

OPERATION OF A MUNICIPAL FIRE AND POLICE CIVIL SERVICE BOARD

Compiled by Office of State Examiner

Municipal Fire and Police Civil Service

Revised November 2026

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SECTION I: INTRODUCTION TO THE LOUISIANA FIRE AND POLICE CIVIL SERVICE SYSTEM

The idea of civil service in the state of Louisiana has its origins in nineteenth-century New Orleans, when powerful politicians and their political machines, through patronage, first controlled the police department, thereby assuring a firm hold on the electorate, often by intimidation at the polls. Many attempts were made toward reform, and a few met with some success. They were all short-lived, however, succumbing to the influences of the political machines and to Louisiana's apparent appetite for the spoils system. In 1934, the Long machine passed a 'civil service law' that created the State Civil Service Commission. The law, in effect, was a patronage act, inasmuch as the commission was comprised of supporters of Sen. Huey P Long, and was vested with the power to investigate appointed heads of municipal police and fire departments, to require proof of their competence to hold their positions, and to remove them if the commission determined them to be incompetent. No such position could be filled by the local appointing authority without the commission's approval. The Alexandria police chief was terminated by the commission for incompetency following charges that the chief "refused to permit Long's bodyguards to pursue certain persons who had showered the senator with eggs and vegetables when he was in Alexandria some months earlier." [1,2] Persons who were employed in the fire and police services were issued warrants of appointment by the commission for the period of only six months. Anyone whose warrant was not renewed lost their jobs.[2]

Act 253 of the 1940 Regular Legislative Session established the Municipal Fire and Police Civil Service Law, which provided the framework for today's fire and police civil service law. While a separate system continued for city employees of New Orleans, including its fire and police employees, Act 253 applied only to the six other larger Louisiana cities (Baton Rouge, Shreveport, Monroe, Lafayette, Lake Charles, and Alexandria), each having a five-member civil service board to administer the system locally. (Later, the population limits were revised to include municipalities having populations between 13,000 and 250,000.) The system under Act 253 was administered by the State Examiner whose office was placed under the control of the Louisiana State Civil Service Commission.

In recognition of the principle differences between the two systems, Act 102 of the 1944 Louisiana Legislative Session separated the Office of State Examiner from the State Civil Service Commission's administrative control. Then, in 1952, Act 302 provided that the Municipal Fire and Police Civil Service Law would be placed within and under the protection of the Constitution of 1921. In 1964, the Fire and Police Civil Service Law for Small Municipalities, and for Parishes and Fire Protection Districts was enacted by the Legislature as Act 282. Ten years later, the system of classified fire and police service, as established and amended under the provisions of Article XIV, Section 15.1 of the 1921 Constitution, was continued in force and effect in the Statutes by Article X, Sections 16 – 20. Those provisions of law were placed within Title 33 of the Revised Statutes, Sections 2471 through 2508.

[1]Hermann Deutsch, "The Kingdom of the Kingfish," New Orleans Item, July 28, 1939.
[2]Vaughan Howard, Civil Service Development in Louisiana, Tulane Studies in Political Science Vol. III, p. 50, Tulane University, New Orleans, 1956.

PURPOSE OF MANUAL

This manual is intended to assist the local civil service board, its secretary, local officials and administrative personnel to carry out their duties and responsibilities under the provisions of the fire and police civil service law. The Office of State Examiner (OSE) provides this manual as a practical guide for its users, complete with examples of commonly-used forms and helpful tips to make the operation of the system less intimidating and more efficient.

WHY CIVIL SERVICE?

The primary goal of a civil service system is to provide the public with a workforce whose selection, employment and appointments are made and managed according to the principles of merit, efficiency, fitness and length of service. Civil service accomplishes this objective in two significant ways:

1. By providing employees a sense of job security through the establishment of:

    - Classifications and descriptions of each job and position according to actual duties performed and responsibilities involved;
    - Procedures for qualifying personnel by objective selection, and;
    - A scheme for appointments and promotions of personnel based on examination qualifications, job performance, and departmental seniority.

2. By eliminating political patronage in public safety jobs and assures fire protection and law enforcement services continue undeterred during political transitions. Prohibiting elected officials from using political influence or authority to arbitrarily make employment decisions promotes public trust. Under the classified service, employees who are performing their jobs competently shall not be subjected to wholesale terminations upon changes of political administrators. Personnel selections are made based on merit rather than favoritism and political patronage. This creates a mutually beneficial system of efficient personnel management. It is important to note the civil service system does not infringe upon the duties, authority, or responsibilities entrusted to local officials, either appointed or elected. It contributes to sound practices in personnel management, whereby employees may advance in their careers without fear of arbitrary selection decisions, and are expected to serve in good behavior and held accountable for their actions and decisions.

THE STAKEHOLDERS

1. Every municipality, parish or fire protection district within the Louisiana Fire and Police Civil Service System encompasses the governing authority, the appointing

authority, the department chief(s), and the classified employees of the rank and file, and, of course, the local fire and police civil service board. Others, such as attorneys who may represent the various parties above, may also be considered stakeholders. Certainly, the public, for whom all are sworn to serve, is the primary stakeholder. A definition and a brief summary of the duties and responsibilities of certain stakeholders follows: The *governing authority: defined under Article VII, §44 of the 1974 Constitution as the body which exercises the legislative function of the political subdivision. Therefore, the governing authority of a municipality is the city council or board of aldermen. In a parish, the governing authority is the police jury or the parish council. Finally, the governing authority of a fire protection district is the fire board of commissioners, which sometimes is comprised of the same membership as the police jury or parish council.*

The governing authority shall:

a. appoint a civil service board within ninety days from the date that the civil service law becomes effective in the area. One appointment is made by the governing authority's own nomination; two appointments are made from a list of four persons nominated by the president of the local 4-year university or the university most proximate to the area; and one appointment from each department, who has been elected by is co-employees.

b. provide adequate funding for the operations of the civil service board in order to cover expenses for the following:

    i. the salary of a non-member, part-time secretary;
    ii. a suitable meeting place, which includes facilities and essential services for conducting public meetings, hearings, consultations, investigations, examinations, or reviews.

    iii. equipment, furnishings, supplies, and material necessary to enable the board to carry out effectively the duties imposed upon it.

Although it is not specifically addressed in civil service law, the governing authority establishes and maintains the pay plan for fire and police employees. The Civil Service Board has no authority to establish a pay plan.

2. The *appointing authority is defined in the fire and police civil service law as the official, officer, board, commission, council or person having the power to make appointments to positions in the municipal fire and police services. The appointing authority is identified throughout the MFPCS Law as the body or person who is authorized to take disciplinary actions, to be consulted when the board adopts or revises its rules and classification plan, allocates positions to the classified service, and regulates leave. The appointing authority* shall:

a. advise the board whenever any operational change affects an employee's duties or job classification
b. report to the board, in writing, within fifteen days of any action involving classified personnel.
c. cooperate with board investigations, furnishing any information that would assist the board in the performance of its duties.

3. The *civil service* board is the body of local citizens who have been appointed to administer the system of classified fire and police service at the local level, and enforce the provisions of the Louisiana Fire and Police Civil Service Law. No member of the civil service board represents any group, faction or interest, except to protect and uphold the public interest. The board shall:

    a. represent the public interest in matters of personnel administration concerning fire and police employees.

    b. advise and assist the appointing authority and governing body as to maintenance and improvement of personnel standards and administration.

    c. advise and assist all classified employees.

    d. make such investigations and determinations as required.

    e. make such rules as necessary to conduct the business of the board.

    f. make and adopt a classification plan appropriate for the needs of the jurisdiction.

    g. make such reports, as required or requested, to the governing body.

    h. adopt rules on leaves of absence.

4. The *state examiner* is an officer of the state of Louisiana authorized to assist in administering the Louisiana Fire and Police Civil Service System on a statewide basis, providing support to the local fire and police civil service boards, appointing authorities and governing authorities, department chiefs, classified employees and the public. The Office of State Examiner provides advice regarding the duties and responsibilities imposed upon these individuals by the fire and police civil service law. The Office of State Examiner prepares, administers and scores all tests required for employment and promotion in the fire and police classified service. According to law, the state examiner shall:

    a. assist the board in an advisory capacity in the discharge of its duties.

b. prepare and submit a classification plan to the board for its approval and adoption after consulting the authorities and department heads.

c. prepare and administer competitive and promotional examinations.

d. cooperate with the secretary of each board in maintaining a roster of all fire and police civil service employees.

e. encourage employee training in the classified service.

f. maintain a statewide eligibility list for entrance firefighter, entrance police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer and police communications officer classes.

g. call for and administer the entry firefighter, entry police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer, and police communications officer exams.

5. *Classified employees* are the persons legally occupying positions in the classified fire and police services, whose employment is placed under an officer or employee of the government of the municipality, parish or fire protection district vested with the authority to employ, supervise, discipline and discharge.

We hope that this brief introduction to the system of civil service will be helpful to you. Adrienne Bordelon, State Examiner, Kesha Feigley, Deputy State Examiner, and the entire staff of the Office of State Examiner are available to advise and assist any official, department head, classified employee or civil service board member. The address and telephone number for the OSE is listed below:

Office of the State Examiner
Municipal Fire and Police Civil Service
7722 Office Park Blvd., Suite 500
Baton Rouge, Louisiana 70809
(225) 925-4400

SECTION II: CIVIL SERVICE BOARD MEMBERSHIP AND DUTIES

APPOINTMENT AND BOARD COMPOSITION

The Louisiana Fire and Police Civil Service System as provided in Article XIV applies to all municipalities with populations between 13,000 and 250,000, which operate both a fire department and a municipal police department. Municipalities within this population range which do not operate both departments are excluded from the system. Examples include the cities of Central, Gretna, Slidell, and Thibodeaux. Where cities within the population range ***do*** operate both departments, a civil service board must be appointed comprising five (5) members.

Municipalities with a population not less than 7,000 or more than 13,000, which also operate both fire and police departments must also appoint a Civil Service Board comprised of five (5) members. Municipalities within that population range that operate either a fire or police department, and in parishes or in fire protection districts (regardless of population), Boards are comprised of three (3) members. Appointments to the Board are made, as follows:

- The governing body appoints one board member upon its own nomination;

- The executive head of a regularly chartered and established four-year institution of higher education located within the municipality, parish, or fire protection district (as the case may be) provides, on the governing authority's request, a list of four names, according to whether one or both services are provided. The governing authority then appoints one or two persons from the respective lists. If there is no institution of higher education located in the area, a list of names must be requested from the executive head of such an institution which is within the state and which is the most geographically proximate to the area served;

- The regular employees of the fire department elect one member to serve on the board. The regular employees of the police department elect one member to serve on the board.

There are exceptions to these provisions for Shreveport and New Iberia. In Shreveport, the MFPCS Law provides that the board must be comprised of nine members: one member appointed upon the governing authority's own nomination; two regular and permanent employees elected to serve on the board from each department; two members appointed from a list of four nominees by the executive head of Southern University - Shreveport, and two members appointed from a list of four nominees by the executive head of LSU-Shreveport.

Notably, regarding the appointment of members nominated by the colleges and universities, the executive head is required to submit names within sixty (60) days of receiving the governing authority's request. Should the list of names not be submitted, it

shall be considered to be a failure by the executive head to perform a ministerial duty. The district attorney for the parish in which the college or university is located is required to file for a writ of mandamus to compel the issuance of the requested list.

ELIGIBILTY TO SERVE ON THE BOARD

To be eligible for appointment or to serve as a member of a board**, a person SHALL**:

(a) be a citizen of the United States of America;

(b) have resided in the municipality, parish, or fire protection district served by the board for five (5) years immediately preceding appointment;

- For the City of Baton Rouge, a member of the board shall be a resident of the City of Baton Rouge, the unincorporated area of East Baton Rouge Parish, or a combination thereof for at least five (5) years preceding their appointment and shall be a qualified voter of East Baton Rouge Parish.

- For the City of Zachary, the *GOVERNING AUTHORITY* board member shall have been a resident of the city of Zachary, the unincorporated area of East Baton Rouge Parish, or a combination thereof, for at least five years preceding his appointment and shall be a qualified voter of East Baton Rouge Parish.

(c) be a qualified voter of the municipality, parish or fire protection district served by the board.

(d) an employee-nominee shall be a regular and permanent employee in the fire/police department.

By resolution of the governing authority in the municipality, parish, or fire protection district which is authorized to make board appointments, the five- (5-) year residency and qualified elector requirements may be extended beyond the limitations of the area served for the employee elected members of the board. At the governing authority's discretion, employee elected members may reside either within the parish in which the Board is domiciled, or in another parish.

- An employee-nominee shall be a regular and permanent employee in the fire/police department.

- An employee-nominee shall hold a position <u>lower</u> than that of chief, assistant chief, district chief, or battalion chief in the fire service or hold a position in a class lower

than that of major, assistant chief and chief for the police service. *If an employee is promoted and confirmed in a restricted class, he must resign is appointment.*

With respect to eligibility for appointment or to continue to serve on the Civil Service Board, NO PERSON SHALL:

- be a member of any local, state or national committee of a political party during his appointment or for a period of six months immediately preceding his appointment,

- be an officer or member of a committee in any factional political club or organization;

- be a candidate for nomination or election to any public office;

- hold any other public office or position of public employment, except that of notary public, a military or naval official office, or that of a municipal, parish or fire protection district, fire or police department employee.

  NOTE: *Positions of public employment include part-time and full-time employees of public schools; state colleges and universities; employees of city, state, and federal agencies; and members of public boards, commissions, and authorities.*

- have been convicted of a felony ten (10) years immediately preceding his appointment.

- committed a civil rights violation, as determined by a legally binding agreement or finding, ten (10) years immediately preceding his appointment.

ELECTION PROCESS FOR EMPLOYEE BOARD MEMBERS:

The chief of each department will post a notice to receive nominations for a department representative to serve on the board. After the nomination period is closed, a notice of the time, place and date(s) for the election is posted for 15 days. The chief should provide a formalized method for the members of the department to cast their votes.

Only members who are <u>regular and permanent</u> employees of the respective fire or police service may nominate, be nominated and vote. Within ten (10) days immediately following the election, the chief must notify the governing authority of the name of the employee who was elected and the governing authority must appoint that person to the civil service board.

- Although civil service law does not mandate a posting period to accept nominations, we suggest that the chief post to accept nominations for an extended period of time to allow all regular employees an opportunity to participate in the nomination.

<u>If, after the nomination period ends and only one regular and permanent employee has been placed in nomination, that nominee shall be declared elected.</u>

If more than one name is placed in nomination, the chief shall call an election within forty-five (45) days by posting a notice for fifteen (15) continuous days immediately preceding the election at all departmental stations.

- The mandated 15-day posting notice must state the date, time, and place of the election and reflect the beginning and the end of the election period and any specific times that the employee may cast his/her vote.
- Although civil service law does not mandate a specific length of time to hold the actual election, we suggest that the chief hold the election during a specified time period on at least three continuous days to allow all the regular employees an opportunity to cast their vote. For example, if the chief feels that it is ample time, he would hold the election from 8 a.m. to noon on August 15th, 16th, and 17th.

- Employees **are not required** to vote.

- Each regular employee can vote only one (1) time (*see exceptions for Shreveport, below*).

- All employees must cast their own vote. Employees **cannot** vote by phone.

- The chief of the department shall vote in the election **only** in the case of a tie vote.

- We suggest the chief compile a voting register consisting of the names of the employees who are eligible to cast a vote. The employee who is voting will sign next to his/her name indicating that he/she has been given a ballot and an unmarked envelope. The employee will complete the ballot and place it in the envelope and then deposit the envelope into a sealed box to ensure that *all votes are kept secret.*

- We feel that absentee voting may be allowed if the chief makes the arrangements. The employee who is voting absentee would sign next to his/her name indicating that he/she has been given a ballot and an unmarked envelope. The employee will complete his/her ballot and place it in the envelope and then deposit the envelope into a sealed box with the other ballots.

- If absentee voting is allowed, the election committee will count all votes immediately after the close of the absentee voting. If no absentee voting is allowed, the chief will count the votes immediately after the close of the election.

The employee who receives the majority of the votes that were cast wins the election. If no one wins by a majority, then there is a runoff between the top two. The chief shall officially notify the governing body within ten (10) days immediately following the election, the name of the employee-nominee elected by the regular employees of his department.

SHREVEPORT

In accordance with R.S. 33:2476.1, the employee election procedures for Shreveport are as follows:

The governing authority shall appoint four members who have been nominated and elected by and from the regular employees of the fire and police departments as follows:

(a) Two members shall be elected and appointed from the fire department, and two members shall be elected and appointed from the police department. The employee-nominees from each department shall be elected by secret ballot of the regular employees of their respective department at an election to be called and held for that purpose by the chief of the department. ***In such an election, each voting employee shall cast two votes and may distribute them among candidates in any manner the voter chooses, including casting both votes for a single candidate.*** The two candidates receiving the most votes shall be elected.

(b) The chief of each department shall call such an election within forty-five (45) days after the effective date of this Paragraph by posting, for a fifteen-day continuous period immediately preceding the election, a notice thereof on the bulletin board of each station house of his department. The chief shall officially notify the governing authority of the municipality, within the ten-day period immediately following the election, of the names of the employee-nominees so elected.

TERMS OF OFFICE

Each term of office for civil service board members is for the period of three years. When the civil service board is sworn in for the **first** time, that is, the municipality or fire protection district has just come under the Municipal Fire and Police Civil Service System, the terms of office of the first board members will be staggered. The original term of office for the employee members of the board is for one (1) year. The member appointed on the governing authority's own nomination is two (2) years. The member(s) appointed upon nomination by the executive head of the four-year institution of higher education will have a three-year term. From the initial terms forward, all terms of office will be for three years.

Under civil service law, members of the civil service board must continue to serve until their successors are appointed. Anyone who is appointed following the resignation or death of a board member will serve the unexpired term of his/her predecessor.

When a member's term expires, the governing authority may reappoint the member or appoint a successor; however, in either event, appointment ***must be made in the same manner as for the original appointment***. Therefore, the fire and police department board members must be nominated and elected by the regular employees of their respective departments and appointed by the governing authority. "College List" members must be appointed or reappointed from a list names originating from the institution of higher education that the governing authority had requested. The member appointed on the governing authority's own nomination may be reappointed, or another person may be appointed.

***CIVIL SERVICE LAW** requires members whose terms have expired, or who resign during their terms, to continue to serve in their appointments until a successor is appointed.*

OATHS OF OFFICE

Each member must be appointed or reappointed by the governing authority before he/she may begin performing the duties of the office or continue another term. For each term and subsequent term, each appointee must take the oath of office to uphold the constitution and laws of the State of Louisiana and of the United States, and to administer faithfully and impartially the provisions of civil service law and the rules adopted by the civil service board. The State Examiner, as notary ex officio, or other notary, may execute the oath of office.

Six true copies (originals) of the Oath of Office must be signed, notarized, and distributed. One copy each will be provided to the civil service board member, the governing authority, the civil service board, the OSE, the Secretary of State (the OSE will file a copy with the Secretary of State's Office for the board), and the Clerk of Court of the

parish in which the board is domiciled (it is the responsibility of the board to file a copy with the Parish Clerk of Court's Office).

OFFICERS OF THE BOARD

The members of the civil service board nominate and elect a chairman and vice-chairman. Any board member can serve as the chairman or vice-chairman. Their terms in these offices run concurrently with their terms of office as civil service board members. An election for a chairman or vice-chairman is held when one of three situations occur:

- the term of office of the board member holding either office expires and either the member is reappointed or replaced;
- the board member holding either office is no longer on the board due to resignation, death, or removal, or;
- the board member resigns his/her office as chairman or vice-chairman but remains on the board.

DUTIES, RESPONSIBILITIES, AND AUTHORITY OF THE CIVIL SERVICE BOARD

❶ Duties and authority of the local board are primarily detailed in **R.S. 33:2537** and **R.S. 33:2477**; however, the board's authority is found throughout other sections of the Municipal Fire and Police Civil Service Law as follows:

- Power to adopt and execute rules, regulations, and orders, and to amend or repeal such rules, regulations, and orders.
  (R.S. 33:2538 and **R.S. 33:2478)**
- Authority to appoint or employ a secretary.
  (R.S. 33:2536(L)(1-2) and **R.S. 2476(L)(1-2))**
- Authority to call meetings.
  (R.S. 33:2536(M) and **R.S. 33:2476(M))**
- Authority to adopt a classification plan as rules of the board and to amend or revise such classification plan.
  (R.S. 33:2543 and **R.S. 33:2483)**
- Authority to allocate each position in the classified service to its proper class, and to reallocate positions from one class to another.
  (R.S. 33:2544 and **R.S. 33:2484)**

- Authority to hear and decide the complaint of any employee who feels himself aggrieved because of any allocation or change in classification affecting his position.
  (R.S. 33:2546 and **R.S. 33:2486)**

- Authority to hear the appeal of any regular employee who has been transferred.
  (R.S. 33:2549 and R.S. 33:2489)

- Authority to review medical certificate of former employees seeking re-employment.
  (R.S. 33:2550(D) and R.S. 33:2490(D))

- Establish and maintain employment lists.
  (R.S. 33:2551 and R.S. 33:2491)

- Provide for tests and other details relating to tests such as posting and publishing notices, reviews of tests, and methods of grading.
  (R.S. 33:2552 and R.S. 33:2492)

- Establish rules governing admission to tests, admit or reject applicants for tests, or cancel eligibility of any eligible on any employment list.
  (R.S. 33:2553 and R.S. 33:2493)

- Certify to the appointing authority names of persons eligible for appointment.
  (R.S. 33:2554 and R.S. 33:2494)

- Hear appeals of employees who were removed from position during working test period under conditions and time limits as described by the law.
  (R.S. 33:2555 and R.S. 33:2495)

- Authorize renewals of temporary appointments.
  (R.S. 33:2556 and R.S. 33:2496)

- Adopt rules governing leaves of absence.
  (R.S. 33:2557 and R.S. 33:2497)

- Maintain re-employment lists.
  (R.S. 33:2559 and R.S. 33:2499)

- Make, upon the request of any qualified elector of the state, an investigation of the conduct and performance of an employee in the

classified service, render judgements, and order action to be taken by the appointing authority.
(R.S. 33:2560 (C) or R.S. 33:2500 (C))

- Conduct hearings and investigations on appeals by employees who feel that they have been discharged or subjected to corrective or disciplinary action without cause. The board shall have complete charge of such hearing and investigation and may conduct it in any manner it deems advisable. If the board finds that the action in question was not taken in good faith and for just cause, the board shall order such remedial action, as it deems advisable.
(R.S. 33:2561 and R.S. 33:2501)

- Each member of the board shall have the same power to administer oaths, subpoena witnesses and compel the production of books and papers pertinent to any investigation as is possessed by the district courts of Louisiana.
(R.S. 33:2562 and R.S. 33:2502)

  The board may, upon its own initiative, investigate any officer or employee in the classified service whom it reasonably believes is guilty of violating one or more provisions of the law dealing with political activity.
(R.S. 33:2564 and R.S. 33:2504)

- In judicial proceedings, the board may call upon the Attorney General, the chief legal officer of the jurisdiction, or may employ independent counsel to represent it in sustaining the law and enforcing the law.
(R.S. 33:2566 and R.S. 33:2506)

❷ The Board has the authority to investigate any complaints made to it from the general public, members of the classified service, or the governing body regarding violations of the civil service law. This authority is found in **R.S. 33:2537(4) and (5)** and in **R.S. 33:2477(4) and (5)**:

- The board shall make investigations concerning the administration of personnel or compliance with the provisions of the law in the fire and police service at the direction of the mayor, commissioner of public safety, department chiefs, or president of the parish governing authority, or fire protection district, as the case may be, or upon written petition of any citizen for just cause, or upon its own motion.

- Investigations conducted pursuant to these sections of civil service law shall be completed within sixty (60) calendar days of the receipt of the request.

- Conduct investigations and pass upon complaints by or against any officer or employee in the classified service for the purpose of demotion, reduction in position or abolition thereof, suspension, or dismissal of the officer or employee.

Classified employees are also citizens and as such may file written petitions with the board on matters covered in R.S. 33:2537(4) or R.S. 33:2477(4). Other sections of the law covering investigations include: R.S. 33:2544 or R.S. 33:2484; 33:2546 or 33:2486; 33:2549 or 33:2489; 33:2555 or 33:2495; 33:2560(c) or 33:2500(c); 33:2561 or 33:2501 et seq.

REMOVAL OF A BOARD MEMBER

Revised Statutes **33:2536(H) or 33:2476(H)** provides for removal of a board member under certain conditions. By judgment of the district court of his domicile, a member may be removed for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, oppression in office, gross misconduct, or habitual drunkenness.

THE CIVIL SERVICE BOARD SECRETARY

Civil service law provides that the office of the board secretary shall be filled in one of the following ways:

a. The board may elect one of its members to serve as secretary, but he/she shall not be compensated to perform the duties;

b. The board may appoint the city clerk or secretary-treasurer of the municipality to fill such office ex-officio;

c. The board may wish to employ a secretary as a part-time employee.

   i) The secretary's salary shall not exceed twelve-hundred fifty dollars ($1,250) per month for municipalities with a population of 13,000 or more. [R.S. 33:2476(L).]

   ii) The secretary's salary shall not exceed seven-hundred fifty dollars ($750) per month for municipalities with populations between 7,000 and 13,000, and in parishes, and fire protection districts. [R.S. 33:2536(L).]

The secretary serves at the pleasure of the Board. The secretary does not vote in any proceedings *unless* he/she is also a member of the Board.

DUTIES OF THE CIVIL SERVICE BOARD SECRETARY

Listed below are the most common duties of the secretary to the board. However, the board secretary is employed by the board and may be instructed to perform other duties as needed to fulfill the duties and responsibilities of the board. The secretary to the board:

- Schedules civil service board meetings and appeal hearings and prepares all correspondence necessary for meetings as directed by the civil service board. (notifications, agendas, packets, subpoenas, etc.)

- Attends all meetings of the board and appeal hearings, transcribes minutes of its proceedings, and provides the OSE, Governing Authority, and Appointing Authority a copy of the minutes.

- Attends to correspondence directed to the board as instructed by the board.

- Maintains records of all classified fire and police personnel.

- Maintains seniority rosters for the classified fire and police personnel and posts a notice for a public hearing for approval by the board.

- Notifies the OSE to request scheduling of examinations.

- Posts for fire and police civil service examinations (except for entry level firefighter, entry level police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer, and police communications officer) in compliance with civil service law as directed by the board.

- Provides individuals with an application for admission to a civil service examination.

- Accepts and reviews applications for fire and police examinations (except entry level firefighter, entry level police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer, and police communications officer) and then brings these before the board for their approval or rejection.

- Notifies applicants of the date and time of the examination(s) that he/she has been approved to take.

- Sends a roll call to the OSE for examinations that have been scheduled.

- Notifies applicants of his/her examination test score after civil service board approval.

- Provides the appointing authority with a certified eligibility list as directed by the board.
- Maintains competitive and promotional employment eligibility list.
- Works with the OSE when revising civil service board classification plans and rules and related civil service board activity.
- Posts for a public hearing on proposed classification plan and/or board rule revisions.
- Responds to the governing authority, appointing authority, fire and police chief, attorneys, and others regarding board issues as directed by the board.
- Completes personnel action forms when required.
- Performs other duties as assigned by the civil service board.

SECTION III: CIVIL SERVICE BOARD MEETINGS

MFPCS LAW REQUIRES BOARD MEETINGS

LSA-R.S. 33:2536 and 33:2476 require that all civil service Boards under the provisions of the Louisiana Fire and Police Civil Service Law must meet at least once in each quarter of the calendar year. Of course, your Board may meet more frequently than what is required by law. Most Boards meet at least once per month, while many – mostly in the larger municipalities – may meet more often, usually due to a higher number of appeals that are more likely to occur in fire and police departments that comprise larger numbers of personnel. All public bodies, including the civil service Board, must give written public notice of regular meetings ***at the beginning of each calendar year.*** The Board may reschedule these quarterly meetings and may change the place of the meeting, if needed.

PUBLIC MEETINGS LAWS, A SUMMARY

Because your Board is a public body, it is required to adhere to the Public Meetings Laws, specifically, LSA-R.S. 42:11et seq. The following is a brief summary of the provisions found in the Public Meetings Law, as they relate particularly to your Board:

R.S. 42:12 provides that the purpose of public meetings is to inform the public through an open and public manner about the business of government and the performance of public officials in their deliberations and decisions as it concerns making public policy. Public meetings laws, therefore, are to be interpreted liberally.

R.S. 42:13 provides for definitions of the terms “agenda,” “quorum,” “meeting”, and “public body.” The statute also provides that chance meetings of members of a Board, where there is no voting or other official action is taken, is not to be construed as a public meeting.

R.S. 42:14 provides that every meeting shall be open to the public. Official action, or votes, must be vocal and subsequently entered into the minutes, journal, or other record of the proceedings made in written form. Votes by proxy are prohibited, and before action on any matter on which a vote is to be taken, the public shall be permitted to make comment.

R.S. 42:16 provides that your Board may go into closed (or executive) session upon the affirmative vote of two-thirds of the members present. Notice that your Board will go into executive or closed meeting must have been given prior to the meeting. No vote or final, binding decision may be made during a closed session. The subject matter for which the executive meeting is held is restricted to one or more reasons listed under the R.S. 42:17. The restrictions particularly worth consideration by members of the fire and police civil service Board are, as follows:

a) Discussion of the character, professional competence, or physical or mental health of a person. The person must have been notified in writing at least twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, before the scheduled time for the meeting. The person may require that such discussion be held at an open meeting.

b) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting may detrimentally affect the position of your Board in negotiations or litigation.

c) Investigative proceedings regarding allegations of misconduct.

d) Presentations and discussions at meetings of civil service Boards of test questions, answers, and papers produced and exhibited by the office of the state examiner, municipal fire and police civil service, pursuant to R.S. 33:2492 or 2552.

R.S. 42:19 provides for notices of public meetings. It is in accordance with this statute that your Board must, at the beginning of each calendar year establish and give written notice of the dates, times, and places for its regular meetings. Written public notice of each regular meeting must be given at least 24 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting is to be held. An agenda must be posted with the notice, and each agenda item must be listed separately and described with reasonable specificity. Before an item may be added to the agenda it must be described with reasonable specificity, and the public must be given an opportunity to be heard. The proposed item must then receive the unanimous approval by the members present in order to be considered. If there is to be an executive session related to litigation, the agenda must identify the court case, case number, and the parties involved, as well as the subject matter.

A copy of the meeting notice shall be placed at the principal office of your Board, or the building in which the meeting is to be held. If a member of the news media has requested a copy of the meeting notice, it shall be provided by mail, and in the same manner as the members of your Board are notified.

If your Board maintains a website, it must also provide notice on its website no less than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, immediately preceding the meeting. However, the failure to timely post notice on the website, or the inability of the public to access the public body's website due to any type of technological failure shall not be a violation of the provisions of this Chapter.

R.S. 42:20 provides for the minutes of your Board's meetings, which must include the date, place and time of the meeting, your Board members present for the meeting, and the substance of all matters decided and other information your Board determines to be necessary to include. If your Board maintains a website, it must also post copies of the minutes for not less than a three-month period.

R.S. 42:23 provides for all proceedings of your Board to be recorded by video or audio devices, or to be broadcast live. Your Board has authority to establish standards while recording or broadcasting meetings, in order to insure proper decorum.

R.S. 42:25 provides that the authority to enforce the provisions of the Public Meetings Law is granted to the attorney general. Enforcement proceedings may be initiated upon a complaint filed by any person or upon the attorney general's own initiative. Any person who has been denied any right conferred by the Public Meetings Laws may also initiate enforcement proceedings.

R.S. 42:26 provides for the remedies and relief against violations of the Public Meetings Laws, including court orders of mandamus, injunction, rendering of decisions that void the Board's action, and the award of penalties.

R.S. 42:28 provides that any member of the Board who knowingly and willfully participates in a meeting conducted in violation of the Public Meetings Law, shall be subject to a penalty not to exceed one hundred dollars per violation. A suit to collect such a penalty must be instituted within sixty days of the violation.

THE BOARD MEETING
(Notice, Agenda, and Order of Business)

The Chairman of the Board, who presides over meetings, must call for all Board meetings. Should the Chairman fail or refuse to call a quarterly meeting, the members of the Board can meet on the call of any two members mailed ten (10) days in advance of the meeting. Business is *written call* typically conducted during regular meetings; however, occasionally the Board may conduct business of an urgent nature between regularly scheduled meetings. In these situations, the chairman may call a special meeting with at least a twenty-four (24) hour notification.

Notice of all regular and special meetings are to be posted at the building in which the meeting is to be held, not less than twenty-four (24) hours before the date of the meeting. Notice of meetings should also be posted on your Board's website, if the Board has a website. The Civil Service Board may wish to consider mailing a copy of the notice to the appointing authority and the chiefs of the departments and request that they post it on the bulletin Boards. If the news media requests notice of the Board meetings, he/she must be given notice of all meetings in the same manner as it is given to other individuals. The notice is to state whether the meeting is regular or special, and is to include the date, time, place, and agenda of the meeting. Each item on the agenda must be listed separately with sufficient details in order to advise individuals of what the business of the Board will be at the meeting. The agenda should not be revised less than twenty-four (24) hours before a Board meeting.

A quorum of the Board must be present at all meetings in order to conduct business. Two members present constitutes a quorum of a three-member Board; four members present constitutes a quorum for a five-member Board. For Shreveport Civil Service Board only, 5 members present constitutes a quorum. *If the meeting starts with a quorum and for some reason a member leaves and less than a quorum is present, the Board must adjourn the meeting and reschedule.*

The Board chairman, as the officer presiding over the meeting, controls the order of business of all meetings according to the prepared agenda. In the chairman's absence, the vice chairman presides over the meeting. It is commonly believed that the Chairman and Vice-chairman cannot vote on matters, except to break ties. ***This is not true!*** All Board members possess the right to vote, and may vote on any matter that does not represent a conflict of interest.

Conflicts of interest may occur when matters that are placed before a public body represent a financial interest for a public official, such that the public official could gain financially as the result of his vote. For example, the Board member who was appointed as the result of election by his fellow police officers must abstain from voting on accepting his own application for admission to a promotional test. Should the employee vote in favor of admitting himself to the test, it is likely that he will receive a pay increase when he is finally promoted, so the public official has a financial interest in the outcome of his vote. Abstaining or recusing oneself from voting is also required when a Board member is the immediate family member of an employee who is appealing a disciplinary action, or the Board member is the immediate supervisor or direct work associate of the appellant, and he is directly involved in the matter out of which the disciplinary action resulted.

All meetings of the Board are required to be held in public. Therefore, no one may be prohibited from attend a meeting, including the media. Although meetings are intended to be open in order to inform the public of the business of government, there are times when a public body must convene in closed session. Also known as executive sessions, these closed meetings are permitted only under a few circumstances. Reasons for which a fire and police civil service board may conduct an executive session are stated above, under the summary of the Public Meetings Law. It is important to note that hearings on appeal from a classified employee's disciplinary action must be held in public. However, you board may hold a discussion in executive session concerning an employee's professional competence or his physical/medical condition. If the employee desires these discussions to be held in public, the Board must comply. Furthermore, the board must post its intent to go into executive session at least twenty-four (24) hours in advance, with a reasonable description of the matter to be considered.

The order of business (agenda) must be posted for all regular or special meetings, and must be followed unless a motion is passed during the meeting to add an item or to discuss an item out of order. The Board will first determine if there is a quorum present by taking a roll call. If no quorum is present, the meeting is immediately adjourned. If a quorum is present, the members will review minutes from any previous meetings for any

necessary corrections and approval. The Board will then discuss any old business such as any item which was tabled from a previous meeting. At this time, the members may wish to revisit an item that was discussed at a previous meeting. Next, new business is considered. New business may include the review and approval of scores from recently administered tests, applications for admission to tests, reported test scores, personnel action forms, proposed class plan revisions, letters demanding appeals, or other such matters not considered in a previous meeting. The Board may consider an item that is not on the agenda; however, a motion that describes the matter with reasonable specificity must first receive a unanimous vote of the members present to add it to the agenda. It is recommended that all old and new business of the Board be considered and disposed of prior to conducting employee appeal hearings.

The Board shall hear discussions from its members and others who are present at the meeting. All comments and discussions shall be directed to the chairperson. A main motion shall be made in order to introduce an item to the Board for consideration. A motion must be seconded in order to place the business before the Board for discussion and/or vote. The members would then vote on a matter before the Board by voice, roll call of each member, or by general consent. The motion is passed by a majority vote of the members present. In the case of a three-member Board, the concurring votes of two members is required to take action. In a five-member Board, the concurring votes of three members is required. No manner of proxy voting, secret balloting or other means which circumvents the open meetings laws is permitted.

MINUTES OF MEETINGS

The Board must keep written minutes of all its regular and special meetings. The minutes are public records and must be made available within a reasonable amount of time after the meeting. No minutes nor other forms of recording may be taken during executive or closed sessions of the Board.

The minutes must include but need not be limited to the following in accordance with open meetings laws:

- The date, time, and place of the meeting.
- The names of the Board members who were present and absent.
- All matters the Board discussed and voted upon with sufficient detail in order to inform the public of the nature of the matters discussed or the action taken by the Board.

The minutes should reflect all motions and votes cast, the number of votes in favor and opposed, and the names of the members who voted favorably or against said motion.

The minutes must also reflect any reports as required by the Board, and other information which the Board deems to be relevant. The minutes should reflect that all items on the agenda were considered, and whether the item was discussed and voted on, or whether the item was placed upon the table for discussion at a later date. Notifications of pending Board action and other notifications as the result of Board action, such as posting notices for examinations, posting notices for Board meetings and/or public hearings, seniority rosters, and all other notifications which are required to be posted by the Board in accordance with the MFPCS Law or Public Meetings Law must be posted at all department stations and buildings of the fire and police departments, as well as the site at which the Board shall meet. It is strongly recommended that the Board obtain locking bulletin boards which are to be used solely for the official use of the Civil Service Board. Also, it is recommended that all documents posted by the Civil Service Board should include the statement: “Do Not Remove by Order of the Board”.

MEETING DECORUM

The decorum during meetings is expected to be civil; however, from time to time, persons attending Board meetings may become very passionate about their opinions on certain matters, and may become disruptive. In order to curtail outbursts and unruly audiences, the Board is encouraged to adopt and enforce rules to maintain order and control. If a person interferes with the orderly conduct of the meeting, the Board, through its chairman or vice-chairman, may order an individual to be removed from the premises in order to restore order.

The Board may wish to consider adopting rules that address the use of recording or broadcast equipment during meetings. The Public Meetings Laws permit the sonic and video recording of meetings; however, the Legislature gives public bodies the discretion to develop and administer procedures by which meetings may be recorded. For example, the Board may adopt rules that designate certain areas that are restricted for use by the media and others who may wish to record the proceedings. Restrictions may also be adopted that prevent the assembly or disassembly of recording equipment during the course of the Board’s meeting. Other rules may be adopted that will prevent persons recording the meeting from interfering with other’s ability to observe or hear the proceedings.

Each public meeting must allow for a period of public comment at any time during a meeting, but such opportunity to comment must occur before action is taken on an item. A time limit may be placed upon those who wish to make comment, and each speaker must be given an equal amount of time to comment. Persons wishing to waive all or part of their time allotment may be permitted to grant their time to another speaker.

Once all business is concluded, the Chairman may request announcements, and may also announce the time, date and place for the next regular meeting. If no other business is to be considered, a motion to adjourn may be made and seconded, and upon majority vote, the meeting is adjourned.

SECTION IV: THE RULES OF THE BOARD

THE RULES OF THE BOARD

Louisiana Revised Statute 33:2478 or R.S. 33:2538 provides that the Civil Service Board must adopt rules necessary to effectively carry out the provisions of the Fire and Police Civil Service Law. By law, the Board must adopt a classification plan and rules that provide for leaves of absence. Other rules may be adopted which are determined by the Board to be necessary to effectively carry out the provisions of the civil service law. Generally, the Board's rules will consist of three components: The Classification Plan, Procedural Rules and Leaves of Absence.

THE CLASSIFICATION PLAN

The Fire and Police Civil Service Law (R.S. 33:2543 or R.S. 33:2483**)**, requires each local Civil Service Board to adopt a classification plan for the fire and/or police service under its jurisdiction. The classification plan is divided into groups of classes, arranged so as to show the principal and natural lines of promotion and demotion. The term "class," as used in the Fire and Police Civil Service System, is *not* synonymous with the term "position".

- A "position" means a kind of employment within a class to which one person is appointed and to which a set of duties is assigned.

- The term "class" refers to one or more positions whose duties, responsibilities and qualification requirements are distinctly different from those of other positions, but which are so nearly alike that they may be reasonably treated alike for classification purposes.

For example, the *positions* with primary duties of fighting fires are included in one *class* titled Firefighter.

The classification plan includes an index of classes and a job description for each class of positions as determined locally. Some job descriptions may include duties which are not performed by all persons of the same class. However, all positions in the class share the same essential function and qualifications. Job descriptions included in the classification plan demonstrate how each class differs from another, and are designed to reflect the following:

- *The Distinguishing features of the class* include general statements which describe the type of class, outline the most important duties of the class, locate the class in terms of lines of authority, and note any unusual conditions or requirements of the class.

- *The Examples of work* describe the duties of the class and include only general examples of the work. The examples are not intended to include all of the duties which may be required in positions of the class.

- The Q*ualification Requirements* provide for the requirements which an individual must meet before being approved by the Board for admission to civil service examination for the class. Such requirements must include the conditions for admission to an examination mandated by civil service law, such as being a citizen of the United States of America. They may also include other conditions adopted by the Civil Service Board such as a minimum age requirement over that of legal age and a minimum education requirement. The Board should also include a medical statement which authorizes the appointing authority to administer a medical exam after offer of appointment in order to determine that the candidate is physically fit to perform the duties of prospective position.

PROCEDURAL RULES

R.S. 33:2478 and R.S. 33:2538 authorize the Civil Service Board to adopt and execute rules, regulations or orders necessary or desirable to carry out effectively the provisions of the fire and police civil service law. Such rules are needed to provide structure and organization to Civil Service Board meetings, to assure compliance with provisions of R.S.42:11 through 42:28 (Open Meetings Laws), as well as to provide for meeting activities in the order in which they are to be taken up. These rules ensure the Board complies with both civil service law and Louisiana's Open Meetings Laws. Procedural rules also provide for other matters, from the procedures for applying for admission to examinations to procedures for requesting an appeal hearing, as well as regulations by which the Board conducts appeal hearings and investigations.

LEAVES OF ABSENCE RULES

The Fire and Police Civil Service Law (specifically, R.S. 33:2497 or R.S. 33:2557) provides that the Board shall adopt rules that provide for leaves of absence for all fire and police classified employees. The rules must include annual leave and sick leave with pay, and special leave with or without pay. They may provide for special extended leaves with or without pay or with reduced pay when employees are disabled through injury or illness resulting from their employment.

The Louisiana Legislature has enacted a set of general statutes under Title 33, which apply to employment in the fire and police services. These general statutes precede the Fire and Police Civil Service Law, and include provisions for annual leave and sick leave for firefighters and police officers who are employed in certain municipalities, and for firefighters in all parishes and fire protection districts. These provisions are found in LSA-R.S. 33:1995, R.S. 33:1996, for the fire service, and R.S. 33:2214 for the police service. If your Board is established in these political subdivisions, your Board rules must track the provisions of those statutes.

Funeral leave, civil leave, military leave with and without pay, and other types of leave with and without pay should be included in the Board rules where such leave is already provided for by the governing authority, or where such leave is reasonable under the provisions of the fire and police civil service law. For example, the Board may adopt a rule that provides for leave of absence to the employee members of the Board in order to attend Civil Service Board meetings, or to conduct other official Board business.

The Board rules should not include *procedures* that must be followed when employees cannot report to duty, such as submitting doctors' excuses, dictating employees' behavior while on sick leave, policies for requesting leave. Such administrative directives do not fall under the statutory authority of the Civil Service Board, and are most appropriate as departmental policies that are maintained by the administration. Departmental policies are flexible and may or may not be applied according to specific needs or circumstances of the fire and police service. That flexibility is removed if the policies become Board rules, inasmuch as the Board rules would give them the force and effect of law.

ADOPTING/REVISING RULES OF THE BOARD

Under what circumstances might the Board consider adopting or amending its rules? Listed below are a few situations when the Board may consider revising its rules:

- The OSE may recommend, for example, a revision that updates the rule in order to be consistent with a new statute or to clarify a qualification requirement. We will generally advise the Board by letter and provide a proposed qualification for the Board's consideration.

- The fire and/or police chief, appointing authority, a Board member, employee from the fire and/or police department, or concerned citizen may make a request that the Board consider adopting, amending or abolishing a rule, giving reasons for the request. If the Board determines the request has merit, it may set the matter for public hearing.

- Following a job analysis if it is determined that new duties and responsibilities have been assigned, or others are no longer assigned, OSE will recommend appropriate revisions to the classification plan.

The staff of the OSE is available to assist the Board, the appointing authority, or the chief of the department(s) with any proposed amendments and to offer any advice or comments we feel are necessary concerning the rules of the Board.

There are slight differences in the procedures for adopting/revising the classification plan vs. the Board rules. These differences are primarily within the months preceding the matter coming before the Board:

ADOPTING/REVISING THE CLASSIFICATION PLAN

1. The appointing authority creates a new position and assigns duties and responsibilities to the position as the needs of the service require.

2. The appointing authority must notify the Civil Service Board of this new position in order that the Board may determine whether the position belongs in the classified

service and assure the position, if classified, is filled in accordance with civil service law.

3. At the next Board meeting, a motion should be passed to have the OSE conduct a job analysis on the new position.

4. Upon receipt of the request (minutes from the Board meeting or correspondence) the OSE will email a task analysis questionnaire link and list of employees performing the duties of the position to the chief of the department. The chief will then forward the link to each employee for completion. In some cases, the link will be specifically for the chief to complete the questionnaire. After each employee has completed the questionnaire, the OSE will send a chief summary page, a supervisor statement page and a Part II supplemental question page. After the chief's review and completion, he will verify and sign the questionnaires for completeness and accuracy and email back to the OSE.

5. An analysis will be conducted of the data provided in these documents, and results will be the basis for our recommendation to the Board concerning the proper allocation of the new position(s). We will send the Board a letter with our recommendations and an explanation of how to proceed. If we determine that the position must be in the classified service, we will include a proposed class specification (job description) for the Board to consider for adoption.

6. In order that the Civil Service Board may adopt the new class specification, the Board must first hold a Civil Service Board meeting to approve posting the proposed class specification for a public hearing. Notification of the public hearing must be posted at the place of the hearing and at each fire and police station and department buildings for at least thirty (30) days. *Please note: although the date of the public hearing can be on the last day of the posting period, that day cannot be counted as one of the thirty (30) calendar days the board is required to post and to provide proper notification to all pertinent parties*.

7. Your Board will hold the public hearing after it has been properly posted. At the hearing, your Board must give any employee of the classified service, the chiefs, the governing authority, the appointing authority, the OSE, and any private citizen an opportunity to show cause why the proposed classification should/should not be adopted. At the public hearing, the Civil Service Board will consider a motion to:

    a. approve the adoption of the proposed class, as posted, or with minor revisions;

    b. table the proposed class in order to include other revisions proposed during the public hearing, and schedule another public hearing;

    c. reject the proposed class;

8. If the Civil Service Board adopts the new classification plan, they must allocate the position(s) to the class at the same meeting.

    - If the new position is that of a *competitive class*, the Board must call for an examination in order to establish an eligibility list. Our office may conduct a rating of experience and training for the first examination. This type of rating would be based on the applicant's experience and training and the Board's qualification requirements as adopted at the public hearing. Thereafter, future examinations for the competitive class would be written examinations.

    - If the new position is that of a *promotional class*, the Board must also call for an examination in order to establish an eligibility list. For classes above the first line supervisory classes, our office will develop and administer a written examination customized specifically for your departments, and we will work with the Board to schedule an examination at the earliest possible date.

ADOPTING/REVISING THE BOARD RULES

1. The adoption of a Board rule or revisions to your rules is very similar to the procedures outlined above for adopting or amending the classification plan. A request for a new rule or an amendment to the rules of the Board may be submitted to the Board by the OSE, the appointing authority, the governing authority, one of the Civil Service Board members, the fire or police chief, or any citizen of the area for which fire and police protection is provided.

2. When the Board receives a request to amend the rules of the Board, the request is placed on the agenda for the next Board meeting. At the meeting, the Board will review the proposed amendment. If the Board agrees that the amendment has merit, a motion will be passed to post the proposed amendment for a public hearing and a date for the public hearing will be set.

3. Notification of the public hearing must be posted at the place of the hearing and at each fire and police station and department buildings for at least thirty (30) days. The Board is *not* required to place the posting in the official journal.

4. Following the required posting period, your Board will hold the public hearing. At the hearing, your Board must give any employee of the classified service, the chiefs, the governing authority, the appointing authority, the OSE, and any private citizen an opportunity to show cause why the proposed amendment should/should not be adopted. At the public hearing, the Board will consider one of the following motions:

    - <u>To approve</u> the adoption of the amendment as posted;

    - <u>To approve</u> the adoption of the amendment with *minor* revisions;

- To table the proposed amendment in order to include other revisions proposed during the public hearing, and schedule another public hearing;

- To reject the proposed amendment.

POSTING NOTICES

Posting notices must:

- include the date, time and place of the public hearing.

- include the proposed rule, amendment, or class to be considered at the public hearing either within the posting notice or as an attachment.

- be posted at the location of the public hearing for a period of at least thirty (30) days preceding the date of the hearing.

- be posted on the bulletin Board of each fire and/or police station and department buildings for the period of at least thirty (30) days preceding the hearing. The Board is not required to place the posting in the official journal.

The Board must provide, at least thirty (30) calendar days prior to the public hearing, a copy of the proposed amendment to:

- the governing authority having jurisdiction over the fire and/or police classification.

- the commissioner of public safety, if there is such an office.

- any other municipal commissioner whom the rule may in any way affect.

- the fire and/or police chief and each station of the departmental services affected by the adoption of any such rule.

- the OSE.

Please note: although the date of the public hearing is the last day of the posting period, that day cannot be counted as one of the thirty (30) calendar days the board is required to post and to provide proper notification to all pertinent parties.

AFTER THE PUBLIC HEARING

Within thirty (30) days of the adoption of the amendment, the Board must furnish an official copy of the amendment to all individuals listed above. Also, the Board must

post an official copy of the amendment at all the places listed above in accordance with R.S. 33:2538 or R.S. 33:2478.

The OSE's Office must be furnished a copy of the official minutes of the public hearing and an official copy of the amendment as adopted.

The OSE's Office will make the amendment to the existing classification plan or "set" of Board rules and provide the Board with a new master. The Board will need to make copies of the new master and distribute a copy to all individuals having the rules of the Board and instruct the individuals that the obsolete pages are to be discarded. Please refer to the table below, which illustrates how the OSE references revisions to the Board rules and class plan.

IDENTIFYING CODES ON CLASS DESCRIPTIONS

We include the dates and codes for a quick reference to identify: 1) the jurisdiction in which the class or Board rules exist and 2) the dates the Board adopted and amended the classification plan or Board rules. Below you will find examples and explanations of the codes and dates provided on the pages of the classification plan and Board rules.

Example #1

If the last page of a rule of the Board reads:

(Jurisdiction code/date)	Ex:	BR	01-22-79
(Revision date)		Rev	10-01-83
			03-15-87
			06-05-98

OR

(Jurisdiction code/date)	Ex:	BR	01-22-79
(Revision date)		Rev	10-01-83, 3-15-87, 06-05-98

This means that the Civil Service Board adopted this rule of the Board on January 22, 1979, and amendments to this rule were adopted on October 1, 1983, March 15, 1987, and June 5, 1998. Therefore, June 5, 1998, is the last time that this rule was amended.

Example #2,

If any other page of a rule of the Board reads:

(Jurisdiction code/date)	Ex:	BR	06-05-98

This means that the last time the Civil Service Board amended this rule of the Board was on June 5, 1998.

CANCELLING/POSTPONING A PUBLIC HEARING

If the Board is unable to hold a public hearing, it must give a notice of the postponement to the same officials who are required to receive the original posting notice and proposed rule, amendment, or class plan (as outlined above). The Board must also

post a notice of the postponement with all the original posting notices and proposed amendment at the place of the public hearing and at each fire and/or police station and department buildings. If the Board had posted for the public hearing for at least thirty (30) days prior to the date of the hearing, it is not required to post for another thirty (30) days as long as the Board holds the public hearing within a reasonable amount of time after the postponement.

Please remember: If you have any questions about your current Civil Service Board rules or would like assistance in the process of revising your Board rules, please call Resource Services at 225-925-4400.

SECTION V: EXAMINATIONS

The board has the responsibility and authority to call for promotional and competitive examinations in order to establish employment lists in accordance with R.S. 33:2552 or R.S. 33:2492.

However, the Office of State Examiner has the responsibility and authority to call for entry level firefighter, entry level police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer and police officer communications exams. Your board does not call for these exams nor does the board accept applications for admission to these examinations.

- COMPETITIVE EXAMS

  May be given as often as the needs of the service require.

  - There is a high turnover in an entry-level competitive class, the board will probably need to frequently call for an examination for the class

    or

  - The employment list for an entry-level competitive class (**excluding entry level firefighter, entry level police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer, and police communications officer**) contains an insufficient number of candidates from which the appointing authority may select.

- PROMOTIONAL EXAMS

  - May be given as the needs of the service require, but must be given at least one time during each successive period of eighteen (18) months.

    This assures the appointing authority will have a promotional list of candidates from which to select in the event of a vacancy, or when a substitute appointment of more than 30 days will be necessary.

  - May be given whenever a permanent vacancy occurs in a position which the appointing authority anticipates filling, but there is no promotional eligibility list from which to fill the vacancy

    NOTE: When an eligibility list has been exhausted (no more eligibles), the board may call for another promotional examination in order to establish a new list of eligibles. A provisional appointment indicates to the Board that a vacancy has occurred, which must be filled from an existing employment list, or from a list that must be established following a new test.

Of course, the appointing authority may at any time request the board to call for examinations; however, we advise that the Board must be proactive in maintaining employment lists in order to avoid long periods without persons eligible for appointment.

Our office serves 144 jurisdictions and we need ample time to add your jurisdiction to our testing schedule and to develop examinations as needed. Generally speaking, an examination can be administered as soon as sixty (60) days or as late as ninety (90) days following receipt of the roll calls for each exam.

PLEASE NOTE: The Office of State Examiner maintains a statewide eligibility list for entry level firefighter, entry level police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer, and police communications officer classes. Applicants with an active score must apply directly to the fire or police department.

PROCEDURES

The Office of State Examiner is authorized by law to prepare and develop valid tests of fitness. LSA-R.S. 33:2492(4) and 33:2552(4) provide, as follows:

> *Tests may include written or oral questions, trials in the performance of work characteristic of the class, inquiries into facts relating to education, experience or accomplishments in specialized lines of endeavor, or any combination of these and other elements duly related to the purposes of tests.*

While tests may be administered in a variety of forms, the pre-exam and post-exam procedures as outlined below remains consistent.

PRIOR TO THE EXAMINATION

POSTING FOR EXAMINATIONS

The board must post an examination notice for a continuous period of ten (10) days prior to the application deadline. The posting period must be for at least ten (10) continuous days. If there is a need to post again (such as needing a larger pool of applicants), the board must meet and pass a motion to post for another continuous ten (10) day period.

Notices for either competitive or promotional examinations must be posted on the bulletin board at each station and department building of the respective departments. The Board is required to send a copy of all competitive posting notices to OSE ***prior to actual posting*** in order that we may advise the board should any changes be required and so that there is sufficient time for the OSE to post for the full ten (10) day posting period.

The posting notice must include:

- the class or classes for which the test(s) will be administered;
- whether the examination(s) will be competitive or promotional;
- the final date on which applications for admission to the test(s) will be received;

The posting notice should also include:

- Information about how applicants may obtain applications, and to whom completed applications must be submitted;
- The qualification requirements for admission to the respective exam(s). This list will include all qualification requirements in the class plan as adopted by the civil service board. If the board waived any of the qualification requirements for the examination, the posting notice must ***also*** include a statement that the qualification requirement had been waived for that exam only; (Please see section on the following page on waiving qualification requirements.)
- A list of all documents which the board requires as proof of meeting certain qualification requirements, and which must be attached to the application.

For all ***COMPETITIVE*** examinations, (**except entry level firefighter, entry level police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer and police communications officer),** the Board must post a public notice on the OSE's website and the municipalities', fire protection district or parish fire department for a period of ten (10) days prior to the final date for accepting applications.

WAIVING QUALIFICATION REQUIREMENTS

When the board calls for *promotional* examinations, there may be situations when the Board cannot establish and certify a list of eligibles based upon the existing qualification requirements and the prospective pool of applicants. In such situations, the Board may find that one or more qualification requirements must be waived, for one examination only, in order that it may certify a list of eligibles. A waiver may be needed in the following situations:

- The board determines there is a permanent vacancy in the class, there is a need to create an eligibility list. No employee is eligible according to the adopted qualification requirements.
- The Board determines there is an insufficient number of eligible employees in the next lower class to establish an eligibility list, according to the adopted qualification requirements. For example: there are two (2) vacancies to be filled, but there is only one (1) employee eligible.

- There are existing or anticipated vacancies in the class. The employee(s) who failed the last examination are the only employees eligible under the current qualification requirements.

In the event that the board determines the need to waive the requirements for an examination, our office advises that such waivers be incremental and extended to employees only as reasonably necessary to establish an eligibility list. We suggest that the posting notice for the examination include the board's current qualification requirements and the one-time waiver of qualification requirements. Our office requests a copy of the posting notice so that we may properly record the waiver in our records, and, if necessary, make any recommendations to the board.

NOTE: Waivers are intended to be used ***only*** when it is clear the Board anticipates that will be unable to certify a list of eligibles based upon an inadequate applicant pool. Waivers do not permanently amend qualification requirements. If the Board must consistently waive requirements, it is an indication that the qualification requirements may be too restrictive. It may be necessary to amend the qualification requirements following the statutory procedures for adopting or revising your Board rules.

DISTRIBUTING APPLICATIONS

For the convenience of applicants, the OSE provides fillable/printable versions of both the competitive and promotional applications on our website. These application forms are used by most jurisdictions. However, we have language on our website that states that applicants should contact the civil service board giving the examination for information concerning the application that the jurisdiction prefers. *(NOTE: Applications for admission to tests for the classified fire and police service of the City of Kenner must be obtained **ONLY** from the Kenner MFPCS Board.)* The OSE suggests that the Board should designate one representative for the Board to be responsible for distributing and collecting applications. In many cases, the Board Secretary may be designated; however, if the Board Secretary is not available during regular business hours, the Board member from the respective department or the Chief's secretary may be designated.

The OSE suggests that a list of required documentation should be attached with each application distributed. This will help the applicant know what will be needed to verify that he/she meets certain requirements for admission to the exam. We suggest also that the posting notice for each competitive and promotional exam should include a list of the necessary documentation needed for verification.

We urge the Board or its designee to avoid denying anyone an application or an opportunity to submit an application. Even when applications are submitted without supporting documentation or with incomplete information, the application should be received, date stamped and made available for review by the Board. Likewise,

applications received outside the periods for accepting applications should be received, date stamped, and held on file for submission during the next posting period. In such instances, the individual may be advised to submit another application when the exam is announced again, in order to assure that the applicant's information is current.

ACCEPTING APPLICATIONS

Each fire and police civil service board operates independently under the provisions of the Fire and Police Civil Service Law. The procedures for providing notification of exams and for the period for accepting applications are established by law. For example, no application for admission to an examination may be submitted for consideration past the deadline date for accepting applications for the exam. The Fire and Police Civil Service Law requires that such applications shall be rejected. However, procedures that are not specifically provided for by law may be established by each Board, and therefore, may vary from Board to Board. Each Board is the final authority on such procedures regarding the submission of applications. The procedures for submitting applications should be clearly stated on posting notices.

Although many Boards accept hand-delivered applications, we suggest that Boards encourage applicants to submit applications by mail to a post office box or drawer designated specifically for the sole use of the Fire and Police Civil Service Board. The OSE encourages the Board to obtain and maintain ***for its sole use*** a post office box or drawer in order to receive correspondence that is necessary to effectively conduct its business. The governing authority must provide adequate appropriations to for the Board to procure equipment and furnishings necessary for its operations (R.S. 33;2480 and 33:2540). All applications should be postmarked on or before the last date for accepting applications. Those having a postmark **after** the deadline **must be rejected** by the Board for late filing. Such procedures will help to ensure that applications are received directly by the Board. Procedures for accepting hand-delivered applications should be clearly outlined and enforced in order to avoid submission to the wrong party, loss, misplacement or mishandling.

Completed applications are the property of the civil service board and must remain with the civil service board's records. This OSE recommends that the board maintain these applications on file for a period not less than five (5) years. The board may wish to consult the Secretary of State's Office, Division of State Archives for advice relating to retaining public records. The Division may be contacted at (225) 922-1000. If the appointing authority or department chief requests applications for selection reasons, your Board may provide a copy; however, it must retain the original. Redacting private information, such as social security numbers may be advisable. Such information, if needed, may be directly obtained from the applicant by the appointing authority or the department chief.

STUDY GUIDES and PRE-EXAM BOOKLETS

The OSE provides each Board a pre-examination booklet for each competitive, entry-level examination. In order to contain costs, each Board is asked to duplicate the booklet and distribute a copy upon the request of any applicant. With each scheduling letter for promotional exams, the OSE usually provides a study guide to be duplicated and distributed to applicants according to the promotional exam for which they applied. Study guides for promotional and non-entry level competitive examinations are based on the exam plan, which has been developed from information and data obtained from the most recent job analysis for the respective class of positions. Because the job analysis reflects the duties and responsibilities of incumbents in the positions of each respective classes for which tests are being given, the examination and its study guide is unique to your Board's jurisdiction. Due to the customization of the exam to your Board's jurisdiction, the study guides for these examinations will be forwarded to your Board usually no less than six (6) weeks prior to the scheduled date of the examinations. A copy of study guides should be made available immediately to every applicant in whatever manner the board deems appropriate.

APPROVING/REJECTING APPLICATIONS

Following the period for accepting applications, the board must meet to review them to verify that qualification requirements are met, and to determine if applicants should be admitted to the exam, or must be rejected. We recommend that your Board should meet as soon as possible after the final date for accepting applications in order to allow time for the board to properly notify all approved applicants of the date and time of the scheduled exam.

In reviewing the applications, the board ***may*** reject any application if the board finds reasons in accordance with the provisions of R.S. 33:2553(A)(5) or 33:2493(A)(5).

The board ***must*** reject any application if:

1. It was received after the final date for accepting applications.

2. The applicant is not a citizen of the United States and of legal age (entrance and competitive classes).

3. The applicant does not meet all the qualification requirements of the class as adopted by the board.

4. The Board cannot verify that requirements have been met by the applicant due to the lack of adequate documentation. The Board may conditionally accept such applications if the applicant can submit the required documentation by a specific date and time prior to the exam, which is to be determined by the Board. If the documents are not submitted in time, then the board must reject his/her application.

We urge the board *NOT* to interview applicants or run background checks. The appointing authority is the employer and is responsible for any post-exam selection procedure which may be used in the hiring process.

All approved applicants must be notified of the date, time, and place of the scheduled examination at least five (5) calendar days prior to the examination in any manner the board deems appropriate. Additionally, the OSE suggests:

- Approved applicants for a ***competitive examination*** should be notified by mail or email.

- A copy of the roll call (names only) should be posted on the departmental bulletin boards of the respective department or, if available, in the board's locked bulletin board in the departments.

- Approved applicants for a ***promotional examination*** should be notified by posting a copy of the roll call and a notice advising of the date, time, and place of the examination on the departmental bulletin boards of the respective department or, if available, in the board's locked bulletin board in the department. The board may also wish to notify each applicant by email or mail. (R.S. 33:2552(1) or R.S. 33:2492(A))

SPECIAL TESTING ACCOMMODATIONS

If any applicant requests special testing accommodations because of a disability which inhibits a major life activity, the applicant must attach a written request to the application which identifies the specific accommodations requested. The request must have attached a copy of written documentation from a doctor, psychologist, rehabilitation counselor, occupational or physical therapist, or other professional with knowledge of the applicant's functional limitations. The Board will review the application and determine if the applicant meets the qualification requirements of the class and if the applicant attached the proper documentation to grant his/her special accommodations. In order for our office to adequately prepare for testing an applicant with special accommodations, please notify our office at least thirty (30) days prior to the examination date or as soon as possible.

NOTE: Special accommodations may require the Board to provide a separate facility which is in close proximity to the original test site, a reader, or any other **accommodations which have been documented and requested by the applicant.** The OSE will send additional personnel to provide for the administration of the examination to the ADA applicant.

SCHEDULING EXAMINATIONS and THE ROLL CALL

The board secretary will send the OSE a roll call list of approved applicants for each exam. OSE requests a separate roll call for each exam, listing the names in alphabetical order, including the race and sex of each applicant. Please *do not* list the applicants' social security number, birth date or home address on the roll call document. Once the OSE receives the certified roll call of approved applicants, we will contact you in order to schedule a date and test site location for our office to administer the exam(s). Once there is an agreed upon testing date and location, you will receive an email from the OSE reflecting all this information.

Next, you will advise each approved applicant of the date, time and location of the exam *at least* 5 calendar days prior to the exam date, in any manner the board deems appropriate. Most competitive applicants do not work for the department and are therefore typically notified by letter or e-mail. Promotional applicants work for the department and may be notified by e-mail and/or a roll call posted on the department bulletin board. The law does not require the board to notify those who have been rejected for testing, however, to minimize phone calls from those applicants, we suggest they be advised in writing of the reason their application was rejected for testing. They may also be advised of the option to re-apply for testing at the next available date and may be directed to OSE for further guidance.

OSE will travel to the designated jurisdiction and administer the exam(s) on the scheduled date.

DAY OF EXAMINATION

GUIDELINES FOR THE EXAM SITE

TESTING ENVIRONMENT

When selecting the exam site, it is important to select a building/room which will provide a comfortable and distraction-free testing environment. It should be large enough to accommodate the total number of applicants on the roll call. The board should be aware of any activities in or around the building/room which could be disruptive to the testing environment such as a large event going on in the same building, construction inside/outside the building, alarms within the room that cannot be turned off, etc. We request that chairs and tables be arranged so that all applicants face one direction and are provided with sufficient space which will be conducive to the security and integrity of the testing environment.

When providing a separate facility for an ADA applicant, please make sure that it also meets the specifications outlined above for exam sites. It is the board's responsibility to make every effort to provide a comfortable and quiet testing environment in order for applicants to have an opportunity for success.

PERSONAL ELECTRONIC/TELECOMUNNICATION DEVICES

In the interest of protecting the integrity and security of the examinations administered by the OSE, and to prevent disruptions during the test, the following policy is strictly enforced:

Under no circumstance will any test applicant be permitted to enter the examining room with a personal or department issued electronic or telecommunication device. Prohibited devices include, but are not limited to: cellular telephones, smart phones, digital pagers, iPads/Kindles or any like device, body cam, telecommunicator, radio, or any other device capable of storing, sending, or receiving analogue or digital data. In the event that an examining official discovers any applicant to have any prohibited device in his/her possession during the examination process, the applicant will be immediately disqualified from the examination and asked to leave the exam site!

We strongly recommend that a statement of this policy be included when notifying all approved applicants of the exact date, time and location of the examination to be administered. No one will be allowed admission with such devices in his/her possession.

AFTER THE EXAMINATION

SENDING RESULTS TO THE BOARD

After the OSE administers an examination and our examiner returns the exam materials to the office, the grading process will commence as soon as possible. The process to complete scoring may take from four (4) to six (6) weeks; however, we usually report the scores by mail within one (1) to two (2) weeks. Once the tests are scored and signed by the State Examiner, the results will be mailed to the Board. Please do not advise candidates to contact our office with requests for results.

The OSE will forward the scores for each exam in a sealed envelope marked:

"*Official Civil Service Board Business. Test results enclosed. The Office of State Examiner recommends that this envelope remain sealed until the civil service board meeting*".

The word "*Confidential*" will also be stamped on the front and back of the envelope, and the flap of the envelope will be sealed. This sealed envelope will be placed in a clasp envelope. These procedures were implemented as the result of test scores having been leaked to appointing authorities and employees prior to the Board receiving notification. Scores are not considered official until the Board has acted to approve them (at a board meeting) for certification to the appointing authority.

INDIVIDUAL ANALYSIS PROVIDED FOR TRAINING

The package containing the exam results will also include an envelope addressed to the chief of the department(s) for which the tests were administered. The envelope contains individual analysis of the performance of each applicant who took the examination which may be distributed to the employees by the chief. A group analysis will be provided with the results of *promotional examinations* only. The group analysis can be used by the department to identify subject areas in which additional training may be beneficial. *We recommend that a copy of the group analysis be maintained by the chief, inasmuch as we will be unable to provide duplicates.*

APPROVING RESULTS FROM THE EXAMINATION

When the scores are received by the Board Secretary, the Board Chairman must schedule a meeting in order to review and approve the test results. The envelope containing the test results will be marked “Confidential” and must remain sealed until it is opened by the Board during its meeting. After the board approves the test scores, the blue document entitled "Results of Examination" should be forwarded to our office as soon as possible. The chairman or vice-chairman must sign and date (date of approval) the blue copy including the date the board approved the test scores and the expiration date. Test scores on all competitive examinations are valid for a period not to exceed eighteen (18) months from the date the board approves the eligibility list. Test scores for promotional examinations are valid for a period not to exceed forty-eight (48) months from the date the board approves the eligibility list.

VETERAN’S POINTS

Civil service law provides that a veteran’s preference of 5 points is granted to any person whose name is placed upon the competitive employment list for the entrance or lowest ranking class in the classified service who has served in the armed forces of the United States of America during a time of war or for one hundred eighty days or more, and has been honorably discharged or discharged under honorable conditions, shall have added to his final test score a total of five points at the time of placing his name upon the list. Proof of such service and discharge shall be required by the board or the state examiner in any manner it deems advisable.

Note: If the applicant’s DD-214 does not provide proof of entitlement for preference, the board must obtain an amended DD-214 or other written documentation showing award of Armed Forces Expeditionary Medal.

NOTIFYING THE APPLICANT OF TEST RESULTS

Following approval and certification of the examination results, each applicant who received a passing score shall be notified of his/her score and placement on the eligibility list for the class in any manner the board deems appropriate. (R.S. 33:2552.10 or R.S. 33:2492.10) The Board is required to notify only the individuals who received a passing score; however, we recommend that the board may wish to email or mail *each* applicant

who took a competitive or promotional examination a letter of notification, even when they received a failing score.

We also suggest that the Board may wish to post on all departmental bulletin boards, a list of the names of the individuals who have passed the examination(s) as follows:

- names of individuals who passed a *competitive examination* are to be listed in order of their final test score. Please, **do not** include race and gender, social security number, nor test scores.

- names of individuals who passed a *promotional examination* are to be listed in total departmental seniority order. Please, **do not** include race and gender, social security number, nor test scores.

Names of persons who failed the test should not be listed.

CERTIFYING AN ELIGIBILITY LIST TO THE APPOINTING AUTHORITY

After the board approves the examination results, the board must certify to the appointing authority the names on a competitive and promotional examination in the order provided in accordance with R. S. 33:2551.4 or R.S. 33:2491.D

- Names of individuals with a passing score on a *competitive eligibility list* are certified to the appointing authority from highest to lowest according to final test scores.
- Names of individuals with a passing score on a *promotional eligibility list* are certified to the appointing authority in total departmental or promotional seniority order.

The appointing authority should request a current certified eligibility list from the board whenever there is a vacancy to be filled. (R.S. 33:2554 or R. S. 33:2494)

THE ELIGIBILITY LIST

Test scores on all competitive examinations are valid for a period not to exceed eighteen (18) months from the date the board approves the eligibility list. Test scores for promotional examinations are valid for a period not to exceed forty-eight (48) months from the date the board approves the eligibility list.

- The names of the individuals who passed a *competitive examination* are placed on the competitive eligibility list for the class for which they were tested, from highest to lowest score according to their final test score (R.S. 33:2491(D) or R. S. 33:2551(4)).

- The names of employees attaining a passing score on a *promotional examination* shall be placed upon the promotional employment list for the class for which they were tested according to their total departmental or promotional seniority order. Employees who are tied in seniority shall be listed as having identical seniority.

ADDITIONAL INFORMATION REGARDING EXAMINATIONS

WAIT TIME BETWEEN EXAMINATIONS

There is no required waiting period between exams, and individuals may apply to take the next exam for which he or she may be eligible. For example, if an individual took a Fire Training Officer examination two months ago, he/she may submit an application for admission to a Fire Training Officer examination any time a board has called for and is posting to accept applications. However, each time an individual wishes to take an examination, he/she must complete a new application and attach all supporting documentation that may be required by the board. In other words, the applicant must go through the same procedures every time he/she applies for an examination. Of course, all applications must be submitted prior to the application deadline for the appropriate exam.

EXPERIENCE AND TRAINING RATINGS

The assessment of applicants' experience and training (E&T Rating) is considered to be an effective method of predicting future job performance, because they report past job-related experience and education. These assessments are based upon critical job requirements and competencies identified by subject matter experts (SME) through a job analysis, and are used to rate the amount and quality of the applicant's previous experience in performing the job-related tasks. Information about job-related experience and training is provided as a supplement to the completed application form. Ratings are generated through the use of benchmarks that are developed through consultation with the SME's during the test development phase.

In light of efficiencies gained, the OSE has determined that E&T Ratings will be administered as the selection procedure for certain competitive classes, restricted to situations deemed applicable by the State Examiner. For example, such a procedure may be used to establish an eligibility list when a new competitive class has been adopted, and a provisional appointment had been made to temporarily fill the vacancy.

The flow chart below explains the E&T Rating process. Except for the OSE sending the rating forms to each applicant and administering the test at an exam site, the process is the same for any other examination administered by the OSE.



MAKE-UP EXAMINATIONS FOR EMPLOYEES RETURNING FROM MILITARY LEAVE OF ABSENCE

Upon return to duty following military leave of absence with or without pay, a classified employee may apply for any **promotional test** which he/she missed, and for which he/she may have been otherwise qualified, during the period of leave. The application must be submitted to the civil service board within a reasonable period of time following his/her return to duty as established by the board. If the application is approved, the board must contact the OSE in order that the examination may be scheduled. Such examinations will be administered by the OSE at our Baton Rouge office.

The applicant must have been eligible for admission to the respective test by having met all qualification requirements in effect at the time the examination was originally given. The applicant also would have been otherwise approved by the Board for admission to the test had he/she not been on military leave.

- The board must notify our office in writing after it has approved the employee's application. Our office will administer the examination to the employee at our office in Baton Rouge and we will notify the board of the date, time and place of the examination.

- The board must notify the employee of the date, time and place of the examination at least five (5) calendar days prior to the examination.

Employees who would have been promoted had they not been on military leave must be immediately promoted after the board approves his/her passing score. The date the employee should have been promoted had he/she not been on military leave must be recorded on the PAF (personnel action form) in the remarks section. Upon the employee satisfying the working test period, the date of confirmation should be adjusted to the date that the employee would have been otherwise confirmed had he not been on military leave.

SECTION VI: PERSONNEL ACTION FORMS

EXPLANATION OF THE PERSONNEL ACTION FORM AND REQUIREMENTS OF CIVIL SERVICE LAW

The appointing authority must report to the civil service board and to the classified employee, in writing, within fifteen days, all appointments to positions in the classified service, such as recruit, probational appointment, promotion, reinstatement, re-employment, substitute appointment, and provisional appointment. Other personnel actions such as lay-off, separation, all disciplinary actions, employees' confirmation as regular and permanent or rejection from the working test period must also be reported to the civil service board. (R.S. 33:2503 or R.S. 33:2563).

The Personnel Action Form (PAF) was designed by the OSE to uniformly ensure the required written notification of personnel actions both to the board and to the classified employee.

COMPLETING THE PERSONNEL ACTION FORM

The appointing authority is defined under the MFPCS Law to be the official, officer, board, commission, council, or person having the power to make appointments to positions of the fire and police classified service. Such authority is typically identified within the governing authority's ordinances. Neither the MFPCS Law nor the OSE determines who has appointing authority. Typically, the chief of the department is responsible for having the PAF completed and prepared for the appointing authority's approval and signature.

The OSE has streamlined the process of completing PAFs by offering an online interactive form that may be found at ose.louisiana.gov/forms/testOSEform/PAF.asp. The PAF is designed with drop-down menus allowing you to select your jurisdiction, the type of personnel action, and the classes as adopted by the civil service board. When your jurisdiction is selected, the form will refresh to display only the information that is pertinent to your jurisdiction. The question mark (?) located next to blocks 1 through 6 and block 8 provides information to help you complete each block correctly. Although the drop- down for block 3 lists the most frequently used personnel actions, you may be reporting an action that is not provided. If this is the case, please call our office for assistance.

When a personnel action is selected in block 3, suggested remarks for that action will be automatically loaded into the remarks section (block 8). These remarks may be edited, as needed. Please call our office if you need assistance with writing remarks that significantly alter the suggested language. OSE personnel can be reached at (225) 925-4400.

BE THOROUGH; AVOID "DO-OVERS"

- Strike-throughs or handwritten corrections
    - Hand alterations indicate that the PAF may have been tampered with after appropriate signatures have been affixed to the form. Therefore, the form

cannot be processed by the OSE unless the hand-written change has been initialed by the appointing authority. Otherwise, if the board feels a correction is needed on a form, please return the form to the appointing authority with a letter explaining the problem and request that a new form be completed. The board should keep a copy of the letter and the personnel action form for your records.

- Personnel Action (Block 3)
  - Often left blank. Be sure to enter the correct action (probational, promotion, confirmation, re-employment (employed again), suspension, demotion, etc.)

- Effective Dates of Actions (Block 4)
  - Enter the correct year.
  - Be sure the *effective* date of action is after the date on which the individual's test score was certified by the civil service board.
  - Enter only the effective *date* of action, not a *time* of day.
  - Confirmation date cannot extend past one year from the date on which the working test period began (unless the working test period was interrupted).
  - Recruit period (Firefighter and Police Officer) cannot extend beyond six (6) months from the date on which the recruit period began (unless the recruit period was interrupted). There are exceptions for the Fire service in the following jurisdictions: Baton Rouge, Bossier City, Houma, Lafayette, Shreveport, Zachary, and Calcasieu Parish Ward 4 District 2.
  - Working test (Firefighter and Police Officer) begins immediately upon receiving Firefighter I or P.O.S.T. certification, or, if the employee is not terminated, the date on which the six (6) month formal training period ended, which ever occurred first.
  - Confirmation date cannot occur prior to six (6) months from the date on which the working test period began. The time an employee serves in a *substitute, provisional, or recruit appointment cannot* count as time served in their working test period. The working test period begins when an employee is probationally appointed to a position in a class.

- Class Title/Status (Blocks 5 & 6)
  - Enter the correct status (recruit, probational, permanent, substitute, provisional, emergency) and the individual's correct class title. If the

employee is a new hire, nothing will be selected for block 5. The chart below explains how to properly complete forms for the entry level Firefighter and Police Officer:

Firefighter Recruit	*Enter Recruit then Firefighter in block 6 if individual appointed from Firefighter list without Firefighter I certification.*
Police Officer Recruit:	*Enter Recruit then Police Officer in block 6 if individual appointed from Police Officer list without P.O.S.T. certification.*
Probational Firefighter:	*Enter Probational then Firefighter in block 6 if individual appointed from Firefighter list with Firefighter I certification.* ***OR*** *Enter Recruit then Firefighter in block 5 and Probational then Firefighter in block 6 if individual was first appointed from Firefighter list without Firefighter I certification and has received his Firefighter I certification or has completed a six (6) month formal training period.*
Probational Police Officer:	*Enter Probational then Police Officer in block 6 if individual appointed from Police Officer list with P.O.S.T. certification.* ***OR*** *Enter Recruit then Police Officer in block 5 and Probational then Police Officer in block 6 if individual was first appointed from Police Officer list without P.O.S.T. certification and has received his P.O.S.T. certification or has completed a six (6) month formal training period.*
Provisional:	*Except for entry level Firefighter, entry level Police Officer, Jailer, Departmental Records Clerk, Secretary to the Chief, Fire Communications Officer and Police Communications Officer, temporary appointment which may be made only in the absence of an eligibility list, and for the period of not more than 90 days. This appointment may be extended an additional 90 days only with prior approval of the civil service board. Civil service board approval must be at a public meeting.* *For entry level Firefighter, entry level Police Officer, Jailer, Departmental Records Clerk, Secretary to the Chief, Fire Communications Officer, and Police Communications Officer, temporary appointments shall not exceed ninety (90) days and* ***successive appointments are prohibited.***

- If an employee is separating from service, nothing will be selected for block 6.

- Remarks Section (Block 8)
  - If remarks must deviate significantly from our suggested remarks, please contact the OSE for assistance.

- Correcting PAFs:

- If a PAF is submitted and later found to have been completed incorrectly, submit a new PAF with the correct information. **In the "Remarks Section" of the new PAF, clearly indicate that the PAF is a "Corrected PAF".**

- Suspensions:
  - Indicate, in the remarks section, the number of days the employee will be suspended. Suspensions must be made and reported in calendar days (from midnight to midnight). Suspensions cannot be for greater than the aggregate of 90 days during a period of twelve consecutive months.

- Extended Military Leave
  - In order to comply with Federal and State Laws, employees who have been called to active duty *or* who volunteer to serve in the military services must be made whole upon their return.

Example of Recruit Employee's personnel actions

11-01-06 PO Recruit
01-01-07 Military Leave
01-01-07 FTP interrupted (he has worked two months of his FTP)
01-01-08 Terminate Military Leave
01-01-08 Resume FTP (he has already worked 2 months of his FTP period so he is only required, by law, to work 4 more months or get his POST certification, whichever occurs first)
05-01-08 Probational PO (after military leave)

The remarks section of this PAF would reflect the following:

Employee began is formal training period on 11-01-06. He was placed on military leave and his formal training period was interrupted on 01-01-07 (he completed 2 months of his formal training period). Employee resumed his formal training period on 01-01-08. Employee has completed a six-month formal training period but has not received P.O.S.T. certification. In accordance with civil service law, employee must begin a working test period immediately. Employee would have started his working test period on 05-01-07 had he not been on military leave. Employee will be made whole at time of confirmation.

05-01-09 Confirmation (after military leave)
(this is the actual date the employee completed his WTP)

The remarks section of this PAF would reflect the following:

Appointing Authority has determined that this employee has satisfactorily completed his working test period (total of 1 year). Employee would have started his working test period on 05-01-07 had he not been on military leave and would have been confirmed on confirmed on 05-01-08. Employee's seniority date is 05-01-08. Employee has been made whole.

Example of Probational Employee's personnel actions

11-01-06 Probational PO
01-01-07 Military Leave

01-01-07	WTP interrupted (he has worked two months of his WTP)
01-01-08	Terminate Military Leave
01-01-08	Resume WTP (he has already worked 2 months of his WTP period so he is only required, by law, to work 4 more months but no more than 10 more months) (The duration of the WTP is up to the AA as long as he works at least 6 months and no more than 1 year)
11-01-08	Confirmation (after military leave) (this is the actual date the employee completed his WTP) (He worked 2 months prior to his military leave and he worked 10 months after he returned from military leave - total of 1 year. Therefore, he would have been confirmed at 1 year (11-01-07) had he not been on military leave.) The remarks section of this PAF would reflect the following:
Appointing Authority has determined that this employee has satisfactorily completed his working test period (he worked a total of 1 year). Employee would have been confirmed on 11-01-07 had he not been on military leave. Employee's seniority date is 11-01-07. Employee has been made whole.	

- Complete PAFs as Soon as an Action is Taken:
    - Be sure that all PAFs have been submitted which reflect the natural progression of employees:

      If hired as a Recruit: (1) Recruit status to (2) Probational status to (3) Permanent status (assuming the employee is not separated from service during this period). A PAF must be completed for each action at the time each action is taken in order to properly report the employee's status. For example, the civil service board cannot approve a PAF reporting a confirmation of an employee if the board has not received a PAF indicating the employee started a working test period. The OSE also cannot process the PAF on the confirmation.

PAF APPROVALS

Once completed, the PAF will need to be routed for signatures. If the appointing authority is the chief of the department, the chief will sign the form on the line indicating "Appointing Authority". Otherwise, a signature line is provided to indicate the chief's recommendation. The chief's recommendation is required in many jurisdictions, particularly in most "Lawrason Act" cities. **The signature of the appointing authority, however, is mandatory**. If the appointing authority has not signed the PAF, the action is considered to be without effect and cannot be acknowledged by the civil service board to have been taken in accordance with civil service law.

A copy of the PAF signed by the appointing authority should be given immediately to the classified employee about whom the form has been completed. Where reasons for

the action are also provided, this step satisfies the fifteen-day employee notification requirement.

The PAF is then forwarded to the civil service board for its review and determination that the action was taken in accordance with civil service law. In accordance with civil service law and the open meetings law, all PAFs must be reviewed by the civil service board at a public meeting of the board prior to the chairman signing the form.

Note: *The chairman may not unilaterally sign the PAF prior to the board's approval in public meeting.*

At the next civil service board meeting the board will review the PAF to verify that it is completed properly, that all required signatures are on the PAF, and that the action taken is in accordance with civil service law from the information provided at that time.

- If all information is correct, a motion is made to approve the personnel action. If the motion passes, the chairman signs the PAF and copies are distributed.

- If the board determines the PAF contains incomplete or inaccurate information, or that the action reported to the board was not in accordance with civil service law, a motion should be made to reject the PAF, and state the reason(s). The board should then inform the appointing authority accordingly, explaining the specific error.

DISTRIBUTING THE PERSONNEL ACTION FORM

Although the employee may have received a copy prior to the board's approval, other copies will be distributed after the civil service board has approved the PAF, as indicated by the chairman's signature. Copies will be given to the secretary of the civil service board to be filed with the board's records, the chairman, the appointing authority, the chief of the appropriate department, and the OSE.

PLEASE NOTE: The signatures of the Appointing Authority and the Chairperson of the Civil Service Board are **required** prior to distribution of the PAF.

SECTION VII: HEARINGS AND INVESTIGATIONS

BY THE

FIRE AND POLICE CIVIL SERVICE BOARD

An essential and integral duty and responsibility of the Municipal Fire and Police Civil Service Board is to conduct hearings and investigations concerning the administration of personnel or the enforcement of the MFPCS Law. Hearings and investigations are not considered to be mutually exclusive. Rather the Board is considered to be conducting its investigations as it hears and considers the evidence presented. The Board *may* conduct hearings and investigations upon its own motion whenever it believes the MFPCS Law has been violated or appears to require enforcement. However, it is *mandatory* that the Board must conduct investigations when such matters are brought to its attention:

1. *By the mayor, parish president, or the chairman of the board of commissioners of fire protection districts; or department chiefs;*

2. *Upon the written petition of any citizen for just cause;*

3. *Upon demand, in writing, of any **regular and permanent** employee whenever the employee feels that he/she has been discharged, or subjected to corrective or disciplinary action without just cause;*

4. *Upon receipt of written charges against a classified employee for having allegedly engaged in prohibited political activity.*

Note that petitions by citizens concerning compliance with the MFPCS Law or the administration of classified personnel must be submitted in writing, and the charges must be for cause. Therefore, the petition should be of sufficient detail to merit an investigation. Although it is not required by law, it is recommended that such petitions should also provide a clear and concise statement of the relief sought. As long as the petition has been made in accordance with civil service law the Board must grant the hearing and investigation. If necessary, of course, the Board may require the petition to be perfected to provide additional information.

It is imperative that petitions for appeals and other hearings and investigations must be signed by the complainant, or by the complainant's counsel. Granting petitions for investigations that have been made anonymously is not recommended. The complainant's full name, preferred mailing address, phone number, and email address should be required, as well as those of the complainant's counsel. Petitions for hearings and investigations may be delivered to any Board member or to the Board secretary. However, in order to avoid misplaced petitions (some of which must be submitted within a prescribed period) it is recommended that the Board should establish, by rule, adequate instructions for submitting petitions for hearings and investigations and other complaints.

APPEALS OF DISCIPLINARY ACTION UNDER R.S. 33:2501 OR R.S. 33:2561

In the interest of efficiency, the OSE suggests that the Board may provide a standardized form with which a classified employee may petition the Board for a hearing and investigation. Such a form should **never** become a requirement, since all petitions made for cause are valid as long as they are submitted in writing. Because an employee has only fifteen days to demand a hearing, difficulty obtaining a form may become an impediment to the appeal process, and would have a chilling effect on the employee's right to due process. If your board adopts a procedure for the submission of standardized appeals forms, the OSE advises that it must continue to also accept other forms of petition in writing.

PRESCRIPTIVE PERIOD, DELAY:

No appeal under R.S. 33:2501 or R.S. 33:2561 shall be granted by the civil service board unless the employee's petition is received by the board **within fifteen (15) calendar days following** the date the appointing authority notifies the employee of the disciplinary action. In other words, the fifteen (15) calendar-day period shall begin the day after the employee is notified of the disciplinary action, either verbally or in writing.

Within thirty (30) days of receiving an appeal request, a civil service board shall grant a hearing and investigation, in accordance with R.S. 33:2501 and R.S. 33:2561. During this period, the Board must meet to determine that the employee is authorized to make an appeal, and that the request had been made within the 15-day prescriptive period. If the appeal has been found to have been properly submitted, the Board shall notify the employee and the appointing authority of the date, time, and place of the hearing. Notification must be provided at least ten (10) calendar days in advance of the date set for the hearing. Although not required by civil service law, such notification should also be made to the employee's attorney, the appointing authority's attorney, and to the chief of the respective department.

The secretary must include the notice of the appeal on the agenda with other board matters, giving the appeal an appropriate title.

OTHER HEARINGS AND INVESTIGATIONS

All other written petitions for hearings and investigations pursuant to civil service law not otherwise provided for under R.S. 33:2501 or R.S. 33:2561 should set forth the section of the civil service law under which the petition is brought. The Board shall institute

and conduct such hearings and investigations in accordance with civil service law and the Board's rules.

Written petitions showing just cause for hearings and investigations by the Board as provided for in civil service law shall be granted at the first board meeting following receipt of the petition or at a special meeting. In accordance with civil service law, investigations conducted under the provisions of R.S. 33:2477 (4) and (5) or R.S. 33:2537 (4) and (5) **shall be completed** within sixty (60) calendar days of the board's receipt of the petition.

Civil service law does not require a notification for this type of hearing. However, we suggest that all pertinent parties be notified of the date, time, and place of the hearing at least ten (10) calendar days in advance of the date set for the hearing. This is consistent with the notification provided by the Board for hearings and investigations against disciplinary actions.

The secretary must also include the notice of the hearing on the agenda with other board matters, giving the hearing an appropriate title.

RESCHEDULING, CONTINUANCES AND DISMISSALS OF BOARD HEARINGS AND INVESTIGATIONS

The OSE recommends that the Board adopt procedural rules regulating requests to reschedule or continue appeal hearings and other investigations. Such rules should provide that requests must be made in writing and submitted to the Board's secretary, or as the Board rules may otherwise provide, reported to the Board chairman and finally placed upon the agenda for the next meeting, at which time the Board shall determine if the request has been made for cause

If an appellant requests to have his/her hearing against a corrective or disciplinary action rescheduled or continued, rules should provide that the Board may require the employee to stipulate that he/she shall, in the event of a ruling against the appointing authority, receive no back pay as the result of postponing the hearing beyond the original date set for the hearing.

The OSE recommends also, in accordance with civil service law, a rule providing that if either the appointing authority or the appellant fails to appear at the place and time fixed for any hearing, the Board may, at its discretion, dismiss the hearing, or proceed with the hearing and render its decision based upon the preponderance of evidence, as may be adduced at the hearing.

If, at the appointed time for a hearing, the Board does not have a quorum present, or finds other cause for not proceeding at that time, the hearing shall be rescheduled. If an appeal or other hearing is not completed at one meeting, the hearing shall be

continued at another meeting. The Board shall notify all pertinent parties of the rescheduled hearing date at least ten (10) calendar days prior to the date of the hearing.

PROCEDURES ON HEARINGS AND INVESTIGATIONS

In accordance with civil service law, all hearings on appeals and investigations shall be open to the public, except when the Board must move into an executive session as provided for in R.S. 42:16 and R.S. 42:17. Appeal hearings are conducted much like any other Board meeting. It must be properly posted with an agenda, notifying the public of the date, place and time of the hearing. The chairman calls the meeting to order, a quorum count is taken, and proceeds with the meeting as indicated in the agenda.

As noted, hearings and investigations shall be open to the public. However, under R.S. 42:17, discussions involving an employee's character, professional competence, or mental or physical health are subject to be conducted in closed session. Except in cases of "extraordinary emergencies," when such discussions are anticipated, the person who is the subject of the discussion must be notified in writing at least twenty-four hours (exclusive of Saturdays, Sundays, and legal holidays) in advance of the scheduled meeting in which the discussion is to be held. The employee may prefer to have the discussion held in public forum, however. (Note: Where an extraordinary emergency prevents 24-hour advance written notification, the public body must attempt to notify the person in any manner it deems appropriate or permissible.)

Parties shall have the right to representation by counsel. It is suggested that rules adopted by your Board for procedures for hearings should include a requirement that the Board must be notified when counsel is retained. Such notification must provide the name, preferred mailing address, and phone number of the attorney. We suggest that when any party is represented by two or more attorneys, only one attorney for any party be permitted to examine the same witness. We suggest also that the Board require that all parties, or their attorneys, state their names and addresses for the record, and be permitted to give a brief preliminary statement.

All persons who will offer testimony or make statements of fact during the hearing or investigation should be sworn. This may be done as a group at the outset of the hearing, or individually as they are called to testify. Every statement of fact made at any time during the hearing by any person after having been thus sworn shall be considered to have been made under oath, whether the statement is in response to a specific question or is volunteered in the course of a general discussion. The Board shall, on request of any party or on its own motion, sequester witnesses and thus exclude them from the hearing room so as to protect the integrity of the testimony presented to the Board. In order to avoid contamination of testimony, the Board may wish to prohibit witnesses, under penalty of contempt, to avoid any discussion of the matter on appeal.

The OSE advises that LSA-R.S. 33:2501 and 33:2561 provide that the procedures for hearings and investigations shall be <u>informal</u> and not necessarily bound by the

legalistic rules of evidence. It is important to note that **the Board chairman controls the hearing, not the attorneys representing the parties.** The Board shall have complete charge of any such hearing and investigation, and may conduct it in any manner it deems advisable, without prejudice to any person or party to the incident out of which the appeal arises. Rulings on procedural matters will normally be made by the Board chairman, and parties and attorneys appearing before the Board should not have the right to require a vote of the full Board on particular procedural matters arising during the progress of a hearing. A vote of the full Board shall, however, be conducted on any matter at any time upon the motion of two members. In the event of a tie vote, the motion fails and the hearing shall proceed forthwith unless another motion is made. The Board may have any individual removed from the hearing room if it determines the individual is disruptive.

According to the MFPCS Law, the Board shall decide the matter on the basis of the evidence adduced and confined to the question of whether the action taken against the employee was made in good faith for cause, set forth in the provisions of the MFPCS Law. Under the provisions of LSA-R.S. 33:2500 and 33:2560, cause for the removal of or corrective or disciplinary action against a classified employee of the fire and police civil service are as follows:

1. Unwillingness or failure to perform the duties of his position in a satisfactory manner.

2. The deliberate omission of any act that it was his duty to perform.

3. The commission or omission of any act to the prejudice of the departmental service or contrary to the public interest or policy.

4. Insubordination.

5. Conduct of a discourteous or wantonly offensive nature toward the public, any municipal officer or employee; and, any dishonest, disgraceful, or immoral conduct.

6. Drinking vinous or spirituous liquors while on duty or reporting for duty while under the influence of liquor.

7. The use of intoxicating liquors, or habit-forming drug, liquid, or preparation to an extent which precludes the employee from performing the duties of his position in a safe or satisfactory manner.

8. The conviction of a felony.

9. Falsely making a statement of any material fact in his application for admission to any test for securing eligibility or appointment to any position in the classified service, or, practicing or attempting to practice fraud or deception in any test.

10. Using or promising to use his influence or official authority to secure any appointment to a position within the classified service as a reward or return for partisan or political services.

11. Soliciting or receiving any money or valuable thing from any person for any political party or political purpose.

12. Inducing or attempting to induce by threats of coercion, any person holding a position in the classified service to resign his position, take a leave of absence from his duties, or waive any of his rights under the provisions of this Part, or of the rules.

13. The development of any defect of physical condition which precludes the employee from properly performing the duties of his position, or the development of any physical condition that may endanger the health or lives of fellow employees.

14. The willful violation of any provision of this Part or of any rule, regulation, or order hereunder.

15. Any other act or failure to act which the Board deems sufficient to show the offender to be an unsuitable or unfit person to be employed in the respective service.

The appointing authority and the appellant shall be afforded an opportunity to appear before the Board and present evidence to show that the action was or was not taken in good faith for cause. Parties and witnesses shall be subject to cross-examination as in civil trials. Board members may ask questions of witnesses. It is suggested that the Board limit evidence to matters having a reasonable relevance to the issues before it and that it look with favor upon stipulations of undisputed facts. Inasmuch as the appointing authority must show that he/she acted in good faith for cause, the burden of proof shall be on the appointing authority. The party bearing the burden of proof is the party that is first to present its evidence and testimony.

NOTE:

The burden of proof rests with the employee in hearings out of which an employee has alleged:

(1) that he/she was not given a fair opportunity to prove his/her abilities in his/her position after the appointing authority has failed him/her in the working test period (R.S. 33:2495 or R.S. 33:2555), or;

(2) discrimination based on political or religious beliefs, sex, race.

It is recommended that the Board make an effort to complete the questioning of each witness by both parties before allowing the questioning of the next witness. However, the Board's hearings may sometimes be expedited by a discussion type interrogation involving more than one witness at a time and this shall be permitted upon occasion within such limitations as the Board may find necessary or desirable in a particular case. The Board may wish to allow that information available from a particular witness be received in narrative form, by question and answer, or otherwise as may be directed by the Board from time to time.

At the conclusion of the hearing or investigation and before any motions, the Board may, in its discretion, hear oral argument, imposing such time limits as it deems appropriate. If the proceedings are being transcribed by an official reporter, the oral argument may or may not be transcribed and bound with the transcript of testimony as the Board may direct.

SUBPOENAS

Civil service law provides that each Board member shall have the power to subpoena witnesses and compel the production of books and papers and confers upon the Board the same power and authority as is possessed by the district courts of Louisiana. Furthermore, subpoenas may be served in any manner the Board deems appropriate. It is recommended that the Board adopt rules under its appeals section providing for the issuance and service of subpoenas.

Rules may provide that any party desiring the issuance of a subpoena for the attendance of a witness or the production of books or papers must apply for appropriate order, to the Board, in writing. It is recommended that the Board should require that the request for a subpoena of a witness must contain the name of the witness, the street address at which the witness may be served, the purpose of the subpoena, and what evidence or testimony is sought by the issuance of the subpoena. The request for a subpoena for books or papers must contain a description of the items to be produced in sufficient detail for identification, the name of the custodian of such records, the street address of the custodian, the purpose of the subpoena, and what evidence or testimony is sought by the issuance of the subpoena. If a party requesting a subpoena is represented by counsel, the attorney’s name, address, and contact information should be included on the subpoena as well.

In order to serve subpoenas, the Board may wish to contract with the sheriff or other process server or serving agency and indicate that payment for Board’s costs associated with the service of process is the responsibility of the governing authority as an appropriation for the Board’s operations. The OSE suggests that the Board may consider adopting a rule which mandates that the costs associated with the service of subpoenas and incurred by the governing authority must be reimbursed by the requesting party. An estimate of the subpoena fees may be obtained from the Civil Service Board at the time the subpoenas are requested. It is recommended that the rule should also require

that payment of the estimated fee is to be made prior to service, in the form of a money order or cashier's check made payable to the governing authority.

We suggest that the Board rules should require that requests for subpoenas shall be submitted to the Board at least eight (8) calendar days prior to the scheduled hearing. In order to limit extraneous and unnecessary subpoenas, the Board may consider requiring a service fee after the first four (4) subpoenas in order to cover all cost incurred per subpoena.

RECUSAL OF BOARD MEMBERS

R.S. 33:2501.D or R.S. 33:2561.D requires any member of the Board who is the immediate supervisor or direct work associate of any officer or employee appealing removal, suspension, demotion, discharge, or any other disciplinary action by the appointing authority **and** who is directly involved in the incident out of which such action arose to recuse himself/herself from voting on any decision by the Board to affirm, reverse, or modify the order of the appointing authority. Also, any member of the Board who is an immediate family member of the appealing employee shall recuse himself/herself from voting on any such decision. Immediate family member is defined in the law as any parent, child, sibling, or spouse.

If such recusal by a member of the Board results in the inability of the Board to reach a decision by the concurring votes, the Board shall be considered to have affirmed the action of the appointing authority.

It is important to remember that although a Board member may recuse himself/herself from a hearing, a motion to recuse may also be heard by the Civil Service Board, wherein the Board **may compel** a member to recuse. The Board's decision can be appealed to district court. Further, if a Board member fails to recuse himself/herself in a situation required by law, such action may be considered to form the basis for appeal before the district court.

DECIDING THE ISSUE AND RENDERING A DECISION

In reviewing disciplinary action taken against an employee, the Board must determine if the appointing authority acted in good faith, for cause in taking the disciplinary action. The Board must determine if the employee's conduct impaired the efficient operation of his/her respective department, and whether the punishment was commensurate with the infraction.

If, upon conclusion of the hearing and investigation, the Board finds:

- The action of the appointing authority *was taken in good faith, for cause* and the punishment imposed was commensurate with the infraction, the Board must affirm the action of the appointing authority.

- The action of the appointing authority was taken in good faith, for cause *but the punishment was not commensurate with the infraction*, the Board may modify the action of the appointing authority. The Board may modify the order of removal, suspension, demotion, discharge, or other disciplinary action by directing a suspension without pay for a given period, a reduction in pay to the rate prevailing for the next lower class, a reduction or demotion to a position of any lower class and to the rate of pay prevailing therefor, or such other lesser punitive action that may be appropriate under the circumstances.

- No part of the disciplinary action was taken in *good faith, for cause*. In these instances, the Board must overturn the action of the appointing authority. The Board must order the immediate reinstatement of the appellant in his/her office, place, position, or employment from which he/she was removed, suspended, demoted, or discharged. The reinstatement shall be retroactive and entitle him/her to his/her regular pay from the time of removal, suspension, demotion, discharge, or other disciplinary action. The Board shall also order that the employee receive all seniority that was lost due to the disciplinary action.

- The appointing authority violated any part of the Louisiana Fire Service Bill of Rights or the Rights of Law Enforcement Officers under Investigation, such that the appellant was not afforded his/her due process in accordance with R.S. 33: 2181.C or R.S. 40:2531(1)(C), the Board must declare the action to be an absolute nullity, and overturn the action taken by the appointing authority.

The Board's decision on the appeal will be as a result of a motion made, seconded, and voted on. All motions, discussion and votes must be included in the minutes of the meeting. The intent of the motion must be clearly indicated. For example:

(1) "*I move that the appointing authority acted in good faith, for cause and the termination must be upheld."*

(2) "*I move that the appointing authority acted in good faith, for cause, but the punishment is not commensurate with the offense; therefore, the disciplinary action is modified from a demotion to a suspension without pay for the period of thirty days."*

(3) *"I move that the appointing authority did not act in good faith, for cause, and that the employee shall be reinstated immediately with all back pay, seniority, and other lost benefits."*

(4) *"I move that the appointing authority acted for cause; however, because the appointing authority failed to comply with the minimum requirements of the*

employee's bill of rights. The disciplinary action, therefore, is an absolute nullity. The employee is to be reinstated to the position held prior to the adverse action with all pay and emoluments owing to him/her."

TIED VOTES

Only in the case of a tie vote that results from the recusal of a Board member under the provisions of R.S. 33:2501.D or R.S. 33:2561.D, the Board shall have affirmed the action of the appointing authority. The Louisiana Appellate Court, however, has ruled that a tie vote due to the absence of a Board member **does not** result in an affirmation of the appointing authority's action. Rather, the Court held that the tie vote indicates that the Board has not reached a decision. The Court held that the Board shall set a new date for the appeal hearing and rehear the case, allowing for any additional admissible evidence, and rendering a decision that would be appealable to the district court. The Board shall notify the employee and the appointing authority of the date, time, and place of the new hearing at least ten (10) calendar days in advance of the hearing.

TRANSCRIPTS OF HEARINGS

In accordance with civil service law, the Board shall not be required to have the testimony of the Board's hearing or investigation taken and transcribed. However, if any party to the hearing desires a permanent transcript of a hearing, the party shall furnish a court reporter at its own expense. The party furnishing a court reporter shall be responsible for payment to the court reporter.

The OSE recommends the Board adopt a rule to provide that in the event that a court reporter is furnished and the proceedings are transcribed, the first copy of the original of the transcript shall be filed with the Board and shall become part of the permanent record of any subsequent appeal. Where no court reporter is furnished, the secretary of the Board shall maintain as complete notes as is feasible and the Board shall issue a written finding of fact. Any party may request a copy of the minutes of the hearing, and, if recorded, a copy of the recording.

Our office suggests that, even when a court reporter is furnished, the Board secretary should take complete notes as possible, and that a recording be made of the proceedings. We are aware of instances where the party who supplied the court reporter failed to pay for the service and the Board was unable to provide the Courts a written finding of fact and a set of minutes from the meeting.

FINDING OF FACT AND ENFORCEMENT OF THE BOARD'S DECISION

Where there is no written transcript, the decision of the Board, together with the Board's written finding of fact, shall be certified in writing to the appointing authority and shall be forthwith enforced by the appointing authority.

APPEALS OF ANY DECISIONS MADE BY THE BOARD

In accordance with R.S. 33:2501 or R.S. 33:2561, any party (employee or appointing authority) may appeal from any decision of the Board or from any action taken by it which is prejudicial to the employee or to the appointing authority. This appeal shall lie direct to the court of original and unlimited jurisdiction in civil suits of the parish wherein the Board is domiciled.

This appeal shall be taken by serving the Board, within thirty (30) calendar days of its decision, a written notice of appeal, stating the grounds thereof and demanding that a certified transcript of the record, or written findings of fact, and all papers on file in the office of the Board affecting or relating to such decisions, be filed with the designated court. The Board shall, within ten (10) calendar days after the filing of the notice of appeal, make, certify and file the complete transcript, if available, with the designated court.

SETTLEMENTS OR AGREEMENTS BETWEEN THE APPOINTING AUTHORITY AND AN EMPLOYEE

In some disciplinary cases that have been appealed to the civil service Board, but have not yet gone to a hearing, the appointing authority and the appellant may enter into an agreement that will either modify or abolish the disciplinary action. We advise that only the Board has the statutory authority to reverse or modify a disciplinary action. In such cases, we recommend that, at the outset of the Board's hearing, the appointing authority may withdraw its defense, admitting that its actions were not taken for cause or were in bad faith, explain the provisions of the agreement, and request the Board to consider a motion to approve the settlement.

ACTIONS THE BOARD CANNOT TAKE AT THE CONCLUSION OF AN APPEAL HEARING

The Courts have held that the Board is without authority to prescribe a course of action that usurps the appointing authority's ability to manage the department. This type of order is not considered a disciplinary action, or a modification of a disciplinary action; therefore, such orders overstep the Board's authority. Examples of such limitations on the Board follow:

- The Board cannot order an employee to pass a drug screen before he/she may be reinstated, or to submit to random drug tests as a condition of his reinstatement.

- The Board cannot act on an employee's supplemental pay. We advise that the Louisiana Supplemental Pay Board, not the civil service Board, has the final authority under the law to approve and disapprove supplemental pay for fire and police employees in the state of Louisiana.

- The Board cannot order a suspension in lieu of termination that causes the limit of the aggregate of ninety days to be exceeded in any period of twelve consecutive months.

SECTION VIII: MAINTAINING DEPARTMENTAL SENIORITY ROSTERS

MAINTAINING AND POSTING A DEPARTMENTAL SENIORITY ROSTER

In accordance with R.S. 33:2491(D) and R.S. 33:2551(4), names of persons attaining a passing score on a promotional test shall be placed upon the promotional employment list for the class for which they were tested, from highest to lowest, according to their total seniority in the departmental service. To accomplish this, a seniority roster must be maintained for the classified employees in each department. It is highly recommended, therefore, that the Board at least annually review the seniority of the classified employees for the respective departments, post the revised list on the departments' bulletin Boards for the employees' review, and, finally, approve the list (as it may be revised) at a public meeting. The names of the *regular and permanent classified employees* are placed on the roster in descending numerical order, according to **total departmental seniority.** Employees, who have never been confirmed, such as those serving a working test in an entry-level class, do not accrue seniority. These employees will be listed on the roster by name in alphabetical order. As these employees are confirmed, they will be assigned a number on the roster.

To place employees in the correct *departmental seniority order*, the Board looks at the date employees are ***confirmed in their entrance class*** and have been working continuously since that date. The employee who was confirmed the earliest of all employees would be listed as #1 on the roster. Seniority for remaining employees will similarly calculated and their names will be listed in ascending numerical order.

Any ***time not computed to seniority*** must also be used in the placement of names on the roster. Time not computed to seniority is the number of days the employee was suspended since he/she began accruing seniority or any other leave of absence which was taken without accruing seniority. **Employees begin accruing seniority when they are confirmed in their entrance class and work continuously.**

Note: Suspensions in shifts and hours are not provided for in the fire and police civil service law — only days.

EXAMPLE: Officer John Smith was confirmed on Dec. 30, 2020. Officer Jane Doe was confirmed on January 14, 2021. Officer Smith, however, was suspended for twenty (20) days, which must be subtracted from his total departmental seniority. Therefore, while Officer Smith was confirmed on an earlier date than Officer Doe, Officer Doe now has greater seniority and is placed above Officer Smith on the roster.

Employees' confirmation dates must ***never*** be altered. Periods of suspensions and leave without pay and seniority must be totaled, and the aggregate of this time is placed in the column under the heading of "Time Not Computed to Total Departmental Seniority"

Should an employee resign for reasons not related to an injury or disability*, departmental seniority is forever lost. If the employee is employed again, departmental seniority will not accrue again until he has completed a working test period.

* Acts 2012, No. 595; Acts 2014, No. 869, Acts 2021, No. 412