

GOVERNMENT OF THE REPUBLIC OF ARMENIA

DECISION

No 814-N of 19 July 2018

**ON ESTABLISHING THE PROCEDURE FOR CONDUCTING OFFICIAL
EXAMINATION**

Pursuant to part 9 of Article 22 of the Law of the Republic of Armenia “On civil service”, the Government of the Republic of Armenia ***decides:***

1. To establish the Procedure for Conducting Official Examination according to the Annex.
2. This Decision shall enter into force on the day following its official promulgation.

**Prime Minister
of the Republic of Armenia**

N. Pashinyan

26 July 2018

Yerevan

Annex
to the Decision of the Government
of the Republic of Armenia
No 814-N of 19 July 2018

PROCEDURE
FOR CONDUCTING OFFICIAL EXAMINATION

I. GENERAL PROVISIONS

1. This legal act shall define the Procedure for Conducting Official Examination (hereinafter referred to as “the Procedure”) in the bodies (hereinafter referred to as “relevant bodies”) provided for by part 1 of Article 2 of the Law of the Republic of Armenia “On civil service” (hereinafter referred to as “the Law”).
2. Official examination shall be deemed as consideration of issues related to official duties and (or) integrity of a civil servant and (or) his or her activities and (or) labour relations, prescribed by Law, other legal acts and this Procedure.
3. The official examination shall have its task of ensuring:
 - (1) implementation of principles provided for by Articles 12 and 22 of the Law of the Republic of Armenia “On public service”;
 - (2) clarification of matters related to the activities of a civil servant and (or) those having arisen with regard to labour relations;
 - (3) detection of each case of violation of disciplinary rules and (or) the rules of conduct of a civil servant and (or) non-compliance with other restrictions applied to a public servant and (or) violation of the rules of conflict of interests, as well as of prohibition on accepting gifts by a civil servant;

- (4) prevention of violations and elimination of conditions contributing thereto;
 - (5) pre-trial protection of the rights of civil servants in the cases provided for by this Procedure;
 - (6) timely, complete, comprehensive and unbiased clarification and (or) identification of issues subject to clarification through official examination.
4. Official examination related to information containing state and official secret shall be conducted in line with the provisions prescribed by the Law of the Republic of Armenia “On state and official secret” and other legal acts.
 5. Where necessary, the representatives of the National Security Service of the Republic of Armenia shall be involved in official examination conducted in respect of persons holding civil service positions dealing with information containing state and official secret, upon emergence of circumstances related to information containing state and official secret, for the purpose of participation in official examination within the scope of powers of the given body. In this case relevant addition shall be made with regard to entities holding official examination.
 6. The issues subject to clarification through official examination shall be decided by the entity assigning official examination, upon the decision on assigning official examination.

II. CASES OF, GROUNDS FOR ASSIGNING OFFICIAL EXAMINATION AND THE METHODS FOR THE CONDUCT THEREOF

7. Official examination shall be assigned in the cases of failure to perform official duties without valid reason and (or) improper performance thereof and (or) excess of official powers and (or) violation of internal rules of labour discipline and (or) violation of the rules of conduct of a civil servant and (or) non-

compliance with other restrictions applied to a public servant and (or) violation of the rules of conflict of interests, of prohibition on accepting gifts, as well as in the cases of clarification of issues related to the activities of a civil servant and (or) labour relations.

8. Official examination shall be assigned by the official competent to appoint to a position.
9. According to part 3 of Article 22 of the Law official examination shall be assigned by the general secretary upon the application of other person and (or) publications by the media concerning the rules of conduct of a civil servant, incompatibility requirements, other restrictions applied to a public servant, conflict of interests, prohibition on accepting gifts.
10. The ground for conducting official examination shall be the relevant legal act adopted by the official competent to assign official examination.
11. The following shall be indicated in the decision on assigning official examination:
 - (1) the case(s) of assigning official examination and the issues subject to clarification;
 - (2) data on the entity(s) holding official examination;
 - (3) day, month, year of assigning official examination;
 - (4) other necessary data related to official examination.
12. The official examination assigned for consideration of issues related to the failure to perform official duties without valid reason and (or) improper performance thereof and (or) excess of official powers and (or) consideration of issues related to internal rules of labour discipline, the activities of a civil servant and (or) labour relations, shall be conducted by the entity (persons, structural subdivision, Commission) whereto the function of conducting official examination is reserved by the legal act on assigning official examination (hereinafter referred to as “the entity holding official examination”).

13. The official examination assigned for consideration of issues related to the rules of conduct and incompatibility requirements of a civil servant, other restrictions applied to a public servant, conflict of interests, prohibition on accepting gifts, shall be conducted by the Ethics Commission of Civil Servants established under the procedure provided for by Article 33 of the Law (hereinafter referred to as “the entity holding official examination”).
14. Official examination shall be conducted by the following methods:
 - (1) individually, when up to three issues are subject to clarification;
 - (2) by a working group or structural subdivision or Commission or the Office, when three and more issues are subject to clarification, or the issue at question is not possible to clarify in case of the official examination held individually;
 - (3) by the Ethics Commission of Civil Servants.
15. The stages of official examination shall be as follows:
 - (1) assigning official examination;
 - (2) conducting and completing official examination;
 - (3) getting familiarised with the materials of official examination;
 - (4) drawing up relevant opinion based on the results of official examination and submitting it;
 - (5) adopting relevant decision based on the results official examination, unless otherwise provided for by Law.
16. Official examination shall be conducted within 30 calendar days, which shall start from the moment the official assigning official examination signs the legal act on assigning official examination; it shall be posted on information platform of civil service.

17. Given the large scale, complicated nature of or other need for official examination, based on reasoned reporting notice of the entity holding official examination, the official having assigned official examination may, within two working days and upon relevant legal act, extend the time limit for conducting official examination for up to 30 calendar days. Following the first extension of the time limit of official examination for up to 30 calendar days, the official having assigned official examination, based on the reasoned reporting notice of the entity holding official examination, may, within two working days and upon relevant legal act, once again extend the time limit for conducting official examination for up to 15 calendar days.
18. In case of failure to extend the time limit of official examination, the latter shall proceed and shall be completed within the time limit established by the decision on assigning official examination.

III. PARTICIPANTS OF OFFICIAL EXAMINATION AND THE POWERS OF PATICIPANTS

19. Participants of official examination shall be as follows:
 - (1) official assigning official examination (hereinafter referred to as “the party”);
 - (2) civil servant(s) against whom official examination is assigned (hereinafter referred to as “the party”);
 - (3) entity holding official examination;
 - (4) specialist involved in official examination;
 - (5) other person participating in official examination, who may bear any relation to the official examination (hereinafter referred to as “other person”).

20. The powers of the official assigning official examination (party) shall be as follows:

- (1) assigning official examination;
- (2) appointing the entity holding official examination;
- (3) establishing the method for conducting official examination;
- (4) determining the issues subject to clarification under official examination;
- (5) submitting relevant justifications, documents, where necessary;
- (6) getting informed of the course of official examination;
- (7) suspending the powers of a civil servant upon the decision on assigning official examination or in the course of official examination, by maintaining his or her salary;
- (8) involving a specialist;
- (9) joining or separating the materials of official examination and assigning a new official examination based thereon;
- (10) adopting, where necessary, decisions on official examination, based on the results of official examination, including those on suspending and (or) resuming and (or) terminating the official examination and (or) joining or separating the materials of official examination and submitting them, within two working days, to the parties through electronic documentation system;
- (11) requesting documents, materials and data from the bodies, organisations and institutions subordinate to the relevant body, upon the request of the entity holding official examination.

21. Powers of the entity holding official examination shall be as follows:

- (1) conducting complete, comprehensive and unbiased official examination within time limits and in accordance with the provisions prescribed by Law and this Procedure, by ensuring the performed actions to be documented;

- (2) observing the time limits established by Law and this Procedure;
- (3) submitting the materials of official examination and reporting on the course of examination upon the request of the official having assigned official examination;
- (4) receiving documents, materials, data and items from relevant structural subdivisions and offices, which are related with official examination, and attaching them, where necessary, to the materials of official examination;
- (5) taking explanations from a civil servant, participants of official examination and other persons related to official examination;
- (6) carrying out examination of materials, items and documents regarding the official examination;
- (7) filing a motion, in the course of official examination, to the official competent to assign official examination, aimed at temporary termination of powers of the civil servant having committed a disciplinary violation;
- (8) informing the official competent to appoint to a position and (or) the official competent to assign official examination, about detection of another disciplinary violation;
- (9) filing a motion to the official competent to assign official examination, aimed at involving a specialist in official examination;
- (10) filing a motion to the official competent to assign official examination, aimed at suspending and (or) resuming and (or) terminating the official examination and (or) joining or separating the materials of official examination;
- (11) informing the civil servant of the materials of official examination relating thereto, except for the data containing state and official secret;
- (12) drawing up an opinion based on the results of official examination following the completion of official examination;

- (13) submitting the opinion drawn up on the basis of the results of official examination to the official competent to appoint to a position and (or) the parties of official examination;
 - (14) proposing recommendations on the prevention and elimination of disciplinary violations of competent officials of the relevant body and (or) on integrity system;
 - (15) drawing up and numbering the materials of official examination.
22. The powers of a civil servant acting as a party, against whom official examination is assigned, shall be as follows:
- (1) getting informed of the reasons of conducting official examination;
 - (2) receiving, including through electronic documentation system, the legal acts adopted with regard to the course of official examination,;
 - (3) giving explanations regarding the official examination, signing the explanations given by him or her;
 - (4) admitting the fact of having committed the violation by him or her;
 - (5) refusing to give explanations;
 - (6) filing a motion with the aim of including documents and items in the materials of official examination;
 - (7) submitting documents and items with the aim of including them in the materials of official examination;
 - (8) filing a motion with the aim of requesting explanations from other person(s) regarding the violation;
 - (9) getting familiarised with the materials of official examination following the completion of official examination, except for the data containing state and official secret;
 - (10) receiving the opinion based on results of official examination.

23. The powers of other person shall be as follows:
- (1) giving explanations;
 - (2) submitting justifications and documents on the committal of the violation;
 - (3) filing a motion with the aim of requesting explanations from other persons regarding violation.
24. The powers of a specialist involved in official examination shall be as follows:
- (1) getting informed of the issues subject to clarification under official examination;
 - (2) providing professional opinion in writing on issues proposed to him or her and those falling under his or her competence, upon the request of the entity holding official examination;
 - (3) giving explanations (additional explanations), upon the request of the entity holding official examination, with respect to written opinion provided by him or her or clarification of actions performed with his or her participation;
 - (4) getting familiarised with the documents drawn up in respect of the course, content, results of the actions performed with his or her participation and submitting comments thereon;
 - (5) submitting written or oral recommendations to the entity holding official examination, in respect of performing individual actions, as well as attaching documents and items to the materials of examination and processing them;
 - (6) appearing upon the request of the entity holding official examination, participating in the performance of necessary actions and providing, within the scope of his or her professional knowledge, consultation on clarification of individual issues and performance of actions, where necessary — participating therein;

- (7) attesting with signature the completeness and accuracy of records available in protocols (statements of information) drawn up on the course, content and results of actions performed with his or her participation, whereas in case of failure to sign — submitting a written reasoning.
25. The specialist shall be involved in official examination in order to provide consultation on professional knowledge and competences in a specific field;
26. The official competent to assign official examination shall, upon his or her decision and based on the relevant motion of the entity holding official examination, apply to relevant competent bodies and (or) legal and (or) physical persons possessing relevant authorisation, in order to provide with a specialist and (or) be involved as a specialist.
27. The specialist shall submit to the entity holding official examination the documents attesting his or her education and (or) qualification.

IV. THE PROCESS OF CONDUCTING OFFICIAL EXAMINATION

28. The person holding official examination shall conduct the official examination by means of verifying, comparing and clarifying circumstances.
29. In case of detecting a violation(s) in the course of official examination, the entity holding official examination shall inform the official competent to appoint to a position and (or) the official competent to assign official examination, thereon.
30. Information on the results of each stage provided for by point 15 of this Procedure shall be posted on information platform of civil service.
31. The entity holding official examination may not take as a basis or use, on the part of official examination, factual data having been obtained by use of threat, deception or other illegal actions, as well as those having been obtained by a person not entitled to perform the given action.

32. The entity holding official examination shall assess the legal and factual circumstances obtained in the course of official examination by his or her inner conviction, by complete, comprehensive and unbiased examination of circumstances, sufficient set of reliable data collected in the course of official examination.
33. In case of detecting any appearance of crime and (or) infraction in the materials of official examination, relevant state bodies shall be informed thereon and the official examination shall be suspended. In case this appearance [of crime and (or) infraction] fails to be established by relevant state bodies or in case of absence of the grounds for proceeding with [official examination] based thereon, as prescribed by legislation of the Republic of Armenia, the official examination shall resume. The official examination shall be also suspended, where:
- (1) the adoption of the decision expected as a result of given official examination is not possible until the delivery of relevant decision (judicial act) on the case pending in a constitutional, administrative, civil or criminal procedure action;
 - (2) the party is absent and the entity holding official examination considers his or her presence necessary for receiving clarification of certain important circumstances therefrom related to official examination.
34. The official examination shall be terminated, where:
- (1) the time limit for applying a disciplinary penalty, provided for by part 5 of Article 21 of the Law, has expired;
 - (2) the official competent to assign official examination has terminated the decision on assigning official examination.
 - (3) the person is no longer a civil servant.
35. The official examination shall be suspended, resumed, joined to another official examination or a new case of official examination shall be separated, or it shall

be terminated by relevant decision of the official competent to assign official examination, which shall be provided, within two working days following the adoption thereof, to the entity holding official examination and the parties of official examination, in writing and (or) through electronic documentation system.

V. COMPLETION OF OFFICIAL EXAMINATION, FORMULATION OF THE RESULTS

36. While conducting official examination, as a result of comprehensive and unbiased examination of circumstances subject to clarification under official examination and sufficient set of collected reliable data, the entity holding official examination shall consider the conduct of official examination as completed.
37. Where an official examination is conducted against a civil servant, the entity holding official examination shall inform the parties on completion of official examination and provide materials of official examination thereto to get familiarised with thereby, and relevant protocol shall be drawn up thereon.
38. Where an official examination is conducted against a civil servant, the parties shall be given two working days to get familiarised with the materials of official examination.
39. The materials of official examination shall be submitted to the parties to get familiarised with thereby after being numbered and bound.
40. Where the parties refuse to get familiarised with the materials of official examination or sign the protocol drawn up to that regard, the entity holding official examination shall make a record on relevant reasons in the protocol.
41. After getting familiarised with the materials of official examination, the parties may, within two working days, submit a written motion on attaching documents and other factual data to the materials of official examination.

42. The entity holding official examination shall, within one working day, consider and decide on the motion provided for by point 41 of this Procedure, and shall inform the parties in writing thereon.
43. The results of official examination shall be summarised under relevant opinion drawn up by the entity holding official examination, within 5 working days following the performance of the action designed for the conduct of official examination and provided for by point 36 of this Procedure.
44. The entity holding official examination shall submit to the parties the opinion drawn up on the basis of the results of official examination.
45. In the cases provided for by Article 35 of the Law, the Ethics Commission of Civil Servants shall deliver an opinion based on the results of official examination and immediately submit it to the parties.
46. The official competent to appoint to a position shall, following the time period provided for by part 11 of Article 21 of the Law, based on the results of official examination, adopt a decision, except for the cases provided for by Article 35 of the Law.
47. The official competent to appoint to a position shall, following the adoption of the decision provided for by point 46 of this Procedure, not later than within three working days following the imposition of a disciplinary penalty, provide it, in writing and (or) through electronic documentation system, to the parties and the entity holding official examination.

**Prime Minister
of the Republic of Armenia**

N. Pashinyan