, 2006, said Notice and full text of the proposed rule change to the Manager of Safety, the collective bargaining agents for members of the Classified Service, interested parties; and to the administration of the Fire and Police Departments (with a request for posting throughout the departments);

Conducting on October 13, 2006, a public hearing on the proposed rule changes;

Further, on October 13, 2006, subsequent to the public hearing, the Commission unanimously approved for subsequent adoption the proposed changes to Rule 14 as posted and published except that an amendment to posted section 1(A) was approved;

The Public Hearing on Rule 14 § 1(A) was subsequently continued to October 27, 2003 with notice of continuance having been posted and published and parties being so informed;

Conducting on October 27, 2006 a continued public hearing on Rule 14 § 1(A);

On October 27, 2006, subsequent to public hearing, approving for adoption amendments to the proposed Rule 14 § 1(A);

Posting approved amendments to proposed Rule 14 § 1(A) from October 30 through November 3, 2006. Also forwarding on October 27, 2006, the full text of the approved amendments to proposed Section 1(A), to the Manager of Safety, the collective bargaining agents for members of the Classified Service, interested parties; and to the administration of the Fire and Police Departments (with a request for posting throughout the departments);

NOW THEREFORE, under the authority of Commission Rule 2, § 4(A)(7), by this Notice Of Adoption, the subject proposed amendments to Rule 14, as provided in Attachment A, are hereby adopted to become effective November 7, 2006.

Dated this 6th day of November, 2006.

City and County of Denver
CIVIL SERVICE COMMISSION

ss/ *Christopher H. Olson*

By: Christopher H. Olson
Commission President

Attachment A to Notice of Adoption – 11-06-06
Approved Amendments to Rule 14
Approved October 13 and 27, 2006

(Please Note: The *Table of Contents* is not considered as part of the text of the proposed Rule. It is added as an annotation for ease of reference.)

RULE 14

HEARING OFFICER SELECTION AND QUALIFICATIONS ^{1 2}

(Amended April 23, 1998; November 7, 2006)

Table of Contents

RULE 14 HEARING OFFICER SELECTION AND QUALIFICATIONS	1
<u>TABLE OF CONTENTS</u>	1
SECTION 1. SELECTION OF HEARING OFFICERS.	2
A. <i>Hearing Officer Contracts:</i>	2
B. <i>Recruitment and Solicitation of Applications:</i>	2
C. <i>List of Qualified Applicants:</i>	3
D. <i>Confidentiality of Returned List of Applicants:</i>	3
E. <i>Designated Representatives:</i>	3
SECTION 2. HEARING OFFICER QUALIFICATIONS.	3
A. <i>License to Practice Law:</i>	3
B. <i>Experience:</i>	3
C. <i>Background Investigation:</i>	4

¹ **Editor’s Note:** Rule 14 was previously *Reserved* and had no existing provisions. Some of the provisions contained in this Rule 14 § 1, *Selection of Hearing Officers*, were previously contained in Rule 12 § 7, *Retention of Hearing Officers*, were deleted there and re-enacted in this Rule 14, with the amendments of November 7, 2006. Prior to being *Reserved*, this Rule 14 was titled *Validity of Rules*. Those provisions were re-enacted in Rule 18 with the amendments of April 23, 1998.

² **Charter Note:** See Charter provisions at § 9.3.7, *Retention of Hearing Officers by the Commission*. Charter § C5.73-5(1) was recompiled in 2002 as § 9.3.7. Subsequently amended by Ord. No. 138-03 § 1, 2-24-03, election 5-6-03. Those Charter amendments included the removal of specific Hearing Officer qualifications from the Charter, and provided that Hearing Officer qualifications shall be prescribed by Commission rule.

Attachment A to Notice of Adoption – 11-06-06
Approved Amendments to Rule 14
Approved October 13 and 27, 2006

Section 1. Selection of Hearing Officers.³

(Adopted March 26, 1987 as Rule 12 § 7; Added to Rule 14 and Amended November 7, 2006)

A. Hearing Officer Contracts: At least once every three (3) years, the Civil Service Commission shall contract with three (3) or more qualified persons to serve as Hearing Officers to hear disciplinary or disqualification appeals, and to serve as Settlement Officers to facilitate mediation in such appeals.

(Amended November 7, 2006)

1. Any Hearing Officer shall be retained as an independent contractor and shall not be employed by nor be considered an employee of the City and County of Denver.

(Added November 7, 2006)

2. A Hearing Officer shall not provide legal advice to or act as special counsel to the Commission.

(Added November 7, 2006)

3. A Hearing Officer shall not engage in any activity for the Commission, outside the regular quasi-judicial or mediation activities, that directly affects a case to which he or she is currently assigned.

(Added November 7, 2006)

4. A Hearing Officer shall always act in such a manner as to avoid even the appearance of a conflict of interest, a bias, or any impropriety.

(Added November 7, 2006)

5. As may be provided by contract, in addition to the regular quasi-judicial or mediation activities, a Hearing Officer may assist the Commission with the orientation or training of other hearing officers.

(Added November 7, 2006)

B. Recruitment and Solicitation of Applications: The availability of Hearing Officer positions shall be widely advertised, posted and/or disseminated in a manner deemed appropriate by the Commission. A resume and/or application form detailing the applicant's prior experience shall be accepted as announced by the Commission. Qualified applicants may also be interviewed. In its recruitment and solicitation of applications the Commission shall make reasonable efforts to obtain a pool of qualified applicants that reflect the diversity of the citizens of the City and County of Denver.

(Amended November 7, 2006)

³ **Editor's Note:** Some of the provisions this Rule 14 § 1, *Selection of Hearing Officers*, were previously contained in Rule 12 § 7, *Retention of Hearing Officers*. Those provisions were deleted from Rule 12 § 7 and re-enacted here in Rule 14 § 1, with amendments.

Attachment A to Notice of Adoption – 11-06-06
Approved Amendments to Rule 14
Approved October 13 and 27, 2006

- C. List of Qualified Applicants:** A list of all qualified applicants shall be established. The list shall contain at least seven (7) names unless fewer qualified applicants apply. The Commission shall submit the list of qualified applicants, along with their available resumes and applications, to the Manager of Safety and the designated representatives of the Firefighters and Police Officers. The designated representatives, acting as a single entity, and the Manager of Safety shall then each strike no more than one-third (1/3) of the names on the list. The remaining names shall then be numbered in order of preference and the list shall be returned to the Commission within fifteen (15) days of receipt. Subject to the provisions of this Rule 14 § 2(C) regarding Background Investigation, the Commission shall contract with those persons approved on both lists, in accordance with the designated order of mutual preference.
(Amended November 7, 2006)
- D. Confidentiality of Returned List of Applicants:** The lists returned to the Commission by the Manager of Safety and the designated representatives are confidential and shall not be disclosed to anyone by the Commission, the Commission’s staff, the Manager of Safety, or the designated representatives.
(Amended November 7, 2006)
- E. Designated Representatives:** The designated representatives of the Firefighters and Police Officers as referenced herein shall be the bargaining agents of the Firefighters and Police Officers as provided by City Charter.⁴
(Added November 7, 2006)

Section 2. Hearing Officer Qualifications.⁵
(Added November 7, 2006)

- A. License to Practice Law:** To qualify for selection as a Hearing Officer, an individual shall have a license to practice law, provided that the license need not be currently active so long as it has not been suspended or revoked pursuant to a disciplinary order by a court of competent jurisdiction at the time of application.
- B. Experience:** To qualify for selection as a Hearing Officer, an individual shall also meet one of the following experience requirements:

⁴ **Charter Note:** See Charter §§ 9.3.7(C), 9.7.4, and 9.8.4 for provisions regarding “Designated Representatives.”

⁵ **Editor’s Note:** The provisions of Rule 14 § 2 are newly added to Commission Rules. These qualifications are substantively the same as used in the 2003 Hearing Officer selection process. Provisions regarding *Hearing Officer Qualifications* were previously contained in Charter § 9.3.7. However, they were deleted therefrom in the election of 5-6-03, and are to be prescribed by Commission Rule [Charter § 9.3.7(A)]. See also, footnote 2.

Attachment A to Notice of Adoption – 11-06-06
Approved Amendments to Rule 14
Approved October 13 and 27, 2006

1. Has served as a neutral hearing officer or arbitrator in employer-employee disputes for at least three (3) years out of the past five (5) years, and has conducted at least nine (9) hearings in the last three years; or
 2. Has a minimum five (5) years experience in the full-time, active practice of law, including two (2) years of experience practicing before federal or state courts or federal, state or local administrative agencies authorized to conduct evidentiary hearings; provided that the individual certifies that at least one-fourth (1/4) of his or her practice has involved the preparation and/or presentation of cases before federal or state courts involving employer-employee disputes, the National Labor Relations Board, state or local labor relations boards, the Merit Systems Protection Board, state or local personnel or civil service or career service boards, or labor-management arbitrators; or
 3. Is currently under a contract to serve as a Hearing Officer for the Denver Civil Service Commission; or
 4. Has a quality, level, and length of experience deemed acceptable to, and approved in writing by, the Commission, the Manager of Safety, and each of the designated representatives.
- C. Background Investigation:** Prior to entering into a Hearing Officer contract with any applicant, the applicant shall be subject to a background investigation, with review and final approval by the Commission.

END