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**PLEASE POST: September 17 – October 8, 2004**

## PROPOSED CHANGES RULE XV - Examinations


### PLEASE NOTE:

**Deleted Text:** Marked by ~~strikethrough~~ and in red type.

**New Text:** Marked by double underline and in blue type.

**Existing Text:** May be from the current paragraph or section or, if moved from another existing paragraph or section, it will usually be so noted in a footnote and/or a comment box.

**Bookmarks:** Click on the “**Bookmarks**” tab on the left side of screen to view an outline of the contents. Click on any item to “jump” to that item.

**Annotations:** Pass your cursor over the  box to read an explanatory note. (These notes are generally from the footnotes.)

**Posted: September 17, 2004**

**Public Hearing: October 8, 2004 at 8:30 a.m.**

**RULE 15 ~~XV~~<sup>1</sup>**

**EXAMINATIONS**

**Section 1. ~~Investigation.~~<sup>2</sup> Examinations and Content Controlled by the Commission.<sup>3</sup>**

- A. The Commission shall control all examinations, including the content thereof, as prescribed in the Commission Rules.
- B. This Rule 15 shall be supplemented by the provisions of Rule 5, regarding examinations for original appointment, and by the provisions of Rule 6, regarding promotional examinations.
- C. The Commission shall have the authority to determine the minimum qualifications, prerequisites, and requirements to be used to establish an individual's eligibility to register for and participate in an examination for original or promotional appointment.

**Section 2. ~~Conducting Examinations.~~<sup>4</sup> Preparation of Examinations.<sup>5</sup>**

- A. In preparing examinations, the Examiner and test developer(s) may consult with the head of a department, responsible subordinates, or departmental subject matter experts concerning the duties of a position to be filled, the qualifications to be required of those to be examined, data upon which questions may be based, and the development of test items. However, they shall not consult with any person eligible to participate in that particular examination.
- B. Prior to the administration of an examination, all questions intended for use shall be in the exclusive possession and control of the Examiner and test developer(s), and may be reviewed with subject matter experts, all of whom shall be held strictly responsible and accountable to the Commission for the secrecy thereof.

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<sup>1</sup> All rules are being renumbered from Roman numerals to Arabic numerals.

<sup>2</sup> Current Section 1 "Investigation" is moved to proposed Section 11 with revisions and updates.

<sup>3</sup> Proposed Section 1 "Examination and Content..." is a new section providing clarification of the Commission's control over examinations.

<sup>4</sup> Current Section 2 "Conducting Examinations" is moved to Section 3 with revisions and updates.

<sup>5</sup> Proposed Section 2 "Preparation of Examinations" is new. It incorporates, consolidates and updates provisions from prior Rule V and VI covering examinations for original and promotional appointment.

**Section 23. Conducting Examinations.**

The Commission, or the Executive Director at its direction, shall establish regulations for conducting an examination, to include the administration of any test phase in the examination. The regulations for conducting an examination shall include the announcement of the examination, the instructions for the examination and any test phase(s), and shall include the following:

- A. All Examinations phases shall be held-administered in the presence of one or more duly authorized representatives of the Commission.
- B. Time limits for tests shall be fixed by the Examiner or his or her designee who shall so advise the applicants-participants, at a minimum, at the time of assembling for examinationthe test.
- C. Only writing paperthose testing materials and supplies furnished by the Commission shall be used by the applicantsparticipants, unless all participants are notified of alternate requirements prior to the test. Unless otherwise specified in the announcement, the Commission will furnish pencils, paper or other necessary instrumentstest supplies.
- D. Books of reference, or written materials of any kind, shall not be used during any examinationtest, unless all applicants-participants are otherwise advised prior to the examinationtest.
- E. Calculators of any kind, personal digital assistants, or other such aides shall not be used during any examination-test unless all applicants-individuals are otherwise advised prior to the examinationtest.
- F. Individual explanations to a participant(s) during the administration of any test phase, regarding the content of the examination-test phase, to applicants during an examination shall be prohibited, unless test procedures provide for such individual explanation to each participant.
- G. Communications among-between applicants for original appointment during an-any written or video-based testing session isexamination shall be prohibited. Applicants for original appointment are further prohibited from discussing or sharing non-public information regarding the content or nature of any examination/test or screening tool with anyone, unless the particular examination/test regulations specifically state otherwise.For examinations that exceed one day, communication regarding the examination between applicants shall be prohibited from the time the first candidate begins and shall continue until the last candidate has completed the examination.

H. Communication between promotional candidates during any written testing session is prohibited. For examination/test components administered over several sessions/days, communication between promotional candidates regarding the nature or content of the examination/test shall be prohibited from the time the first candidate begins and shall continue until the last candidate has completed the examination/test. Promotional candidates may also be subject to extended confidentiality requirements as may be provided by particular examination regulations.

~~HI. Applicants-Individuals~~ shall not leave the examination/test room without permission from the duly authorized representative of the Commission.

~~IJ.~~ All ~~examination-test~~ papers and related items shall be returned to the Examiner upon the expiration of the set test time limit.

~~JK.~~ Should an ~~applicant-individual~~ withdraw ~~from an examination~~ during the course of the test, all ~~papers-test related materials~~ received by the ~~applicant-individual~~ shall be returned to the Examiner.

~~KL.~~ In the case of any irregularity in the administration an examination/test, the Examiner shall make a written report thereof to the Commission and such report shall be filed with the working papers of the examination. ~~—A violation by any applicant of the examination regulations or examination instructions may result in the rejection of the applicant. Any material misrepresentation or omission of fact, including statements of race, gender, or national origin, may be grounds for disqualification of the applicant or candidate.~~<sup>6</sup>

~~LM.~~ Individuals test candidates shall be provided their ~~own~~ test scores.

~~M. All examination data or lists, except eligible registers, including test questions, scoring keys, and other examination data pertaining to the administration of any examination, shall be considered confidential, unless otherwise determined by the Commission.~~<sup>7</sup>

#### Section ~~34~~. Security of Examination Papers.

A. Examination papers shall be in the custody of the Executive Director of the Civil Service Commission or ~~his/her~~ designee at all times, and no such papers shall be taken from the office except as authorized by the Executive Director. At no time shall examinations papers be left ~~unattended at an examination site~~ unsecured.

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<sup>6</sup> Deleted text considered redundant. See proposed Section 9.

<sup>7</sup> Deleted text considered redundant. See proposed Subsection 6(G).

- B. The examination papers of all ~~applicants~~participants in any examination shall be preserved for a period of three (3) years from the date of the individual's completion of their last test phase, or from the date of the creation-approval of the eligible register for ~~original appointment or for promotion~~the subject examination, whichever is later.

**Section 45. Corrections and Re-examinations.**

The Commission shall have the power, whenever in its judgment the interest of the public service requires it, to order a re-examination of ~~applicants~~individuals and shall have the power to correct any error and amend or revoke any schedule, list or other paper or record where it appears that an error or injustice has been done. After an eligible register for original appointment or promotion has been so corrected, amended or revoked, notice shall be given to all persons whose standing upon such list may be affected by the alterations. The reasons for every such action shall be recorded fully in the Commission minutes.

**Section 56. ~~Examination~~ Review ~~Process~~ of Examination Results by Participants.**

- A. Who may review results. Consistent with the provisions of this section, ~~The~~ the examination review process shall be available to all ~~applicants~~individuals who participated in an examination, consistent with the rules herein. Examination results and related documents of an individual which are subject to review may only be reviewed by, or copied for, the individual in question or his/her legal representative. A fee may be charged for copies of documents in accordance with Commission policy.
- B. Time Limit. A request by an ~~applicant~~individual to review his/her examination results and/or related documents must be filed with the Commission, in writing, within twenty (20) days after notice of the ~~applicant's~~individual's results (including notice of any disqualification) is provided in writing or is mailed. Inspection may occur during normal working hours following the filing and approval of the ~~applicant's~~individual's request to review.
- C. Examination results and related documents open to inspection. ~~Examination results of an applicant may be reviewed only by that individual or his/her representative.~~<sup>8</sup> Review, inspection and/or copying of the individual's examination results and related documents by entry level applicants shall be limited to the following information and/or documents on file, as applicable, except as may otherwise be provided by law or regulation, or as may otherwise be provided by the Commission.;

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<sup>8</sup> Deleted sentence incorporated into Subsection 6(A) above.

1. Applicants for Original Appointment: ~~to their~~ Examination test scores, including physical ability test results; and, where given, their polygraph evaluation report~~results;~~; suitability assessment report; psychological evaluation report and test scoring printouts~~;~~; medical examination results and report, including drug screen results; ~~physical ability test results, Personal History Background Information Questionnaire or similar form requesting information on employment, education, military, and criminal history, etc.;~~ fingerprint card~~;~~; birth certificate~~;~~; high school diploma or GED~~;~~; motor vehicle report or report of driving record~~;~~; driver's license; credit report; ~~administrative correspondence of a non-confidential nature, EEO 4 Form~~;~~; Immigration and Naturalization Forms~~;~~; DD-214; and their application form; and administrative correspondence of a non-confidential nature.~~ The above referenced results may be copied for the applicant and/or his/her representative only.<sup>9</sup>
  2. Promotional ~~applicants~~ Candidates: ~~may review the results of their examinations~~ Examination test scores; examination registration and data verification forms; and administrative correspondence of a non-confidential nature. Notes made by examiners in the any component of the examinations shall not be available for review.<sup>10</sup>
  3. Promotional Candidates – Special Provisions: The following documents/items may be made available to all candidates in a promotional examination, as feasible, as provided by Commission written policies or regulations, and as provided in the regulations for the particular examination. Due consideration shall be given to the preservation of the integrity of the examination in question and of future examinations.
    - a. A copy of the answer sheet for the test.
    - b. An individual summary “feedback report” regarding a candidate’s performance in an assessment center, or written comments generated for a candidate from an examination component; and
    - c. A video recording of a candidate’s performance in an examination component.
- D. Notes of examiners not available: Notes made by examiners (including assessors, oral assessment or practical test panel members or raters, etc.) in any component of an examination shall not be available for review or copying.
- ~~D~~E. Review of examination results shall occur only in the presence of a Commissioner or a staff member of the Commission or as provided by Commission policy.

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<sup>9</sup> Deleted sentence incorporated into Subsection 6(A) above

<sup>10</sup> Deleted sentence incorporated into Subsection 6(D) below.

- ~~E. Written comments, as generated for promotional candidates, if any, may be given to them whenever feasible. Those candidates may take a copy of such written comments for their own personal use. Copies of video recordings may be given to all candidates under the regulations that the Commission may make regarding the logistics of providing these copies and the preservation of the integrity of the examination.<sup>11</sup>~~
- F. The Manager of Safety, as the appointing authority, or the Manager's designee, shall be accorded access to personnel records of promotional candidates in the custody of the Commission, and to application, examination, and suitability-related records of applicants for original appointment, as ~~provided by the Colorado Open Records Act and any other pertinent law~~ may be appropriate for review in any selection process.
- G. Confidential Materials: All examination/test and suitability screening data or lists, including test questions and screening questions, scoring keys, and other examination/test or suitability screening data or lists pertaining to the administration of any examination/test or screening tool, except for the final eEligible Register established from the examination, shall be considered confidential unless otherwise provided in these rules or unless otherwise determined by the Commission.

#### **Section ~~67~~. Corruption and Penalty.**

- A. Any attempt on the part of an ~~applicant~~ individual to influence or induce the Commission, or any member or any examiner or employee thereof, to give said ~~applicant~~ individual an undue advantage or to accord a special rating on an examination shall be sufficient cause for the ~~rejection~~ disqualification of such ~~applicant~~ individual.
- B. If the individual is a member of the Classified Service, the matter shall be referred to the respective department for possible disciplinary action.

#### **Section ~~78~~. Determining the Minimum Passing Score.**

- A. The Commission may postpone determining the minimum passing score for an examination/test until after all candidate examinations/tests have been scored, provided that the announcement of the examination contains this provision and further provided that when determining the minimum passing score, the Commission shall give appropriate consideration to all of the following:
1. The minimum passing score recommended by the test developer;
  2. The minimum level of competence necessary for successful performance of the duties of the position-; and

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<sup>11</sup> Deleted provisions are incorporated into Subsections 6(C)(3)(a-c) above.

3. The Uniform Guidelines on Employee Selection Procedures ~~(1978); 43 FR 38290 et. seq. (August 25, 1978); 29 CFR Part 1607,~~ as updated and amended.

B ~~If, i~~In any examination/test, ~~if the candidates'~~ if the individuals' scores are matched to their identities, and are disclosed to the Commissioners before the Commission has determined the minimum passing score, then the Commission shall establish the passing score at either the sixty-fifth (65th) percentile, including all ties, or at 70 percent of the total possible score for that examination/test, whichever will result in the fewest number of ~~candidates~~ individuals passing the examination/test.

**Section 89. Disqualification of ~~Examinees~~ Candidates or Applicants.**

A. Applicants or examinees for any examination Individuals may be disqualified from an examination or related process for any of the following reasons:

~~E~~1. Any false, incomplete, misleading or misrepresentative statements, or any omission of fact, on any documents or in any interviews associated with the application, registration and/or examination process.

~~B~~2. Violation of any Commission Rule, examination regulation ~~of the examination,~~ or examination instructions.

~~C~~3. Information becomes available of such a nature which, had it been known prior to the examination, would have resulted in the exclusion of an ~~applicant~~ individual from participation in the examination.

~~D~~4. Failure of any part of the examination process.

~~A~~5. Inability of the Postal Service to deliver mail because of unknown mailing or forwarding location.

B. Upon any disqualification, ~~of an applicant or examinee for any of the foregoing causes,~~ the Commission shall notify ~~such applicant~~ the individual of such fact. ~~The Commission may, prior to disqualifying an applicant or examinee and upon its own initiative, invite the applicant or examinee to appear before the Commission.~~<sup>12</sup>

C. As appropriate, if a disqualified individual is a member of the Classified Service, the matter shall be referred to the respective department for possible disciplinary action.

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<sup>12</sup> The deleted sentence is deemed unnecessary for inclusion in the rules, as the Commission clearly has this authority to invite an individual to appear before them.

**Section ~~9~~10. Taking New Examinations.**

- A. An ~~applicant~~ individual whose name is on an eligible register is not precluded from retaking the examination for that same position or from taking ~~an~~ the examination for any other position to be filled by either original or promotional appointment, for which the ~~applicant~~ individual is eligible.
- B. As provided by Commission Rule or by examination regulation, time limits may be imposed on when or how often an individual may retake an examination for original appointment.
- C. An individual may not take an examination for a position in the Classified Service that the individual currently holds.

**Section ~~11~~11.<sup>13</sup> Investigation of Examinations.**

- A. An applicant for original appointment participating in an examination (or denied participation), or the applicant's ~~designated~~ legal representative, may file a ~~petition request~~ request for an investigation with the Commission in matters relating to the examinations ~~and or the~~ examination process only as such matters pertain to an alleged violation of Charter, Commission Rule or examination regulation.
- B. A candidate for promotional appointment participating in an examination (or denied participation), or the individual's legal representative, may file a written request for investigation with the Commission, in matters relating to the examination and/or the examination process (or denial of participation).
- C. Except as may be otherwise provided in the regulations for a particular examination/test, any request for investigation shall be filed within twenty (20) days after notice of the ~~applicant's~~ examination/test result(s) is either presented to the individual or is mailed, as applicable; or within twenty (20) days after the occurrence~~,-.~~
- D. Such ~~petition request~~ shall contain the name, ~~and~~ address, and phone number of the ~~petitioner~~ individual, a description of the action, omission, or situation complained of, a brief summary of the ~~petitioner's~~ individual's objection(s) to ~~the~~ actions such circumstance, and the relief sought, if any. The request should also identify the Charter provision, Commission Rule, or examination regulation that the individual believes has been violated, if any.
- BE. The Commission, at its sole discretion, may accept or reject an ~~petitioner's~~ individual's request for investigation. The ~~petitioner~~ individual shall be notified, in writing, of the acceptance or rejection of the ~~petition~~ request for investigation.

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<sup>13</sup> These provisions were moved from current Section 1, with revisions and updates.

Rule XV - Proposed Changes - Posted 09-17-04

€F. Where ~~petitions are accepted~~an investigation is undertaken, ~~a petitioner~~the individual requesting the investigation shall be notified, in writing, of the Commission's decision following ~~the~~ completion of its investigation.