

RULE 14 - Proposed Changes Approved for Posting 9-22-06

PLEASE NOTE: The provisions of current Rule 12 § 7 are being deleted and moved to Rule 14 § 1, with amendments. The changes in text noted below for Rule 14 § 1, *Selection of Hearing Officers*, are changes being proposed to the text as it currently exist in Rule 12 § 7.

RULE 14

~~RESERVED~~ HEARING OFFICER SELECTION AND QUALIFICATIONS^{1 2} (Amended April 23, 1998; October __, 2006)

Section 71. ~~Retention~~ Selection of Hearing Officers.³
(Adopted March 26, 1987 in Rule 12 § 7; Amended October __, 2006)

A. Hearing Officer Contracts: At least once every three (3) years, ~~the~~ the Civil Service Commission shall contract with three (3) or more qualified persons to serve as Hearing Officers ~~in~~ to hear disciplinary or disqualification appeals, or to otherwise aid the Commission in its disciplinary and disqualification review function. Any such 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.

~~A. Qualifications. All applicants for the position of Hearing Officer shall meet the criteria outlined in Charter Section C5.73-5(1).~~²

B. Recruitment and Solicitation of Applications: The availability position(s) of Hearing Officers positions shall be widely advertised, posted and/or disseminated in ~~one or more of the city's major newspapers, one or more law journals and any other publication~~ a manner deemed appropriate by the Commission. A ~~R~~esumes and/or application form detailing the applicant's prior experience shall be accepted as announced by the Commission. ~~and a~~ Qualified applicants may also be interviewed ~~should additional information, not contained in the applicants' application or resume, be required.~~ 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.

¹ **Editor's Note:** Rule 14 is currently *Reserved* and has no existing provisions. Prior to being *Reserved*, Rule 14 was previously titled *Validity of Rules*. Those provisions were re-enacted in Rule 18 with the amendments of April 23, 1998.

² **Charter Note:** Existing paragraph (A) is being deleted. 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. The Charter was amended to delete specific Hearing Officer qualifications from the Charter and to provide that Hearing Officer qualifications shall be prescribed by Commission rule. See new Rule 14 § 2.

³ **Editor's Note:** For clarity of reference, the changes in language noted herein are the changes being proposed to the provisions that currently exist in Rule 12 § 7, *Retention of Hearing Officers*. Those provisions are proposed to be deleted from Rule 12 § 7 and to be moved here, to Rule 14 § 1, with the noted amendments.

RULE 14 - Proposed Changes Approved for Posting 9-22-06

- C. **List of Qualified Applicants'~~List~~**: 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 ~~at least seven (7)~~ qualified applicants, along with their available resumes and applications, to the Manager of Safety and the ~~Fire and Police Departments'~~ 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 ~~within fifteen (15) days of its receipt~~. 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, ~~T~~the Commission shall contract with those persons approved on both lists, in accordance with the designated order of mutual preference.
- D. ~~Composition. The list of all qualified applicants, submitted to the Manager of Safety and the designated representatives, should reflect, as nearly as possible, the ethnic and sexual composition of the population of the City and County of Denver.~~⁴
- ~~E.—Confidentiality of Returned Register~~ **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.
- 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.

Section 2. Hearing Officer Qualifications.⁵ (Added October , 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.

⁴ **Editor's Note:** Existing paragraph D (*Composition*) is being deleted. The provisions of this paragraph have been amended and moved to the last sentence of Section 1(B). The goal of achieving diversity in the list of qualified applicants will be addressed through efforts made in recruitment and solicitation of applications.

⁵ **Editor's Note:** The proposed provisions on Hearing Officer Qualifications are newly added to Commission Rules. See also, footnote number 2. Provisions regarding qualifications for Hearing Officer were previously contained in Charter § 9.3.7 but were deleted therefrom and are to be provided by Commission Rule. These proposed qualifications are substantively the same qualifications as used in the 2003 Hearing Officer selection process.

RULE 14 - Proposed Changes
Approved for Posting 9-22-06

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
- (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.