

ARTICLE V

APPOINTMENTS

MEDICAL EXAMINATIONS

Sec. 40. Medical examinations will be administered by the City Health Officer and/or other physician(s) as directed by the City Health Officer. Examinations shall be conducted under accepted medical standards approved by the City Health Officer and shall consider the person's ability to safely perform the essential duties of the position. The findings of the City Health Officer and/or other physician(s) shall be reported to the appropriate appointing authority and the Commission.

PROSPECTIVE EMPLOYEES The Civil Service Commission shall require that a medical examination be administered to each individual who has received a conditional offer of employment for any position in the classified service, before he/she begins work.

When such an individual fails the medical examination due to any medical condition that is not considered a disability, the Commission may, at its discretion, recommend that the appointing authority grant him/her reasonable time to remove and/or control the condition. The Executive Director may, under Section 6, subsection (5) of the Civil Service Rules and Regulations, withhold further certification of, and may recommend that the Commission remove from the eligible list, disqualify, and/or refuse to certify, individuals who have received a conditional offer of employment and failed the medical examination.

EMPLOYEES A medical examination shall be administered to any employee who has been absent from duty for any reason for a period of six months or more before he/she is eligible for, or entitled to, return to active duty. Additionally, an appointing authority, having reasonable cause to believe that an employee may be incapable of performing the essential duties of his/her position or may pose a direct threat to the health or safety of himself/herself, fellow employees, or the public, may require the employee to appear before the City Health Officer for a medical examination. The appointing authority or his/her designated representative shall arrange for and notify the employee, in writing, at least five days in advance of the time and place the examination is to be administered.

FAILURE OF EMPLOYEE MEDICAL EXAMINATION An employee will be deemed medically incapable if he or she fails such a medical examination and either cannot be reasonably accommodated or is not entitled to a reasonable accommodation because failure is not due to a disability. The appointing authority may transfer, reassign, demote, release, or retire such an employee in accordance with appropriate laws.

EMPLOYEE RIGHTS TO APPEAL Employees released due to incapability shall have the same due process rights as a disciplined employee including all provisions set forth in Section 76 of these rules and regulations. Employees given or denied disability retirements shall have the right to appeal as follows:

- (1) Local safety members of the Public Employees Retirement System (PERS) placed on disability retirement shall have the right to file a written notice of appeal with the Commission within 15 days after service of notice of disability retirement. All such appeals filed in a timely manner will be handled under Article VII of these Rules and Regulations, the appropriate sections of the Personnel Ordinance, and the California Government Code.
- (2) All other personnel shall have the right to appeal disability retirements directly to PERS, and cannot appeal such retirement to the Civil Service Commission. However, demotions, releases, or involuntary service retirements of classified personnel under this section may be appealed directly to the Civil Service Commission.

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PROBATIONARY PERIODS

Sec. 41. The appointment or re-appointment process to any position in the classified service other than Police Officer, Communications Dispatcher, Firefighter or Marine Safety Officer shall not be complete, nor shall the appointee acquire permanent classified status, until he/she has successfully served either a six-month probationary period which shall total (a minimum of) 1044 SCHEDULED work hours in the position's classification or until he/she has completed an extended probationary period as described in (2) below:

- (1) Individuals appointed to temporary, as needed (seasonal), or hourly positions in the classified service must successfully serve either a six month term of continuous service totaling 1044 SCHEDULED work hours or successfully serve intermittent terms of service, which shall be cumulative, totaling 1044 SCHEDULED work hours before permanent classified status will be earned.
- (2) Upon receipt of an appointing authority's written request to extend an employee's probationary time and written documentation that the employee has not demonstrated the ability to perform at an acceptable level during the first six-months term of service totaling 1044 SCHEDULED hours in an initial or different classification, the Commission may, at its discretion, require an employee to work additional probationary time to demonstrate job proficiency. Extensions of probationary period may be granted by the Commission in three months or 522 SCHEDULED work hours increments, but shall in no instance exceed six months or 1044 SCHEDULED work hours of extended probationary time.

- (3) Appointments to the positions of Police Officer, Communications Dispatcher, Firefighter and Marine Safety Officer shall not be complete nor shall the appointee acquire permanent status until a probationary period of one year totaling a minimum of 2088 SCHEDULED work hours have been served, except for Firefighters who are required to complete a minimum of 2912 scheduled work hours. Extensions of the probationary period for Police Officer, Firefighter, Communications Dispatcher and Marine Safety Officer may be granted by the Civil Service Commission in three month - or 522 SCHEDULED work hour increments, except for Firefighter, where the three month extension is 728 scheduled hours, but shall in no instances exceed six months or 1044 - SCHEDULED work hours of extended probationary time, except for Firefighter, where the six months extension is 1456 scheduled hours, and shall be granted pursuant to subsection (2) above.

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EMERGENCY APPOINTMENTS

Sec. 42. If, in times of emergency, it becomes necessary to fill positions in the classified service and no priority or eligible lists exist for the classification which encompass the vacant positions, the appointing authority may, for purposes of short term employment, make temporary appointments to those positions for a period not exceeding 30 days; however, the Commission may approve an extension of the appointments for a period not exceeding a total of 60 days.

PROVISIONAL APPOINTMENTS

Sec. 43. When no priority or eligible list exists for a classification, which has been requisitioned and should no priority or eligible lists exist for comparable or allied classifications suitable for alternate list certification, the Commission may, after review, certify the names of individuals it considers to be qualified for provisional appointment to the classification. All provisional appointments shall be temporary and shall be valid only until a priority or eligible list becomes available for certification for the classification and is forwarded to the user department. However, no provisional appointment shall be valid beyond a 150-day period unless approved by the Commission. For selectively certified vacancies, the Civil Service Commission may approve a provisional appointment after a department has interviewed candidates and determined that the candidates do not possess the selective certified skills needed to fill a vacancy.

Provisional appointments may be approved when there are insufficient eligible candidates on an existing eligible list as set forth in Section 27 of these rules.

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PERMANENT EMPLOYEE REINSTATEMENT AFTER TERMINATION OF PROVISIONAL APPOINTMENT

Sec. 44. When no priority or eligible list exists for a classification, or when desirous of re-assigning an employee to another classification for purposes of training and/or rehabilitation under Section 63 of these rules, the appointing authority may, with the consent of both the Commission and the employee, temporarily reassign an employee to a position in a different classification. All temporary reassignments, with the exception of those made for purposes of training and rehabilitation, which shall not exceed one year, shall be valid only until an eligible list for the classification in which the re-assigned employee is working becomes available for certification. When the temporary reassignment is terminated, the employee shall be returned to his/her previous position. Upon successful completion of rehabilitation an employee may be permanently transferred to the classification, which accommodated his/her rehabilitation pursuant to Section 67(3) of these rules.

Any person appointed or transferred to fill a position made vacant by a City employee's acceptance of a temporary reassignment, shall be considered a "substitute employee" and may be separated from the City at any time, unless the "substitute employee" holds status in another classification.

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REAPPOINTMENT OF RESIGNED EMPLOYEE

Sec. 45. If no priority list exists for a classification which has been requisitioned, a resigned or retired employee who had acquired permanent status in the classification may, after approval by the appointing authority and the consent of the Commission, be reappointed to the classification. If reappointed, the employee must serve a new probationary period.

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WAIVER OF APPOINTMENT

Sec.46. A person certified for appointment from an open-competitive eligible list or priority list may file a written waiver with the Commission declining a temporary appointment.

WAIVER OF CERTIFICATION FOR PROMOTION

Sec. 47. Any employee certified to and/or selected for appointment to a promotional position may, subject to the approval of the Commission, waive or decline the certification or appointment by filing a written statement with the Commission explaining the reason for the waiver or refusal of the appointment.

FAILURE TO APPEAR AFTER CERTIFICATION

Sec. 48. A person's failure to either respond to a certification notice within five days of its mailing, or failure to follow through on any part of the selection procedure shall be considered as either a waiver or a refusal of appointment to the position for which he/she was certified.

EXTENSION OF APPOINTMENTS PROVISIONAL AND NON-CAREER

Sec. 49. The termination dates of provisional appointees and of appointees to non-career positions may be extended at the discretion of the Commission if the extensions are deemed necessary in order for the appointing department to function and/or provided that permanent appointments to those positions which are, in fact, permanent, are being actively pursued.

ALLEGATIONS OF IMPROPER CERTIFICATION OR NON-RECEIPT OF INTERVIEW

Sec. 50. Any person who alleges that he/she has either failed to be certified, or after certification alleges that he/she has not received an interview under these rules may, at any time within the 60-day period immediately following either of the above listed allegations, either personally forward or direct his/her representative to forward a written appeal to the Commission. If the Commission receives such an appeal after the 60-day period stipulated above, the person shall forfeit all right to Commission redress of his/her allegations. The Commission may, for good cause, grant an additional 10 days in which to forward an appeal.

EMPLOYEE EVALUATIONS

Sec. 51. In order to determine the quality, quantity, and efficiency of work performed by employees in the classified service, the Commission shall, at regular intervals, request the appropriate appointing authority to evaluate and report the performance levels of such employees to the Commission in the manner prescribed by the Commission. For the purpose of expediting the preparation of employee evaluations, the Commission shall, by and through its Executive Director, provide training to supervisory personnel in employee performance evaluation.

VETERAN'S EMPLOYMENT RIGHTS

Sec. 52. In matters pertaining to veteran's employment and reemployment rights and procedures, these rules shall defer to all appropriately related legislation including Public Law 93-508, (as amended) the Veteran's Reemployment Rights Statute, and established Commission procedures.

Sec. 53. Consolidated with revised Section 40.

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Rev. July 20, 1993