

The Civil Service Law relative to discharge and removal of employees is set forth in Massachusetts General Laws, Chapter 31, Section 43.

In essence, this Section provides that all persons employed by the City as "permanent appointees" as defined in the first section of Chapter 31, and subject to a six month probationary period, may not be discharged for a period exceeding six days unless the following requisites are met:

1. The officer or employee in question is given a written statement of the reasons for the removal.

2. He/she is afforded a hearing before the appointing authority (City Manager or his designee). A written notice of the decision must be sent to the person within two days following the hearing.

3. The officer or employee then has five days from the date of receipt of notice of the decision to appeal to the Civil Service Commission for a second hearing. If the decision of the City Manager or his designee is overturned at this time, the officer or employee is to be returned to his position without loss of pay.

4. The decision of the Civil Service Commission shall be judicially reviewable by the District Court.

Suspension not to exceed five days of such officer or employee may not be made by the appointing authority unless the following requisites are met:

1. Such person shall receive in writing, notice of the suspension, stating the reasons therefore.

2. Within forty-eight hours of receipt of such written notice, he/she may request a hearing before the appointing authority, and may be given a hearing within five days thereafter if so requested.

3. Written notice of the decision of the appointing authority shall be given within two days after the hearing.

4. Notice of any action taken by the appointing authority shall be forwarded to the personnel administrator.

Any person entitled to the provisions specified above shall be entitled to reimbursement for expenses incurred in defending himself against an unwarranted discharge or suspension.

CIVIL SERVICE

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of a division of personnel administration in the executive office for administration and finance. See G.L. c. 7, § 4A, and the note thereunder.

Cross References

Treasurers and assistant treasurers of state mental hospitals, appointment, applicability of this section, see c. 19, § 14C.

§ 43. Tenure; discharge, removal, transfer, abolition of office, etc.; notice; hearings; review; reinstatement; punishment duty; reimbursement for defense expenses

(a) Every person holding office or employment under permanent appointment in the official or labor service of the commonwealth, or of any county, city or town thereof, shall have unlimited tenure of office or employment, subject to the provisions of this chapter and the rules made thereunder. He shall not be discharged, removed, suspended for a period exceeding five days, laid off, transferred from such office or employment without his consent in writing if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight, lowered in rank or compensation without his consent in writing, nor shall his office or position be abolished, except for just cause and for reasons specifically given him in writing. Before any action affecting employment or compensation referred to in the preceding sentence is taken, the officer or employee shall be given a written statement of the specific reason or reasons for the contemplated action, together with a copy of sections forty-three, forty-five and forty-six A, and shall be given a full hearing before the appointing authority on the specific reason or reasons given, of which hearing he shall have at least three days' written notice from the appointing authority, except in cases of separation from service in the official or labor service, resulting from lack of work or lack of money or from abolition of positions, in which case at least seven days' written notice of hearing shall be given by the appointing authority. Within two days after completion of said hearing, the appointing authority shall give to the employee affected a written notice of his decision, stating fully and specifically the reasons therefor.

(b) If within five days after receiving written notice of the decision of the appointing authority the person so discharged, removed, suspended, laid off, transferred, lowered in rank or compensation, or whose office or position was abolished, shall so request in writing, he shall be given a hearing before a member of the commission or some disinterested person designated by the chairman of the commission. Said hearing shall be commenced in not less than three nor more than ten days, and shall be completed within thirty days, after the filing of such request, unless, in either case, both parties thereto shall otherwise agree in writing, or unless a continuance is deemed necessary or advisable in the discretion of the hearing officer, and the findings shall be reported forthwith to the commission for action. The decision of the commission shall be in writing and notice thereof sent to all parties concerned within ten days after the filing of the report. If the commission finds that the action of the appointing authority was justified, such action shall be affirmed; otherwise, it shall be reversed and the person concerned shall be returned to his office or position without loss of compensation. The commission may also modify any penalty imposed by the appointing authority.

(c) Any hearing under this section shall, if either party concerned so requests in writing, be public, and at any such hearing the person concerned shall be allowed to answer the charges preferred against him either personally or by counsel.

(d) The reasons, notices and answers and the order of discharge, removal, suspension, layoff, transfer, lowering in rank or compensation or abolition of the office or position, and the facts as found by the commission, shall be subject to judicial review by the municipal court of the city of Boston or by the district court within the judicial district of which such person resides, as provided in section forty-five.

(e) A suspension for a period not exceeding five days may be made only by the appointing authority or by a subordinate to whom authority to make such suspensions has been delegated, or by a chief of police, or officer performing similar duties, however entitled, or by a subordinate to whom such authority has been delegated by him, and shall be made only for just cause. The officer or employee suspended shall be reinstated by the person authorized to make the suspension at the expiration of the period of such suspension, but shall not be entitled to compensation for such period unless, as hereinafter provided, the suspension is found after hearing or upon appeal to have been without just cause. Within twenty-four hours after his suspension, such officer or employee shall be given a copy of sections forty-three, forty-five and forty-six A, by the person authorized to make the suspension, together with a written notice stating the specific reason for the suspension and informing him that he may, within forty-eight hours of his receipt of such notice, request in writing a hearing by the appointing authority on the question of whether there was just cause for the suspension and if he so requests he shall be given a hearing within five days of the receipt of such request by the appointing authority. A copy of the notice of suspension to the officer or employee shall be forwarded forthwith to the personnel administrator by the person authorized to make the suspension, together with a request for the approval of reinstatement of the officer or employee to be effective at the expiration of the period of suspension. Whenever such hearing is given, the appointing authority shall give the officer or employee suspended a written notice of his decision within two days after the hearing. An officer or employee whose suspension under this paragraph is decided, after hearing, to have been without just cause shall be deemed not to have been suspended and he shall be entitled to compensation for the period for which he was suspended, and if it is decided, after hearing, that there was just cause for such suspension such officer or employee may appeal to the commission as provided in paragraph (b) and he shall be entitled to judicial review of the action taken by the commission as provided in paragraph (d). The provisions of paragraph (c) shall apply to all hearings under this paragraph. No officer or employee shall be subsequently discharged, removed, suspended for a period exceeding five days, laid off, transferred from his office or employment without his consent if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight or lowered in rank or compensation, nor shall his office or position be abolished, for the same specific reason or reasons for which he was originally temporarily suspended for a period not exceeding five days under this paragraph except in accordance with paragraph (a). Notice of any action taken by the appointing authority under this paragraph shall be forwarded forthwith to the personnel administrator.

(f) An officer or employee shall automatically be reinstated at the end of the first period for which he was suspended. Any subsequent reinstatement after suspension shall be subject to the approval of the administrator, and, if denied, an appeal may be taken to the commission as provided in paragraph (b) of section two. The notice required by paragraph (a) of this section to be given to an employee whom it is proposed to suspend after a prior suspension shall state that his reinstatement after such suspension is subject to the approval of the administrator.

(g) Punishment duty shall not be imposed without just cause upon any police officer or fire fighter subject to this chapter. A police officer or fire fighter upon whom punishment duty is imposed shall, within twenty-four hours of the imposition of such punishment duty, be given a copy of this section and of section forty-five, together with a written notice stating the specific reason for the imposition of such punishment duty and the duration thereof and informing him that he may, within forty-eight hours of receipt of such notice, request in writing a hearing by the appointing authority, and if he so requests he shall be given a hearing within five days of receipt of such request by the appointing authority. A copy of the notice of imposition of punishment duty shall be forwarded forthwith to the personnel administrator. Whenever such hearing is given, the appointing authority shall

give the police officer or fire fighter a written notice of his findings. After hearing, the appointing authority shall impose punishment duty, such punishment duty, if, after such hearing, the appointing authority finds that the imposition of punishment duty is imposed under paragraph (b), and he or the appointing authority shall be given a hearing on the action taken by the commission as provided in paragraph (c) shall apply to all hearings under this paragraph taken by the appointing authority with to the personnel administrator.

(h) Any person holding office or labor services of the city or district thereof who has incurred discharge, removal, suspension, or abolition of his position shall not be reimbursed for such expenses. Such reimbursement shall in no event exceed one hundred dollars in:

- (1) a hearing by the appointing authority;
- (2) a hearing by the civil service commission;
- (3) a judicial review by the court within the judicial district of the city or district.

In addition thereto, reimbursement shall not exceed one hundred dollars for:

- (1) summons of witnesses;
- (2) cost of stenographic transcription;
- (3) any other necessary expenses.

Any such person shall, upon the expiration of thirty days from the date of the source from which his salary was received, be reimbursed within thirty days from the receipt of such salary. No reimbursement shall be made for expenses were actually incurred.

(i) In the computation of the number of working days, Sundays and holidays shall be counted as working days.

(j) The provisions of this section shall apply to any person who has been appointed to office or position for in section eighteen.

Amended by St.1968, c. 637, § 4; St.1971, c. 179, § 4; St.1974, c. 122, § 1.

St.1974, c. 835, § 122, made effective July 1, 1974, by the abolition of a division of the Department of Administration and

give the police officer or fire fighter upon whom the punishment duty is imposed a written notice of his finding within two days after the hearing. If, after such hearing, the appointing authority finds no just cause exists for the imposition of punishment duty, such punishment duty shall be deemed not to have been imposed; if, after such hearing, the appointing authority finds that just cause does exist for the imposition of punishment duty, the police officer or fire fighter upon whom the punishment duty is imposed may appeal to the commission as provided in paragraph (b), and he or the appointing authority shall be entitled to judicial review of the action taken by the commission as provided in paragraph (d). The provisions of paragraph (c) shall apply to all hearings under this paragraph. Notice of any action taken by the appointing authority under this paragraph shall be forwarded forthwith to the personnel administrator.

(h) Any person holding office or employment under permanent appointment in the official or labor services of the commonwealth, or any county, city, town or district thereof who has incurred expense in defending himself against an unwarranted discharge, removal, suspension, laying off, transfer, lowering in rank or compensation, or abolition of his position, shall, if he engages an attorney for such defense, be reimbursed for such expense; provided, however, that the amount of such reimbursement shall in no event exceed an aggregate sum of nine hundred dollars. Such reimbursement, in each instance, shall be limited to a sum not to exceed two hundred dollars in:—

(1) a hearing by the appointing authority;

(2) a hearing by the civil service commission;

(3) a judicial review by the municipal court of the city of Boston or by the district court within the judicial district where such person resides, as provided in section forty-five.

In addition thereto, reimbursement in each instance shall be limited to a sum not to exceed one hundred dollars for:—

(1) summons of witnesses;

(2) cost of stenographic transcript;

(3) any other necessary expense incurred in such defense.

Any such person shall, upon written application made to his appointing authority within thirty days from final disposition of his case be reimbursed from the same source from which his salary is paid. Such reimbursement shall be paid within thirty days from the receipt of such written application by the appointing authority. No reimbursement shall be made except upon receipt of satisfactory proof that such expenses were actually incurred for the purposes set forth in this section.

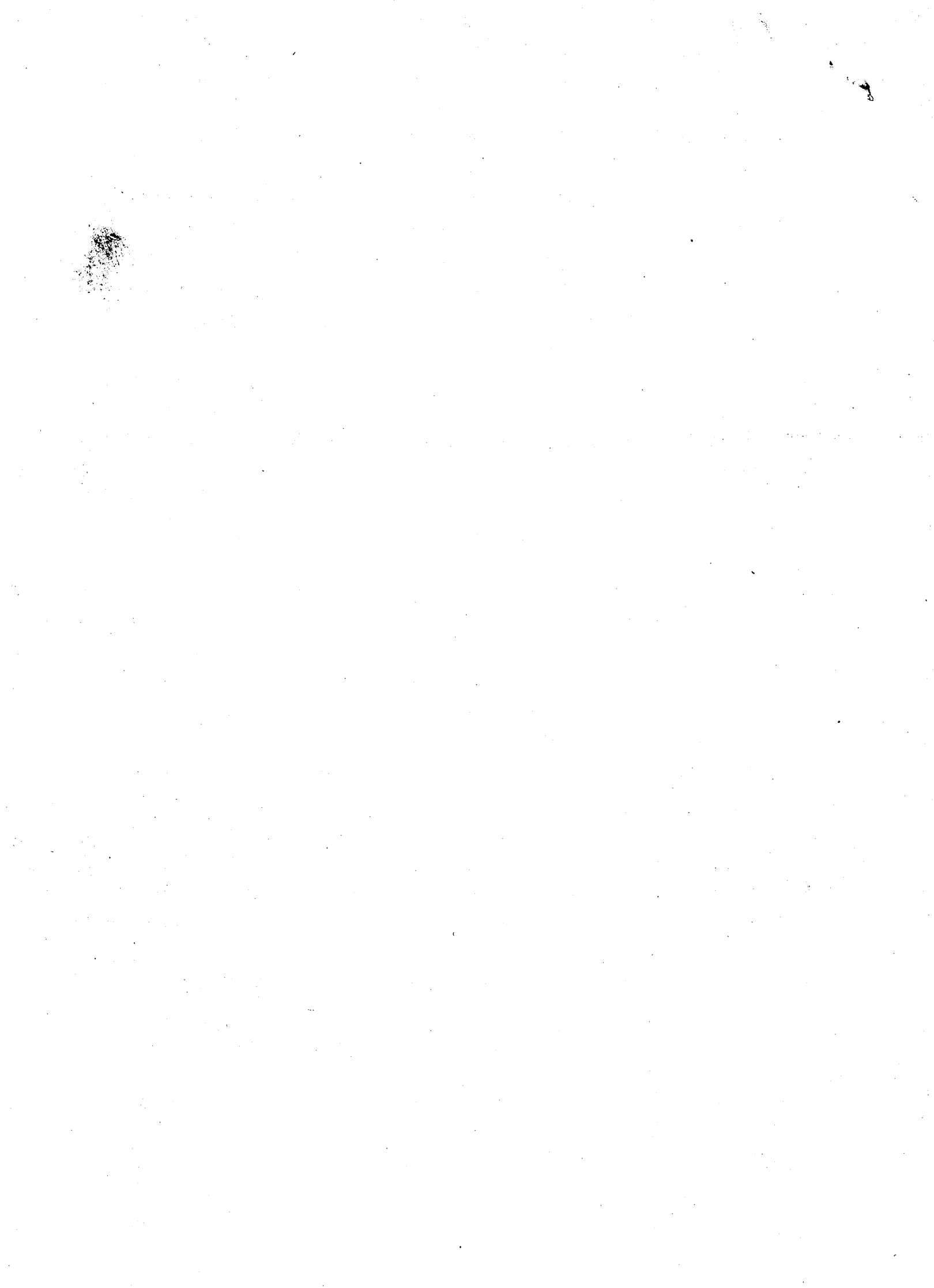
(i) In the computation of any period of time limited by this section, Saturdays, Sundays and holidays shall be excluded.

(j) The provisions of this section or sections forty-five and forty-six A shall not apply to any person who has been reported as on unauthorized absence as provided for in section eighteen.

Amended by St.1968, c. 637, §§ 3-6; St.1969, c. 766, § 43A; St.1970, c. 72, §§ 1-5; St.1971, c. 179, § 4; St.1974, c. 835, §§ 122 to 125.

Deferred 1974 Amendment

St.1974, c. 835, §§ 122 to 125, approved August 13, 1974, and by section 185 made effective July 1, 1975, amended this section to conform to the establishment of a division of personnel administration in the executive office for administration and finance. For amendment, see the note hereunder.



evidence himself but was entitled to review transcript of evidence before Civil Service Commission. *Id.*

Jurisdiction of the personnel appeals board and the civil service commission are mutually exclusive and not concurrent; a matter coming within the jurisdiction of the personnel appeals board is not within the jurisdiction of the civil service commission; in addition, there may be matters not coming within the jurisdiction of either agency. *Op. Atty. Gen. Nov. 23, 1965, p. 180.*

Personnel appeals board does not have jurisdiction to hear and dispose of a further appeal through the grievance procedure

in instances where an applicant chooses to appeal to the civil service commission or to the personnel appeals board and such appeal is denied. *Id.*

If a person brings an appeal under the provisions of section 46A of this chapter wherein this section has not been complied with and the civil service commission determines that the rights of the complainant have been prejudiced, the complaint should be immediately restored without loss of compensation or other rights; if it is determined that the rights of the complainant have not been prejudiced, the complaint should be denied. *Op. Atty. Gen. Nov. 22, 1965, p. 172.*

§ 45. Judicial review of removals, etc.

Within thirty days after receipt of notice of the final decision of the commission on a hearing provided for in section forty-three, the person who was discharged, removed, suspended, laid off, transferred from his office or employment without his consent in writing if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight or lowered in rank or compensation, or whose office or position was abolished, may, if said action was affirmed by the commission or if said action was modified by the commission and such person continues to be aggrieved by such modification, file a petition to review the commission's decision in the municipal court of the city of Boston or in the district court within the judicial district of which such person resides. A copy of the petition shall, within the same period, be served personally or by registered mail upon the commission and the appointing authority. Service on the commission shall be sufficient if service is made on any member of the commission or on the secretary to the commission.

The petition shall be addressed to the court and shall name as respondents (a) the chairman and members of the commission and (b) the appointing authority. It shall include a concise statement of the facts upon which jurisdiction and venue are based, facts showing that the petitioner is aggrieved, and the ground or grounds specified in paragraph (6) of this section upon which petitioner contends he is entitled to relief. The petition shall demand the relief to which petitioner believes he is entitled.

Within thirty days after service of a copy of the petition to review upon the commission, the commission shall cause an appearance to be entered on its behalf. At the time of the hearing on the petition, the commission shall file with the court the original or a certified copy of the record of the proceeding under review. The original or certified copy, as the case may be, shall be accompanied by a certification over the signature of the secretary to the commission, that the same is true and complete. The record shall consist of (a) the entire proceedings, or (b) such portions thereof as the commission and the parties may stipulate, or (c) a statement of the case agreed to by the commission and the parties. The expense of preparing the record may be assessed as part of the costs in the case. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

The review shall be conducted by the court and shall be confined to the record, except that in cases of alleged irregularities in procedure before the commission, not shown in the record, testimony thereon may be taken in the court.

If application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material to the issues in the case, and that there was good reason for failure to present it in the proceeding before the commission, the court may order that the additional

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Note 2

evidence be taken before the commission upon such conditions as the court deems proper. The commission may modify its findings and decision by reason of such additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence together with any modified or new findings or decision.

The court may affirm the decision of the commission if it finds that the decision was justified or remand the matter for further proceedings before the commission; or the court may set aside and reverse the decision of the commission if it determines that such decision is—

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the commission; or
- (c) based upon an error of law; or
- (d) made upon unlawful procedure; or
- (e) unsupported by substantial evidence; or
- (f) arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

The court shall make the foregoing determinations upon consideration of the entire record, or such portions of the record as may be cited by the parties.

If the court finds that the decision of the commission confirming action by an appointing authority in discharging, removing, suspending, laying off, transferring from his office or employment without his consent, lowering in rank or compensation, or abolishing his position should be reversed, the employee shall be reinstated in his office or position without loss of compensation.

The decision of the court shall be final and conclusive upon the parties, and a copy of the decision shall be forwarded forthwith by the clerk of the court to the commission, the appointing authority and the petitioner.
Amended by St.1970, c. 72, § 6; St.1970, c. 711.

1970 Amendments. St.1970, c. 711, approved Aug. 19, 1970, rewrote section, as amended by St.1970, c. 72, § 6, approved Feb. 25, 1970 which inserted "from his office or employment without his consent in writing if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight" in first sentence of first paragraph.

1968 Related Laws. St.1968, c. 637, § 7, provided: "Except for just cause and subject to the provisions of sections forty-three and forty-five of chapter thirty-one of the General Laws as in effect immediately prior to the effective date of this act, no person who on said effective date holds office or employment under permanent appointment in the official or labor service of the commonwealth, or of any county, city or town thereof, shall be transferred in the official or labor service without his consent in writing."

Cross References

Unauthorized absence of employees, applicability of this section, see section 43(J) of this chapter.

Supplementary Index to Notes

Declaratory judgment 41.5

CIVIL SERVICE

2. In general

Civil Service Commission statute and Labor Relations Commission statute can be read so as to constitute a harmonious whole by attributing to the legislature certain commonsense general purposes. *Town of Dedham v. Labor Relations Commission* (1974) 312 N.E.2d 548, 1974 Mass.Adv.Sh.

Essential character of proceedings initiated under this section, which involves judicial review rather than judicial retrial, remained unchanged by amendment of St. 1970, c. 711, which, inter alia, specified the particular factors which must be found before courts might order the reversal of an action taken by the Civil Service Commission. *Commissioners of Civil Service v. Third Dist. Court of Eastern Middlesex* (1974) 308 N.E.2d 788, 1974 Mass.App.Adv. Sh. 279.

The word "review," as used in this section, indicates a reexamination of a proceeding for the purpose of preventing a result which appears not to be based upon the exercise of unbiased and reasonable judgment; it does not import a reversal of the earlier decision honestly made upon evidence which appears to an unprejudiced mind sufficient to warrant the decision made. *Id.*

The term "justification, in connection means done upon ciently supported when weighed by guided by common law. *Id.*

"Justified" as a section requiring to affirm action discharging city of finds that such action done upon adequate supported by weighed by an un by common sense law. *Board of Se Third Dist. Court 2d 449, 359 Mass.*

Although chairman of city was appointed any specific term and assessor was office when city section 43 of this cedure for involuntarily appointment, by ting tenure of city and thereafter un elected or appointed term, and assessor efits of c. 41, § of veterans not a. *Errico v. Mayor of 367, 352 Mass. 527.*

The appointing oust a suspended firmative steps statutory provisio individual or positio tice and hearing 1965, p. 60.

Suspension of not affected by suspension conti

A person who tion guaranteed discharged, for hearing and oppo rformance with th of this chapter. 1964, p. 186.

5. Reduction of

Decision of civ holding impositio ment duty on sleeping while o the evidence. *Id.*

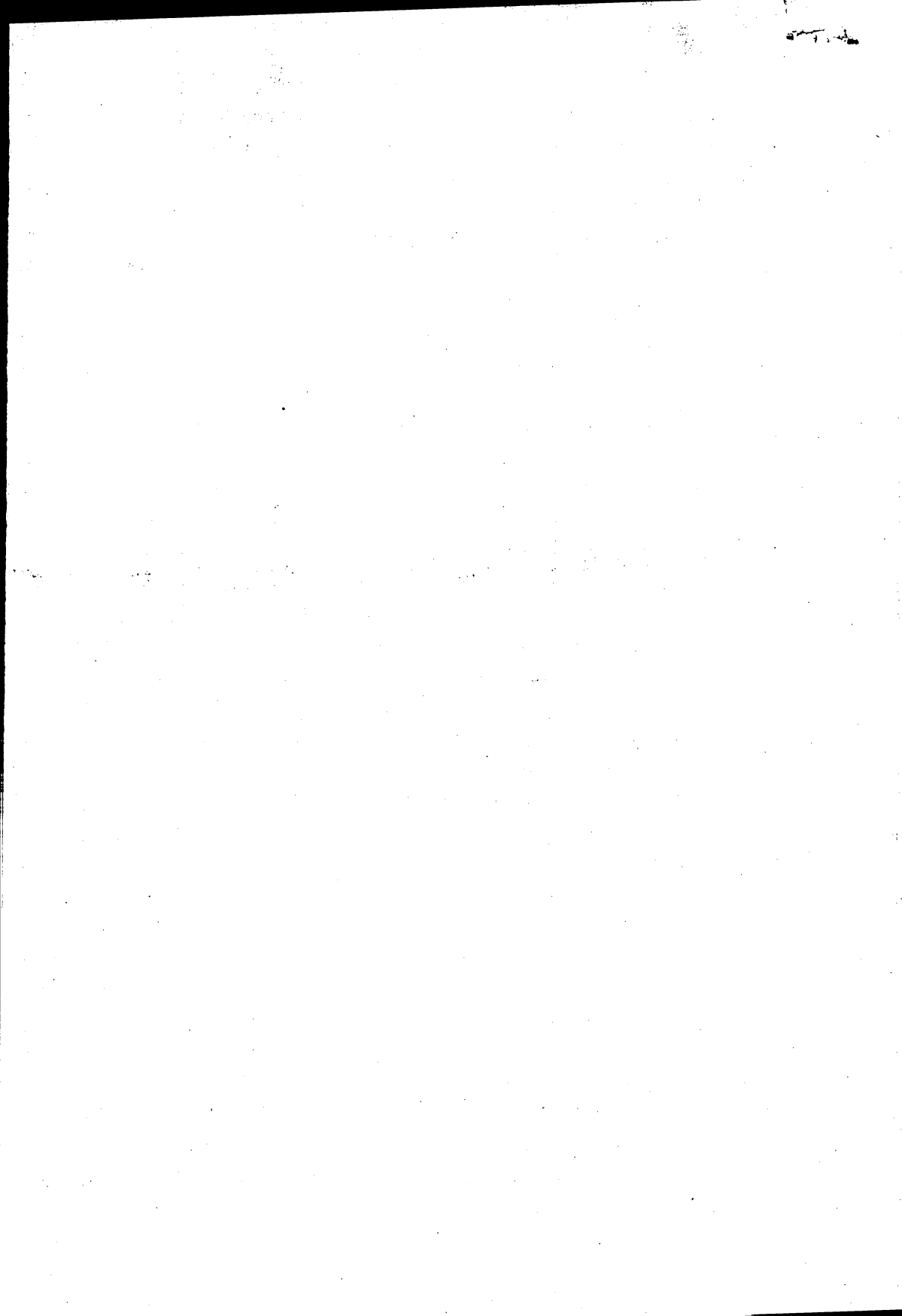
ARTICLE VII

MANAGEMENT RIGHTS

Except to the extent that there is contained in this Agreement an express and specific provision to the contrary, all of the authority, power, rights, jurisdiction and responsibility of the CITY are retained by and reserved exclusively to the CITY, including, but not limited to, the right to direct employees, to hire, promote, transfer, assign and retain employees within the bargaining unit, to suspend, demote and discharge employees for just cause, to relieve employees from duties because of lack of work, to maintain the efficiency of the operations and to determine the methods, means, processes and personnel by which such operations are to be conducted, including sub-contracting if deemed necessary. The CITY has the right to promulgate reasonable rules and regulations pertaining to the employees covered by this Agreement, so long as these rules and regulations or any of the other rights in this Article do not conflict with any term or condition of this Agreement.

The CITY agrees to allocate and utilize manpower and equipment within the Department in the most efficient and feasible manner which shall not preclude utilizing manpower on an overtime basis, prior to supplementing or complementing its capability by the use of sub-contracts except during a recognized emergency. The UNION, its officials, representatives and members, agree to cooperate and participate with the CITY to develop and implement manpower and equipment resource allocation systems which will assume maximum feasible

delivery of service and utilization of regular city employees and equipment within the Department so long as none of the provisions of this Agreement are violated and none of the employees presently employed suffers any loss of benefits, is reclassified or receives lower compensation.



ARTICLE X

GRIEVANCE PROCEDURE AND ARBITRATION

Section 1. The term "grievance" shall be defined as any dispute concerning the interpretation or application of any provision of this Agreement. No grievance which is subject to Civil Service or Retirement Board Laws of the Commonwealth of Massachusetts may be submitted as a grievance under the provisions of this Article.

Section 2.

Step One. Grievances may be first presented by the employee and/or the Association representatives to the officer designated by the Chief as in charge of the employee's shift or such other officer so designated, and an earnest effort shall be made within the next 48 hours to adjust the grievance in an informal manner.

Step Two. If the grievance is not resolved and mutually acceptable at Step One within six (6) working days, the grievance shall be submitted in writing to the Chief of the Department by the employee and/or the Union. A meeting between the Chief of the Department and/or his designated representative and the Grievance Committee of the Union shall be held within five (5) days after referral to the Chief of the Department, to discuss the grievance. If not satisfactorily adjusted at this meeting, the Chief shall give his written answer with specification of grounds within five (5) days of the meeting. If a grievance is adjusted at Step Two of the grievance procedure, the adjustment shall be noted on the grievance form and shall be signed by the Chief of the Department or his representative

and the Union representative(s) reaching the adjustment.

If a decision satisfactory to the Union at any level of the grievance procedure is not implemented within a reasonable time the Union may invoke Step Two or Step Three of the grievance procedure as the case may be. If the City exceeds any time limits prescribed at any step in the grievance procedure, the Union may invoke the next step of the procedure.

Written submissions of grievances at Step Two shall be in not less than triplicate, on forms to be agreed upon jointly, and shall be signed by the representative of the Union filing the grievances.

The Union shall be notified in writing of all grievances filed by employees covered by this Agreement, and all grievance hearings and all determinations and awards. It shall have the right to have a representative present at any grievance hearing and shall be given no less than 48 hours notice thereof, unless waived by the Union. Any grievance as defined hereinabove affecting a large group of employees may, at the option of the Association be filed at Step Two of the grievance procedure.

Step Three. If the written grievance is not resolved at Step Two, it shall be submitted to the City Manager. The City Manager or his designate shall meet with the Association Grievance Committee within five (5) days after submission at Step Three and shall answer the grievance within five (5) days after such meeting.

Step Four - Arbitration

If the grievance is not resolved at Step Three, the Union, and not any individual employee, may in any instance submit the grievance to arbitration. Such submission shall be made within thirty (30) calendar days after the expiration of the five (5) working days referred to in Step Three. Within the said thirty (30) calendar days, written notice of said submission shall be given to the City by delivery in hand or by mail, postage prepaid, addressed to the attention of the City Manager or his designee.

If the parties mutually agree to a three-man Board of Arbitrators, they may select one arbitrator and the two arbitrators so selected shall designate an impartial Chairman. If in any instance the parties fail to agree on an impartial Chairman, or if the parties fail to agree on the selection of a single arbitrator, either party may request the American Arbitration Association to provide a panel of arbitrators from which a selection of a single arbitrator shall be made in accordance with the rules of the American Arbitration Association. Expenses for the arbitrator's services shall be shared equally by the parties. The arbitrator shall be without power to alter, add to or detract from the language of this Agreement. He shall submit in writing his findings of fact and award within thirty (30) days after the conclusion of testimony and argument, or as soon as practicable thereafter. The decision of the arbitrator shall be final and binding on both parties.

Up to two (2) officers of the Association or members of the grievance committee may attend the arbitration hearing without loss of pay. The appearance of any employee witness reasonably required at the arbitration hearings shall not result in any loss of pay to said persons. The schedules of night men whose appearance is required at the hearing shall be adjusted by the Chief of the Department to permit said appearance.

ARTICLE XI

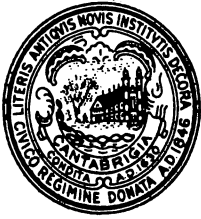
HOURS OF WORK

Section 1. The average weekly hours of duty (other than employees assigned to headquarters) shall not exceed forty-two (42) hours per week, averaged, over an eight (8) week cycle as follows: Two (2) ten (10) hour day tours followed by forty-eight (48) hours off duty, followed by two (2) fourteen (14) hour night tours followed by seventy-two (72) hours off duty.

Section 2. There shall be two (2) tours of duty, a day tour and a night tour. The day tour shall consist of ten (10) hours from 7:30 A.M. to 5:30 P.M., and the night tour shall consist of fourteen (14) hours from 5:30 P.M. to 7:30 A.M. The Chief may alter the starting and quitting times of each tour not more than thirty (30) minutes on either side upon reasonable notice to the Union and an opportunity to discuss the proposed change.

Each employee is assigned to a regular work schedule as a member of a group. When an employee's regular work schedule is to be changed the Chief shall give reasonable notice to the employee affected of such a change.

"Reasonable notice" as used in this Section, shall mean notification no later than 5:00 P.M. on Wednesday for a change in



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 876-6800

EXECUTIVE DEPARTMENT
JAMES L. SULLIVAN
City Manager

November 8, 1976

To the Honorable, the City Council:

With respect to awaiting report item number 9 of November 8, 1976, regarding removal procedures of Civil Service and Non-Civil Service Employees, please be advised as follows:

1. The powers and duties of the City Manager are delineated under Chapter 43, Sections 104-107 as it relates to his being the appointing and removal authority. (copies enclosed)
2. With respect to permanent Civil Service employees, their rights are delineated under Chapter 31, Sections 43-45. Basically a permanent Civil Service employee must be notified in writing of the reasons for the contemplated removal action and be permitted a hearing before the appointing authority. If the employee is aggrieved by the decision of the appointing authority he has a further right of appeal to the Division of Personnel Administration for a hearing "de novo". (copies of Chapter 31, Sections 43-45 enclosed).
3. With respect to provisional Civil Service and non-civil service employees that are members of a collective bargaining unit, their rights are delineated in the collective bargaining agreement, under the sections on discipline and grievance procedures. Basically a union employee may be removed for just cause. If the party feels he is aggrieved by such removal in that just cause does not exist he may follow a three step grievance procedure and then has further recourse to arbitration if the issue is not resolved at any of the three steps. (copies of discipline and grievance section enclosed.)
4. With respect to Department Heads and Division Heads not under Civil Service, they serve at the pleasure of the City Manager and may be removed by the City Manager. (Chapter 43, Section 105)

Agenda # 6 F-307

Re: to the procedure followed for the removal of civil service and non-civil service employees in the employment of the City.

In City Council,

November 8, 1976

11/8/76

Placed on File.