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PLEASE POST: November 22 – November 29, 2004

FINAL PROPOSED AMENDMENTS RULE VI

Promotional Examinations and Requirements

Amendments as approved November 19, 2004
following the close of the Public Hearing.

Posted in compliance with Commission Rule II § 4(A).

The proposed amendments will not become final until
the issuance of a Notice of Adoption.

A Notice of Adoption will be issued after this required posting.

PLEASE NOTE:

Deleted Text: Marked by ~~strikethrough~~.

New Text: Marked by double underline.

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.

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~~RULE 6~~ **RULE VI**

PROMOTIONAL EXAMINATIONS AND REQUIREMENTS

Section 1. Promotional Vacancies Requiring Examination Filled by Promotion.

A. Position ~~V~~vacancies ~~in positions requiring examination~~ in the eClassified sService ranks, as referenced in subparagraphs B and C below, shall be filled through promotional examination by promotion from the next lower rank in the Classified Service of those listed on the appropriate Eligible Register, with sufficient time in rank as provided in Rule VI, (See Section 108, Lines of Promotion, Schedules I and II.)

~~Section 2. —When Given.~~

~~AB.~~ Examinations for promotions within the Fire Department shall be given, as practicable, according to the following timetable, or more frequently if necessary:

1. Engineer Examination:Every two years
2. Lieutenant Examination:Every two years
3. Captain Examination:Every two years
4. Assistant Chief:Every two years
5. Assistant Master Mechanic:~~as~~ As needed
6. Master Mechanic:Not required * (See below.)
- ~~67.~~ Assistant Superintendent of Fire Alarms:~~as~~ As needed
8. Superintendent of Fire Alarm:Not required * (See below.)

* By established practice, only one person holds the rank of Assistant Master Mechanic, or the rank of Assistant Superintendent of Fire Alarm, at any one time. It is from these ranks, respectively, that the ranks of Master Mechanic and Superintendent of Fire Alarm are filled. As a result, only one person at any one time is available, in the line of promotion, for promotion to the rank of Master Mechanic or to Superintendent of Fire Alarm. Therefore, a competitive examination is not required. However, should there ever be a circumstance where two or more persons hold the rank of the respective Assistant position, at the time of requisition for promotion, a competitive examination would be held.

~~BC.~~ Examinations for promotion within the Police Department shall be given, as practicable, according to the following timetable, or more frequently if necessary:

1. Sergeant Examination:Every two years
2. Lieutenant Examination:Every two years
3. Captain Examination:Every two years
- ~~4. —Superintendent of Radio Engineer:as needed⁴~~

¹ **Charter annotation** –Charter § 9.6.7 dealing with the transition provisions for the ranks of Radio Engineer and Superintendent of Radio Engineer has been repealed as a result of the completion of the transition of elimination of the ranks from the Classified Service.

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Section 32. Examination Announcements.

- A. Examination Announcements for promotion shall be posted in the office of the Commission, in the human resources office of the branch of service in which the promotion is to be made, ~~and published in one or more newspapers,~~ at least forty-five (45) days in advance of the date of such examination.
- B. Examination Announcements shall state the nature of the examination, the pass/fail score(s) if such have been established by the Commission, the ~~relative weight~~ point values to be given for the various ~~portions~~ phases of the examinations, and the minimum qualifications, prerequisites, and or requiements ~~required by these Rules~~ for participation in the examination. An Examination Announcements shall also state the date on which the application period shall open, the date on which the application period shall close, and the approximate date and ~~place~~ location of the administration of the examination components.
- C. The Examination Announcement and everything incorporated therein shall serve as the regulations of the examinations. The regulations of an examination shall have the same weight and authority as these Rules.

Section 43. Nature of Examinations.²

- A. As provided by Charter § 9.3.1 and § 9.3.11(F), the components of ~~A~~ all examinations for promotion shall be impartial and competitive and relate only to matters which shall test the ~~fitness~~ qualifications of the persons examined, and shall be based on an examination process announced by the Commission ~~for the rank sought~~.
- B. The Commission shall determine and state, at the time an examination for promotion is authorized, the nature of the examination which may include the following: (a1) written test, (b2) oral examination assessment, (e3) practical test, (d4) physical ability test, (5) video-based test, (e6) ascertained merit³, (f7) seniority in service, (g8) assessment center, or (9) any combination of these, and (10) any other test deemed appropriate by the Commission. The Commission shall also determine and specify the ~~weight or point~~ value, if any, which shall be given for each ~~portion~~ phase of the examination.

² **Case law annotation**--The examination may be oral and may include subjective questions to determine character, etc., but still be competitive. The examination must be administered and graded uniformly and according to instructions or the validly prepared examination will be invalidly administered. Civil Service Commission v. Frazzini, 132 Colo. 21, 287 P. 2d 433 (1955).

³ **Case law annotation**--The ascertained merit component may include or consist of an evaluation of a candidate's qualifications, background, education, work history, disciplinary record, and experience as long as common criteria in ascertaining merit is employed to satisfy the requirements of the charter that the method of promotion is competitive and impartial. Spickard v. Civil Service Commission, 505 P.2d 31 (Colo. App. 1972).

~~**Section 5. Preparation of Examination.**~~

~~In preparing examinations, the Examiner and test developer(s) may consult with the heads of departments or their responsible subordinates or subject matter experts concerning the duties of a position to be filled, the qualifications to be required of the applicants and data upon which questions may be based, provided, however, that they do not consult with any person participating in that particular examination. Prior to the giving of an examination all questions intended for use shall be in the exclusive possession and control of the Examiner and test developer(s), all of whom shall be held strictly responsible and accountable to the Commission for the secrecy thereof.~~

Section 64. Administration of Examinations.

A. Promotional examinations shall be provided and administered consistent with the general provisions regarding examinations contained in Commission Rule 15.

~~B. Procedure in Examinations. The Rules for conducting examinations as given in Rule XV shall also apply, except that The Commission shall control all examinations, including the content thereof and the provisions for notice, as prescribed in these rules. ~~n~~No classified member of the Denver Fire or Police Departments shall serve as be an examiner or assessors in the oral or assessment center phases of Denver any promotional examinations.~~

Section 75. Ascertained Merit.²

- A. Ascertained merit will consist of an evaluation of one or more elements of a candidate's personnel record and/or related background qualifications.
- B. The Commission shall state in the official announcement of the examination the ~~weight~~ point value, if any, which is to be given for the ascertained merit test phase.
- C. The Commission shall state in the official announcement those elements of the candidate's² personnel record and/or background ~~which~~ that shall be used and evaluated.
- D. Any such evaluation shall utilize common criteria to ensure that the method of examination is competitive and impartial.
- E. Efficiency ratings may be used in the ascertained merit test phase, ~~only to the extent that they were issued by the respective department in accordance with a uniform rating system and were subject to an internal appeals process.~~ The Commission may also establish a minimum efficiency rating in order for candidates to participate in an

⁴ Current Section 5 has been deleted and incorporated into Commission Rule 15 § 2

examination, regardless whether an efficiency rating is used in determining ascertained merit. However, efficiency ratings may only be used in either circumstance if they were issued by the respective department in accordance with a uniform rating system and were subject to an internal department appeal process.

Section 8. — Reserved.

Section ~~6~~9. Credit For Seniority.⁵

- A. ~~Credit for seniority shall be based on the length of continuous service in the rank immediately below the rank to be filled by promotion.~~ Credit for seniority shall be provided, ~~computed~~calculated, and have such ~~weight~~point value as the Commission shall determine and state in the official announcement of the examination, and as stipulated in this section. Credit for seniority shall be based on the length of continuous service in the rank immediately below the rank to be filled by promotion. Time spent on authorized paid leave, authorized unpaid family medical leave, and military leaves of absence shall be included in the length of continuous service. Time spent on other unpaid leaves of absence and/or on disciplinary suspension without pay, in an aggregate of more than 30 calendar days, shall not be included in the length of continuous service.
- B. For the purpose of providing credit for seniority, ~~C~~continuous service is defined as the time in rank extending from the date of the classified member's most recent appointment to the rank. However:
1. If as a result of a voluntary demotion a classified member who has been promoted reverts to a rank formerly held, the member's continuous service shall be defined as the sum of:
 - a) ~~the~~The time, prior to the promotion, in the rank formerly held;
 - b) ~~the~~The time in the promotional rank; and
 - c) ~~the~~The time in rank extending from the date of voluntary demotion.
 2. If as a result of a disciplinary demotion a classified member who has been promoted reverts to a rank formerly held, the member's continuous service shall be defined as the sum of:
 - a) ~~the~~The time, prior to the promotion, in the rank formerly held; and
 - b) ~~the~~The time in rank extending from the date of disciplinary demotion.

⁵ **Case law annotation(s)** - Pursuant to the settlement agreement in F.I.R.E. et al. v. Bach et al., credit for seniority for the position of Fire Lieutenant shall only be given for up to eight (8) years of service within the classified service of the Fire Department. The history of this case is as follows: The case was initially decided in F.I.R.E. et al. v. Bach et al., No. 78-K-119, (D. Colo. Sep. 24, 1981); it was then reversed and remanded in F.I.R.E. et al. v. Bach et al., Nos. 82-1612, 82-1613, 82-1687, (10th Cir. Apr. 3, 1984); and later settled through an Amended Settlement Agreement of 14 August 1987.

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⁶ 3. If a member has been re-employed under the provisions of Charter § 9.4.3 the member shall retain the seniority he/she had at separation. Therefore, the member's continuous service shall be defined as the sum of:

a. The time in rank (immediately below the rank to be filled by promotion) prior to separation;

b. The time in any higher rank prior to separation [consistent with the provisions of subsections B(1) and B(2) immediately above, as applicable]; and

c. The time in rank following re-employment [and the time in any higher rank following re-employment, consistent with the provisions of subsection B(1) immediately above, if applicable].

C. For the purpose of calculating credit for seniority for promotion to the rank of Sergeant in the Police Department, the examination announcement for the Sergeant rank shall provide that credit for seniority shall ultimately be based in a candidate's date of original appointment to the rank of Police Officer, irrespective of original appointment as a civilian, cadet, certified peace officer, or reserve Police Officer. No candidate for promotion to Sergeant shall be eligible to receive more credit for seniority than could be received by any other candidate who did receive original appointment, or who would have received original appointment, on the same date in the same calendar year (with no reductions in length of service), irrespective of the Charter provision under which the original appointment was received.

⁷ D. Points for seniority, if any, shall only be added to the total examination score for those candidates who have successfully completed/passed all phases of the examination.

⁸ Section 7. No Award of Veteran Preference Points.

No veteran preference points shall be given in promotional examinations, pursuant to Article XII, Section 15 of the Colorado State Constitution.

Section 108. Lines of Promotion and Prerequisites.

A. The lines of promotion for the Fire and Police Departments for classifications/ranks that require an examination by the Civil Service Commission, together with the ~~length of service required time~~ in rank and/or grade required before a member is permitted to participate in a promotional examination, ~~is-are~~ listed in ~~the following s~~ Schedules I and Schedule II of this section. A candidate's time in rank and/or grade, as used to

⁶ Added to clarify special calculation of seniority for those re-employed under Charter § 9.4.3.

⁷ Added to clarify existing practice that seniority points are added to score only for those passing all phases.

⁸ Documents existing practice that is in conformance with State Constitution.

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determine eligibility to participate in a promotional examination, shall be calculated based upon a date that the Commission shall determine and state in the official announcement of the examination.

⁹ B. With adequate notice to candidates, the Commission may establish additional prerequisites, beyond any minimum time in rank and/or grade, for participation in a promotional examination.

1. Such prerequisites may be based on one or more elements of a candidate's personnel record and/or related background qualifications, that may include but are not limited to education, training, certification, license, work history, disciplinary record, and/or experience.
2. Notice of any newly established prerequisite based on training, certification, and/or license shall be provided to potential candidates sufficiently in advance of its first inclusion in an announcement of examination to reasonably allow potential candidates adequate time and opportunity to obtain the prerequisite training, certification, and/or license.
3. Any prerequisite based on an educational requirement of a two-year or four-year college degree, or other specified college credit requirement, may only be established by Commission rule.
4. In determining whether a candidate possesses any established prerequisite the Commission shall utilize common criteria to ensure that the method of evaluation is competitive and impartial. (See also, Section 5, Ascertained Merit.)

⁹ Documents and clarifies the Commission's existing authority to establish prerequisites for exam participation.

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SCHEDULE I

FIRE DEPARTMENT - LINE OF PROMOTION

~~¹⁰ — This schedule constitutes the complete line of promotion in the Fire Department for classifications that require an examination by the Civil Service Commission, together with the length of service required in each rank and/or grade before a member shall be permitted to participate in a promotional examination for the next higher position.~~

<u>RANK PROMOTED TO</u>	<u>RANK/GRADE PROMOTED FROM</u>	<u>PREREQUISITE REQUIRED TIME IN RANK AND/OR GRADE</u> ¹¹
Assistant Chief	Captain	Must have held the rank of Captain continuously for one full year
Captain	Lieutenant	Must have held the rank of Lieutenant continuously <u>for</u> one full year.
Lieutenant	Firefighter First Grade or Engineer	Must have held the rank of Firefighter First Grade or Engineer (<u>or any combination thereof</u>) continuously for one full year (or any combination thereof) . ¹²
Engineer	Firefighter First Grade	Must have held the rank of Firefighter First Grade continuously for one full year. ⁶
Superintendent of Fire Alarms	Assistant Superintendent of Fire Alarms	None. <u>Must currently hold the rank of Assistant Superintendent of Fire Alarm.</u>
Assistant Superintendent of Fire Alarms	Lineman Electronic Technician <u>Fire Systems Technician Specialist I</u>	Must have held the rank of Lineman Electronic Technician <u>Fire Systems Technician Specialist I</u> continuously for five <u>one</u> full year.
Master Mechanic	Assistant Master Mechanic	None. <u>Must currently hold the rank of Assistant Master Mechanic.</u>
Assistant Master Mechanic	<u>Mechanic I</u>	Must have held the rank of <u>Mechanic I</u> continuously for five <u>one</u> full years.

¹⁰ Deleted here because the provision is redundant. Covered elsewhere.

¹¹ Classified members holding the title of Technician hold the rank of Firefighter, First Grade. Consequently, time served as Technician counts as time served as Firefighter, First Grade.

¹² **Case law annotation(s)** - Pursuant to the settlement agreement in F.I.R.E. et al. v. Bach et al., the Commission shall only require members to hold the rank immediately below the ranks of Assistant Chief, Captain, and Lieutenant in the Fire Department continuously for one full year before testing for those positions. The history of this case is as follows: The case was initially decided in F.I.R.E. et al. v. Bach et al., No. 78-K-119, (D. Colo. Sep. 24, 1981); it was then reversed and remanded in F.I.R.E. et al. v. Bach et al., Nos. 82-1612, 82-1613, 82-1687, (10th Cir. Apr. 3, 1984); and later settled through an Amended Settlement Agreement of 14 August 1987.

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SCHEDULE II

POLICE DEPARTMENT - LINE OF PROMOTION

~~¹⁰—This schedule constitutes the complete line of promotion in the Police Department for classifications that require an examination by the Civil Service Commission, together with the length of service required in each rank and/or grade before a member shall be permitted to participate in a promotional examination for the next higher position:~~

<u>RANK PROMOTED TO</u>	<u>RANK/GRADE PROMOTED FROM</u>	<u>PREREQUISITE REQUIRED TIME IN RANK AND/OR GRADE</u> ¹³
Captain	Lieutenant	Must have held the rank of Lieutenant continuously for one full year.
Lieutenant	Sergeant	Must have held the rank of Sergeant continuously for one full year.
Sergeant	Police Officer, First Grade	Must have held the rank of Police Officer, <u>for a period of forty-eight months; and must have held the rank of Police Officer</u> First Grade continuously for a period of nine months. ^{14,}
Superintendent of Radio Engineer¹⁵	Radio Engineer	Must have held the rank of Radio of Engineer continuously for five full years.

¹³ **Case law annotation** -Pursuant to the *Amended Memorandum Opinion and Order* of the court in Ortiz v. Bach et al., Civil Action No. 75-A-734 (D. Colo. 1976), the eligibility requirements for promotion to the rank of Sergeant shall be no longer than four years (total time on the force), and that the time in rank prerequisite for taking the promotional exam for other officer positions shall be one year. The Court further ordered that the Commission modify its rules accordingly.

¹⁴ Classified members holding the title of Technician or Detective hold the rank of Police Officer, First Grade. Consequently, time served as Technician and Detective counts as time served as Police Officer, First Grade.

¹⁵ **Charter annotation** –Charter § 9.6.7 dealing with the transition provisions for the ranks of Radio Engineer and Superintendent of Radio Engineer has been repealed as a result of the completion of the transition of elimination of the ranks from the Classified Service.