

## Municipal Personnel, Retirement

### CHAPTER 419

#### POLICE CIVIL SERVICE COMMISSIONS

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#### 419.01 ESTABLISHMENT.

There may be created in every city, except a city of the first class, a police civil service commission with powers and duties as provided in sections 419.01 to 419.18. Any such city which may wish to avail itself of the provisions thereof shall do so by an ordinance expressly accepting the provisions thereof. The ordinance shall be adopted in the same manner as other nonemergency ordinances, but at least 30 days shall elapse between its introduction and final passage by the governing body. Sections 419.01 to 419.18 do not apply to any city until the adoption of such ordinance.

**History:** (1933-48) 1929 c 299 s 1; 1933 c 197 s 1; 1935 c 34 s 1; 1959 c 694 s 1; 1973 c 123 art 5 s 7

#### 419.02 MEMBERSHIP; JOINT POLICE AND FIRE COMMISSION.

Subdivision 1. **Number, qualifications, limits.** This commission shall consist of three members who are citizens of the state and residents of such city, and shall be appointed by the council of the city, and when first created one commissioner shall be appointed for the term of one year, who shall be president of the commission, one for the term of two years, and one for the term of three years, and all commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall, at the time of appointment or while serving, hold any elected office under the city, the United States, the state of Minnesota, or any public corporation or political division thereof, or employment under the city, or employment under a police department of any city, other than as a member of a civil service commission for firefighters or other municipal personnel. Each commissioner, before entering upon duties, shall subscribe and file with the city clerk an oath for the faithful discharge of the duties. There shall be appointed each year thereafter by the city council one member of the commission whose term of office shall be for three years, and each member of the commission shall be president of the commission during the last year of the member's term.

Subd. 2. **Transition to joint commission.** In any city establishing or having a firefighters' civil service commission, the city council may, in the ordinance establishing the police or firefighters' civil service commission or in a later ordinance adopted in the same manner, provide that a single commission shall serve as both police and firefighters' civil service commissions. The joint commission shall consist of three members appointed in the same manner, for the same terms, and with the same qualifications as a police civil service commission under sections 419.01 to 419.18. When existing police and firefighters' civil service commissions are combined, all the members of the two commissions shall become the members of the combined commission and shall continue to serve as members of the new commission for the remainder of the terms for which they were originally appointed. No successor shall be appointed for the members whose terms are the first, third, and fifth of the six to end, but at the end of every other term, one member shall be appointed for a three-year term, thus reducing the commission membership to five by the end of the first year, four by the end of the second year, and three by the end of the third year.

**History:** (1933-49) 1929 c 299 s 2; 1959 c 694 s 2; 1973 c 123 art 5 s 7; 1977 c 429 s 63; 1978 c 585 s 1; 1986 c 444

#### **419.03 MEETING.**

The commission shall first meet immediately after its appointment and thereafter on the first Monday in February each year at which meetings it shall select from its members a secretary who shall serve until a successor is elected. The commission shall from time to time fix the times of its meetings, and adopt, amend, and alter rules for its procedure.

**History:** (1933-50) 1929 c 299 s 3; 1986 c 444

#### **419.04 COMMISSIONERS TO SERVE WITHOUT PAY.**

Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding \$100 per year, as it shall deem commensurate with the additional service rendered. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and furnish it with all supplies, stationery, and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of the commission before being paid by the council.

**History:** (1933-51) 1929 c 299 s 4; 1986 c 444

#### **419.05 DUTIES OF COMMISSION.**

The commission shall have absolute control and supervision over the employment, promotion, discharge, and suspension of all officers and employees of the police department of such city and these powers shall extend to and include all members of the police department. The commission may not, however, prescribe any residency requirements for the positions under its control, unless approved by the city council.

The commission shall, immediately after its appointment and organization, grade and classify all of the employees of the police department of the city and a service register shall be prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful.

The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses, in the order of the date of application, of all applicants for examination and the offices or employments they seek. All applications shall

be upon forms prescribed by the commission and contain such data and information as the commission deems necessary and useful.

**History:** (1933-52) 1929 c 299 s 5; 1973 c 123 art 5 s 7; 1978 c 585 s 2

#### **419.06 RULES FOR POLICE DEPARTMENT.**

The commission shall adopt rules to promote efficiency in the police department service and to carry out the purposes of this chapter. The rules must provide among other things for:

- (1) the classification of all offices and employments in the police department;
- (2) public competitive examinations to test the relative fitness of applicants;
- (3) public advertisements of all examinations at least ten days in advance in a newspaper of general circulation in the city and posting the advertisement for ten days in the city hall and at each station house;
- (4) the creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination, which must be included in an eligible register;
- (5) the commission may by rule provide for striking any name from the eligible register after it has been on the register for one year;
- (6) the rejection of candidates or eligibles who, after the entry of their names, fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition, or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any willful misrepresentation, deception, or fraud in connection with their applications for employment;
- (7) the certification of the three names standing highest on the appropriate list to fill any vacancy;
- (8) temporary employment without examination, with the consent in each case of the commission, in cases of emergency, but no such temporary employment may continue more than 30 days nor may successive temporary employments be permitted for the same position; provided, that until 60 days after cessation of hostilities in a war as declared by proper federal authority, whenever there are no names upon the eligible register, temporary appointment may be made for employment to continue until the position is filled by a candidate from the eligible register under the provisions of the rules, provided that persons on the eligible list at the time of induction into the armed forces of the United States must retain their position on the eligible register;
- (9) promotion based on competitive examination and upon records of efficiency, character, conduct and seniority;
- (10) suspension with or without pay for not longer than 60 days and for leave of absence, with or without pay; and
- (11) other rules not inconsistent with the provisions of this chapter as may, from time to time, be found necessary to secure the purposes of this chapter.

When a disparity exists between the make-up of the police department and its approved affirmative action goals, the commission may certify up to two eligible candidates from each protected group for which a disparity exists. This certification is in addition to the three candidates certified under clause (7). This expanded certification may not include a member of a protected group if a member of that group is one of the three candidates certified under clause

(7). Certifications under this paragraph must be made from the list of eligible candidates who have successfully completed the examination, in order of their standing in the examination. These expanded certification procedures apply only to positions to be filled from the public and do not apply to promotional appointments.

Copies of such rules must be kept posted in a conspicuous place at each police station house and no rules of general application with reference to employment, promotion, discharge, or suspension are effective until posted.

**History:** (1933-53) 1929 c 299 s 6; 1943 c 441 s 1; 1959 c 694 s 3; 1973 c 123 art 5 s 7; 1991 c 140 s 1; 1993 c 35 s 1

#### **419.07 OFFICERS DISCHARGED ONLY AFTER HEARING.**

No officer or employee other than a peace officer, after six months' continuous employment, shall be removed or discharged except for cause upon written charges and after an opportunity to be heard in defense of the charges as in this chapter hereinafter provided. No newly appointed peace officer after satisfactory completion of the basic peace officers training course pursuant to sections 626.843 to 626.852 and after a period of no longer than 12 months continuous employment thereafter, shall be removed or discharged except for cause upon written charges and after an opportunity to be heard in defense of the charges as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The finding and decision of such commission shall be forthwith certified to the chief or other appointed or superior officer, and will be forthwith enforced by such officer. Nothing in this chapter shall limit the power of any officer to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when the officer deems such suspension advisable. The commission, in any city of the second class situate in two or more counties, may, by resolution adopted by unanimous vote, incorporate in the civil service rules a rule fixing the term of the office of chief of the department at six years from the date of appointment and thereafter the office of chief shall be open to competitive examination for all members of the department qualified to take such examinations. In the event of a new appointment being made to the office of chief as a result of competitive examination, the retiring chief shall be assigned a grade and class in the department as may be determined by the commission. Provided that the limitation of the term of chief as herein provided for shall not affect any person permanently holding the office of chief at the time of the passage of Laws 1947, Chapter 522; provided further that the provisions of this section shall not apply to persons referred to in Minnesota Statutes 1969, Section 299D.03.

**History:** (1933-54) 1929 c 299 s 7; 1947 c 522 s 1; 1971 c 839 s 1; 1980 c 509 s 159; 1986 c 444

#### **419.075 MERIT SYSTEM MUNICIPALITIES, DISCHARGE OF PEACE OFFICERS.**

Subdivision 1. **Application.** This section applies to any city, county, town or other political subdivision which has adopted a formal merit system under any provision of law or home rule charter.

Subd. 2. **Officers discharged after hearing.** No newly appointed peace officer, after satisfactory completion of the basic peace officer training course pursuant to sections 626.843 to 626.852 and after a period of no longer than 12 months continuous employment thereafter, shall be removed or discharged except for cause upon written charges after opportunity to be heard in defense of the charges.

**History:** 1971 c 839 s 2; 1973 c 123 art 5 s 7; 1980 c 509 s 160; 1986 c 444

**419.08 RULES AND STANDARDS.**

The commission shall ascertain the duties of each office, position, and employment in the police protection service of such city, and designate by rule as well as may be practicable the grade of each office, employment, or position. The commission shall prescribe standards of fitness and efficiency for each office, position, and employment and for each grade, and adapt its examination thereto.

**History:** (1933-55) 1929 c 299 s 8; 1973 c 123 art 5 s 7

**419.09 EXAMINATIONS.**

All examinations shall be impartial, fair, and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety, and integrity, and all applicants for position requiring special experience, skill, or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the chief of the police department and of every employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners.

**History:** (1933-56) 1929 c 299 s 9

**419.10 NOTICE OF EXAMINATIONS; CREATION OF ELIGIBLE REGISTER; REMOVAL AND ADDITIONS.**

Subdivision 1. **Notice of examinations.** (a) Notice of the time, place, and scope of each examination shall be given by publication and posting as specified in section 419.06, and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance.

(b) The notice may provide that other examinations may be administered from time to time during the life of the eligible register, without an additional publication or ten-day notice, to applicants meeting threshold requirements.

Subd. 2. **Creation of eligible register.** The names of those found eligible upon examination, after giving credit for character and previous successful experience, shall be entered with their address and percentages on the eligible register.

Subd. 3. **Removal of names.** No name shall remain upon the eligible register more than two years without a new application, and, if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made, the names selected shall be stricken from the eligible register and transferred to the service register.

Subd. 4. **Addition of names.** If the notice under subdivision 1, paragraph (b), is given at the time of initial examination, additional examinations may be administered to applicants meeting threshold requirements without an additional publication or ten-day notice. Applicants passing a later examination shall be added to the eligible register in the order of their standing relative to the remaining applicants on the register.

**History:** (1933-57) 1929 c 299 s 10; 2001 c 87 s 1

**419.11 CHARGES FILED WITH SECRETARY OF COMMISSION.**

Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by the appointing authority, and thereupon the commission shall try the charges after no less than ten days' written notice to the accused. Such notice shall set forth the charges as filed. The trial of these charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county in which such city is located. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require the accused person to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent, or employee of the city who receives compensation for services, shall not be entitled to fees or mileage.

**History:** (1933-58) 1929 c 299 s 11; 1959 c 694 s 4; 1973 c 123 art 5 s 7; 1986 c 444

**419.12 SUSPENSION AND REMOVAL; REINSTATEMENT.**

An employee who, after investigation and trial by civil service commission, is found guilty of inefficiency, breach of duty, or misconduct, may be removed, reduced, or suspended. The employee's name also may be stricken from the service register. If the board determines that the charges are not sustained, the accused, if suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings, determinations, and orders of the commission for suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of the hearing with the secretary of the commission. The secretary shall notify the employee of the decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal in accordance with chapter 14.

The question to be determined by the court shall be:

"Upon the evidence, was the order of the commission reasonable?"

**History:** (1933-59) 1929 c 299 s 12; 1973 c 123 art 5 s 7; 1983 c 247 s 152; 1986 c 444

**419.13 CERTAIN ACTS A MISDEMEANOR.**

An applicant for examination, appointment or promotion in the police department service of the city who shall, either directly or indirectly, give, render, or pay or promise to give, render, or pay any money, service or other thing to any person, for or on account of or in connection with the applicant's examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal.

Any officer or employee of the police department, when operating under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive, or pay, or be in any manner concerned in soliciting, receiving, or paying, any assessment, subscription or contribution for any party or political purpose, shall be guilty of a misdemeanor and shall be subject to suspension or removal.

Any person who shall solicit or receive directly or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution, or payment for any political purpose

whatever from any officer or employee in a police department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor.

**History:** (1933-60, 1933-61, 1933-62) 1929 c 299 s 13-15; 1973 c 123 art 5 s 7; 1986 c 444

#### **419.14 COMMISSION VESTED WITH CERTAIN POWERS.**

When any city has a civil service commission the council may provide that this commission be vested with the powers and duties of the police civil service commission as set forth herein.

**History:** (1933-63) 1929 c 299 s 16; 1973 c 123 art 5 s 7

#### **419.15 OFFICERS TO COME UNDER COMMISSION.**

Any police officer regularly employed at the time of the creation of the civil service commission shall automatically come under the jurisdiction of the civil service commission.

**History:** (1933-63a) 1929 c 299; 1933 c 197 s 1

#### **419.16 ABOLITION OF COMMISSION.**

A police civil service commission created under this chapter may be abolished as follows: (1) by the voters in accordance with section 419.17; or (2) by a unanimous vote of the city council. Abolition by the voters shall be initiated by a petition signed by at least 25 percent of the number of legal voters voting at the last general municipal election filed with the governing body of the city requesting that the following question be submitted to the voters: "Shall the police civil service commission be abolished?"

**History:** (1933-63b) 1929 c 299; 1933 c 197 s 1; 1973 c 123 art 5 s 7; 1999 c 165 s 1

#### **419.17 ABOLITION SUBMITTED TO VOTERS.**

When a petition is filed under section 419.16, the governing body of the city shall cause the question to be submitted to the voters at the first following general municipal election. The commission is abolished if two-thirds of the votes cast in the election are in favor of the abolishment, and the status of the police department and all of its employees shall thereafter be the same as if the commission had not been created.

**History:** (1933-63c) 1929 c 299; 1933 c 197 s 1; 1973 c 123 art 5 s 7; 1999 c 165 s 2

#### **419.18 APPLICATION.**

The provisions of sections 419.01 to 419.18 with reference to the abolition of civil service commission shall not apply and shall have no force or effect in any city in this state where a commission has already been created.

**History:** (1933-63d) 1929 c 299; 1933 c 197 s 1; 1973 c 123 art 5 s 7

#### **419.181 LIMITATION UPON CONTEST OF CERTIFICATION.**

Notwithstanding any law to the contrary, no person shall contest the certification of any person to fill any vacancy by a police civil service commission in a city, except a city of the first class, later than six years after the date of certification.

**History:** 1959 c 290 s 1; 1973 c 123 art 5 s 7

**419.19** [Repealed, 1965 c 79 s 2]

**419.20** [Repealed, 1965 c 79 s 2]

**419.21** [Repealed, 1965 c 79 s 2]

**419.22** [Repealed, 1965 c 79 s 2]

**419.23** [Repealed, 1965 c 79 s 2]

**419.24** [Repealed, 1965 c 79 s 2]

**419.25** [Repealed, 1965 c 79 s 2]

**419.26** [Repealed, 1965 c 79 s 2]

**419.27** [Repealed, 1965 c 79 s 2]

**419.28** [Repealed, 1965 c 79 s 2]

**419.29** [Repealed, 1965 c 79 s 2]

**419.30** [Repealed, 1965 c 79 s 2]

**419.31** [Repealed, 1965 c 79 s 2]

**419.32** [Repealed, 1965 c 79 s 2]

**419.33** [Repealed, 1965 c 79 s 2]

**419.34** [Repealed, 1965 c 79 s 2]