SAMPLE TEMPLATE FOR DISCIPLINE DECISIONS
(Visit www.mass.gov/csc to review actual decisions issued by Commission)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

<Appellant Name>,
Appellant

v.

D-

<Respondent Name>,
Respondent

Appellant's Attorney: <Name, Address, Phone, Email>

Respondent's Attorney: <Name, Address, Phone, Email>

Commissioner: <Commissioner Name>

DECISION

The Appellant, <Appellant Name> (hereafter "<Appellant Last Name>" or "Appellant"), pursuant to G.L. c. 31, § 43, filed an appeal with the Commission on <date>, claiming that <Appointing Authority> (hereafter "xxxxx" or "Appointing Authority") did not have just cause to <discipline issued> as a <position> for <alleged violations>.

The appeal was timely filed. A hearing was held on <date of hearing>. As no written notice was received from either party, the hearing was declared private. The witnesses were / were not sequestered. <#> tapes were made of the hearing.

FINDINGS OF FACT:

<#> Exhibits were entered into evidence. Based upon the documents entered into evidence and the testimony of:

For the Appointing Authority:

- <list Appointing Authority Witnesses>

For the Appellant:

- <list Appellant Witnesses>;

I make the following findings of fact:

EXAMPLES OF FINDINGS OF FACT

1. The Appellant, <name>, was a tenured civil service employee of the <Appointing Authority> in the position of <position>. He had been employed by <xx> for approximately <#> years at the time of the <discipline>. (Testimony of Appellant)
2. The Appellant's prior discipline includes <prior discipline> (Exhibit #)
3. xxx (Testimony of <x>)
4. xxx (Exhibit #)
5. Parties should include all findings of fact which they believe should be adopted by the Commission. (See "Commission Decisions" at www.mass.gov/csc for prior decisions issued by Commission, including Findings of Fact). All Findings of Fact must be followed by a reference to the applicable testimony or exhibit)

CONCLUSION

<LEGAL CITES; EXAMPLES BELOW FOR A DISCIPLINE CASE>

The role of the Civil Service Commission is to determine "whether the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. 300,304 (1997). *See* Town of Watertown *v.* Arria, 16 Mass. App. Ct. 331 (1983); McIsaac v. Civil Service Commission, 38 Mass. App. Ct. 473, 477 (1995); Police Department of Boston v. Collins, 48 Mass. App. Ct. 411 (2000); City of Leominster v. Stratton, 58 Mass. App. Ct. 726, 728 (2003). An action is "justified" when it is done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." Id. at 304, quoting Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928); Commissioners of Civil Service v. Municipal Ct. of the City of Boston, 359 Mass. 211, 214 (1971). The Commission determines justification for discipline by inquiring, "whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service." Murray v. Second Dist. Ct. of E. Middlesex, 389 Mass. 508, 514 (1983); School Committee of Brockton v. Civil Service Commission, 43 Mass. App. Ct. 486, 488 (1997). The Appointing Authority's burden of proof is one of a preponderance of the evidence which is established "if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there." Tucker v. Pearlstein, 334 Mass. 33, 35-36 (1956). In reviewing an appeal under G.L. c. 31, §43, if the Commission finds by a preponderance of the evidence that there was just

cause for an action taken against an Appellant, the Commission shall affirm the action of the Appointing Authority. Town of Falmouth v. Civil Service Commission, 61 Mass. App. Ct. 796, 800 (2004).

The issue for the Commission is "not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the Appointing Authority made its decision." Watertown v. Arria, 16 Mass. App. Ct. 331, 334 (1983). *See* Commissioners of Civil Serv. v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-728 (2003).

<PROPOSED CONCLUSION>

This is where the parties should write the conclusion they believe should be adopted by the Commission. To review prior Commission decisions, including the Conclusions section, visit the Commission's website at www.mass.gov/csc and click on "Commission Decisions".

For all of the above reasons, the Appellant's Appeal under Docket Number D- is hereby allowed / dismissed.

Civil Service Commission

_____

<Name of Commissioner> Commissioner

By vote of the Civil Service Commission (Bowman, Marquis, Taylor and Guerin, Commissioners) on <date to be filled in by Commission>.

A true record. Attest:

_____
Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.

Notice:
<Appellant or Appellant's Attorney Name>
<Name of Respondent>