

CITY OF BRANSON, MISSOURI
ADMINISTRATIVE RULES

RULE NUMBER 2 REFERENCING ARTICLE 1 OF THE HUMAN RESOURCES MANUAL
AMENDED 7-10-2012, 01-23-2018

A RULE PERTAINING TO APPEAL PROCESS AND HUMAN RESOURCES FACT FINDING COMMITTEE

Section 1. Appeals Procedure

- A. A regular classified employee who has completed the probationary period may appeal any dismissal, demotion, or suspension without pay in writing to the Human Resources Fact-Finding Committee through the Human Resources Director within seven (7) calendar days of receipt of written notice of said dismissal, demotion, or suspension without pay, unless the employee's position was abolished or unfunded, either by non-appropriation or as the result of budget cuts. Any dismissal, demotion, or suspension without pay shall take effect on the date indicated in the dismissal, demotion, or suspension notice despite the pending appeal.
- B. No appeal shall be considered if more than seven (7) calendar days have elapsed from the date of the written notice of dismissal, demotion or suspension without pay, or if the employee refused to discuss the issues with his Director and the Human Resources Director during his disciplinary hearing.
- C. The City Administrator, at his or her sole discretion, may authorize an extension in one or more time parameter stated in this rule as needed. The City Administrator will provide any rationale for any such extension in writing to the employee, the Human Resources-Fact Finding Committee and the Human Resources Director.

Section 2. Human Resources Fact-Finding Committee

- A. The purpose of the Human Resources Fact-Finding Committee is to provide the City Administrator with as much factual information on an employee appeal as possible prior to him or her making a final determination on the matter. The Human Resources Fact-Finding Committee, appointed by the City Administrator, shall consist of three persons, as indicated below:
 - (1) The Chairperson of the Employee Human Resources Committee. If the Chairperson of the Employee Human Resources Committee is unable to attend the review, or if the employee whose appeal is to be considered is in the same department where the Chairperson is employed, the Employee Human Resources Committee Vice-Chairperson shall serve on the Human Resources Fact-Finding Committee. If both the Chairperson and the Vice-Chairperson of the Employee Human Resources Committee are unable to serve for any reason, the City

Administrator shall appoint a member of the Employee Human Resources Committee who has no direct connection with the employee whose appeal is to be considered.

- (2) Two Directors, who have no direct connection with the employee whose appeal is to be considered. The City Administrator shall designate the Directors.
- B. The duties of the Human Resources Fact-Finding Committee are to review and consider appeals filed by any employee in the classified service regarding dismissal, demotion, or suspension without pay. It should listen to any appeal without any preconceived bias for or against the employee. The Committee shall forward a written report including findings of fact and a recommendation, if any, to the City Administrator.

Section 3. Human Resources Fact-Finding Committee Review Process

- A. If a written notice of appeal is filed within seven (7) calendar days of the date of dismissal, demotion, or suspension order, the Human Resources Director will convene the review not more than fourteen (14) calendar days after the appeal is submitted unless the employee and Human Resources Director agree in writing to a later date. The review shall be private and shall not be an adversarial proceeding. The Human Resources Fact-Finding Committee shall be an administrative function of the City Administrator's office.
- B. The Human Resources Director shall establish and communicate review times and dates, shall give written notice to all parties of the same, shall provide any necessary administrative support, and shall attend all meetings of the Committee and be responsible for electronically recording all proceedings and providing a digital copy of the same to the Committee. However, the Human Resources Director shall not participate in the Committee's deliberations as to the facts and the recommendations of the Committee, except as called by the committee as a witness.
- C. The Human Resources Fact-Finding Committee shall meet individually with the employee, the employee's Director, and any other persons the Committee wants called. The committee, by a simple majority, will solely decide which witnesses appear for the hearing. The employee may have an advisor with him or her at the hearing, but such advisor may not ask questions or otherwise direct any portion of the hearing. The employee, the Director and any witnesses called shall be given the opportunity to present their understandings of the facts and shall endeavor to truthfully answer any questions asked by the Human Resources Fact-Finding Committee.
- D. If the employee has documents or witnesses for the committee to consider, he or she must give five copies of all documents and five lists of names of witnesses to the Human Resources Director at least seven (7) calendar days before the committee is

set to convene, to allow the committee time to review the information and to have the Human Resources Director contact the witnesses requested by the committee.

- E. Within seven (7) calendar days following the completion of the review, the Human Resources Fact-Finding Committee shall furnish the City Administrator with a written summary of the review, a copy of the employee's documents, its finding of fact, and its recommendations, if any.

Section 4. The City Administrator's Decision on Appeal

Within seven (7) calendar days following the delivery of the Human Resources Fact-Finding Committee's report to the City Administrator, he or she shall review the report, the employee's documentation, and issue a written decision on resolution to the matter. A copy of this decision will be given to the employee and the Director. A copy will also be mailed to the employee. Any such decision made by the City Administrator is not eligible for any further appeal.

The City Administrator may make any one of the three following decisions:

1. Uphold the recommendation of disciplinary action;
2. Set aside any recommendation of disciplinary action and impose a more severe, a less severe, or a totally different consequence to the employee; or
3. Set aside any recommendations made, and reinstate the employee.

When reinstating an employee, the City Administrator may, at his or her discretion, order reinstatement of any or all back-pay and/or allowances which may have otherwise been due the employee because of the dismissal, suspension without pay, or demotion.

If the employee is reinstated through the appeal process, he or she may, within seven (7) calendar days of the date of reinstatement, voluntarily leave employment with the City without the requisite notice as required in Article 13, and remain eligible to receive a payout of any qualifying accruals, as though he or she had left employment in good standing.

The above Administrative Rule is hereby established and adopted in accordance with the Human Resources Manual of the City of Branson, Missouri.

Stanley E. Dobbins, City Administrator

Date