

## RULE 14

### HEARING OFFICER SELECTION AND QUALIFICATIONS <sup>1 2</sup>

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

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<sup>1</sup> **Editor’s Note:** Rule 14, immediately prior, was *Reserved* and had no existing provisions. Some of the provisions added to this Rule 14 § 1, *Selection of Hearing Officers*, were previously contained in Rule 12 § 7, *Retention of Hearing Officers*. Those provisions of Rule 12 § 7 were deleted and were re-enacted in this Rule 14, through 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.

<sup>2</sup> **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.

**Section 1. Selection of Hearing Officers.**<sup>3</sup>

*(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)*

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<sup>3</sup> **Editor's Note:** Some of the provisions of 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.

- 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.<sup>4</sup>  
*(Added November 7, 2006)*

**Section 2. Hearing Officer Qualifications.**<sup>5</sup>

*(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:
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

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<sup>4</sup> **Charter Note:** See Charter §§ 9.3.7(C), 9.7.4, and 9.8.4 for provisions regarding "Designated Representatives."

<sup>5</sup> **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.

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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**