

## ARTICLE I

### STATEMENT OF PURPOSE, CATEGORIES OF EMPLOYMENT, NONDISCRIMINATION STATEMENT AND DEFINITIONS

#### STATEMENT OF PURPOSE

**Sec. 1.** These rules and regulations are prescribed for the purpose of carrying out the mandates of Article XI of the Charter of the City of Long Beach, to assure City employees of fair and impartial treatment at all times, and, unless specifically stated otherwise, shall apply to all classified employees, classifications, positions, assignments, and the transactions which affect them. Pursuant to the City Charter, the Civil Service Commission may enforce and remedy violations of these rules and regulations.

#### NON-DISCRIMINATION

**Sec. 2.** Pursuant to Section 1104 of the City Charter, no person employed by or applying for employment with the City shall be hired, promoted, demoted, dismissed, or in any way favored or discriminated against for any reason, including but not limited to: age, sex, race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, sexual orientation, or political affiliation except where such factor is a bona fide occupational qualification or where the law compels or provides for such action. The Commission may request applicants for Civil Service examinations to provide voluntary information regarding age, sex, race, religious creed, color, national origin, ancestry, physical or mental disability, and/or other related data for statistical purposes; however, this data shall neither be used to determine an applicant's admittance to an examination, nor as a factor in the selection process. In addition, the Civil Service Commission adopts and subscribes to the City's Policy on Affirmative Action listed at the beginning of these rules.

Rev. July 20, 1993

#### CATEGORIES OF EMPLOYMENT

**Sec. 3.** The Civil Service of the City is hereby divided into the unclassified and the classified service. The unclassified service shall include:

- (1) All officers elected by the people and all employees of such elected officers;
- (2) Members of all appointive commissions;

- (3) The City Manager and all employees in the City Manager's Department;
- (4) The City Clerk and all employees in the City Clerk's Department;
- (5) Department heads, one assistant department head in each department, bureau heads, division heads, and one clerical position for each;
- (6) Any classification, which at the discretion of the Commission, is of such a nature as to require unique and special flexibility for administration;
- (7) The Executive Secretary of the Board of Harbor Commissioners and Harbor Department sales, traffic and promotion personnel, the Chief Wharfinger and all personnel intermittently employed in handling cargo and freight;
- (8) All personnel serving in non-career positions, as defined by the Civil Service Rules and Regulations.

The classified service shall comprise all positions not specifically included in the Charter as being in the unclassified service.

**NOTE:** See Section 1102 of the Charter of the City of Long Beach.

## **DEFINITIONS**

**Sec. 4.** As used in these rules and regulations, the following terms shall be defined as indicated:

### **(1) ACTIVE SERVICE**

"POLICE AND FIRE CLASSIFICATIONS ONLY" The total time an employee is carried on the payroll in a position from which a promotional opportunity is available, any time served as a provisional employee in a position sought, and any time served in a promotional position in the unclassified service in the same department. If the employee entered the United States Armed Forces after receiving permanent appointment, and he/she had completed his/her probationary period before filing an application to take a promotional examination, the "Active Service" computation shall include all time served in the Armed Forces during war, or national emergency proclaimed by the President, or the United States Congress, or an Act of the Congress providing for peacetime induction or conscription.

**(2) ALLIED CLASSIFICATIONS**

Classifications with closely related duties and responsibilities, which correlate in both degree of difficulty and level of responsibility.

**(3) APPLICANT**

Any person who has filed an application for employment with the City.

**(4) APPOINTING AUTHORITY**

A City officer, board, or commission having the authority to make appointments to positions in the Civil Service of the City of Long Beach.

**(5) APPOINTMENT**

The appointing authority's hiring of an individual to fill a vacant position in the Civil Service of the City.

**(6) ASSIGNMENT**

The specific job tasks and/or responsibilities either delegated or allotted to an employee for which the employee is then accountable.

**(7) BAND-ORDER**

The order in which candidates, whose open-competitive examination scores have been placed in the same score band, shall be certified to City requisitions.

**(8) CITY**

The City of Long Beach, a municipal corporation.

**(9) CIVIL SERVICE STATUS**

The degree of permanence of an employee in a position, i.e., provisional, probationary, or permanent.

**(10) CLASSIFICATION**

A group of positions sufficiently similar in duties and responsibilities so that each position in the group can be assigned the same classification title, minimum requirements, and initial salary range; and can be filled by using the same selection procedure.

**(11) COMMISSION**

The City of Long Beach Civil Service Commission.

**(12) DAYS**

Civil Service Department business days, excluding weekends and holidays unless specifically indicated otherwise in these rules and regulations.

**(13) DEMOTION**

The movement of an employee from one classification, grade, and/or salary step within a salary range to another classification, grade, or salary step resulting in a lower rate of pay.

**(14) DISMISSAL**

The permanent removal of an employee from City service.

**(15) DURESS**

Any threat or act of coercion which causes a person to consent to a transaction through fear.

**(16) ELIGIBLE LIST**

A list of names of qualified candidates established for the purpose of filling vacancies in the classified service of the City.

**(17) EMPLOYEE**

A person occupying a position of employment with the City.

**(17a) EMPLOYEE STATUS**

Employee status refers to the standing of an individual appointed to a particular position in the classified service. One of three types of employee status is assigned.

Probationary Employee – A person appointed to fill a permanent position in the classified service must satisfactorily complete a probationary period of six months of employment (one year for a Police Officer, Fire Recruit, Marine Safety Officer or Communications Dispatcher) before attaining permanent employee status. Probation must be successfully completed in order to remain in the City service.

Permanent Employee – A person attains permanent employee status upon satisfactory completion of probation, except for a permanent assignment approved by the Commission, pursuant to Section 67(1) of these rules. Upon accepting a promotion or an appointment to a different classification, an employee must serve another probationary period in the new classification before obtaining permanent employee status in that classification.

Provisional Employee – An appointment on a provisional basis is made only if there is no eligible or priority list available for the particular classification and the department has an immediate need to fill a vacancy. This appointment may last only until an eligible list is created, but no longer than 150 days. A provisional appointee has no rights under the Civil Service System. Civil Service Commission approval is required.

**(18) EMPLOYEE REPRESENTATIVE**

The individual chosen by an employee as an intermediary when the employee appears before the Commission.

**(19) EXAMINATION**

Methods, procedures, or devices used to measure the relative capability of an applicant or applicants to perform the duties of the job for which they have applied. Examinations may be:

(a) Open - an examination for which all interested members of the public may apply. Open examinations may be:

- (1) "Competitive" an examination, which evaluates individual candidates parametrically, using established criteria of required knowledge, skills and abilities.
- (2) "Non-Competitive" an examination which evaluates individual candidates on a non-parametric basis using ratings or ranking of training, experience, education and/or review of certificates or licenses submitted by the applicant.
- (3) "Continuous" a test that is open to all qualified candidates on a continuous basis without restrictions on dates of filing until such time as all position(s) are filled.

(b) Promotional - an examination for a particular classification for which only employees of the City may apply, excluding non-career employees.

**(20) EXECUTIVE DIRECTOR**

The director of the Civil Service Department and Chief Executive Officer of the Civil Service Commission.

**(21) FRAUD**

A misrepresentation of fact which perverts the truth and/or misleads the City or a person, to his/her detriment, through deceit.

**(22) IN THE BEST INTEREST OF THE CITY**

Whatever aids and promotes the effective operation of the City's affairs in rendering service to the people of the City of Long Beach and shall embrace consideration of the needs of city management, the employee involved and the citizens of the City.

**(23) JOB FAMILY**

Jobs grouped by occupational designation based upon the general nature of the work performed, e.g. unskilled labor, skilled trades, clerical, professional, etc.

**(24) JOB SPECIALTY**

A specific field of work within a job family, e.g. carpentry, personnel, fire, etc.

**(25) POSITION**

A set of duties and responsibilities designed to require the full-time or parttime employment of one employee. A position may be occupied or vacant and may be filled either temporarily or permanently. Positions may be of the following types:

(a) CAREER POSITION - A full or part-time position in which duties are not expected to terminate at any given time.

(b) NON-CAREER POSITION- An unclassified position in which duties are of a temporary or as-needed nature, and does not exceed 1600 hours within a twelve month period.

(c) TEMPORARY POSITION - A non-recurrent classified or unclassified position in which the duties shall be discontinued within nine months from the date they are first commenced.

(d) AS NEEDED POSITION - Recurrent classified or unclassified positions which are filled periodically on an "on-call" basis either daily, weekly, monthly, or seasonally and in which employment does not exceed 1600 paid hours in any 12-month period.

**(26) POSITION ALLOCATION**

The assignment of a position to its proper classification, according to the duties performed.

**(27) PRIORITY LIST**

A list of names of classified employees, ranked by seniority, who have been laid off or who have been reverted to a former classification in lieu of layoff, and who retain the right to reinstatement to their former classification as provided in these rules.

**(28) PROBATIONARY PERIOD**

The final phase of the selection procedure during which a classified employee is required to demonstrate his/her fitness by actual performance of the duties of the classification before gaining permanent status.

**(29) PROMOTION**

The movement of an employee from one classification, grade, and/or salary step within a salary range to another classification, grade, or salary step resulting in a rate of pay higher than his/her immediate classification, grade and/or salary step.

**(30) PROVISIONAL APPOINTMENT**

A Commission-approved temporary appointment made when it is beneficial that immediate action be taken to fill a vacant position and no active priority list or eligible list is available.

**(31) REAPPOINTMENT**

The probationary appointment, without further participation in a selection process, of a resigned or retired employee to a classification in which probation had been completed.

**(32) RECLASSIFICATION**

The allocation of a position from one classification to another classification.

**(33) SELECTION PROCEDURE**

The implementation of any device and/or methods used to establish an eligible list, including, but not limited to, application screening, written tests, oral interviews, performance tests, departmental evaluations, background investigations, and psychological or physical exams.

**(34) SUSPENSION**

The temporary removal of an employee from City service for a specified period.

**(35) TEMPORARY ASSIGNMENT**

The Commission-approved temporary assignment of an employee to a different classification for training or rehabilitation or to fill a vacant position when no active eligible or priority list is available. Any employee so assigned shall lose no acquired status in his/her permanent position.

**(36) TIME OF WAR**

The periods of December 7, 1941 through December 31, 1946; June 27, 1950 through July 27, 1953; August 5, 1964 through May 7, 1975, August 2, 1990

through January 2, 1992, and any other periods of expedition of the Armed Forces of the United States which may be specified as being encompassed by this definition by the City Council.

**(37) MEDICAL EXAMINATION**

Examination conducted by a licensed physician from the Department of Health and Human Services or designee, to determine a job candidate's or employee's fitness to perform the essential tasks/duties of a specific classification.

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## **ARTICLE II**

### **APPLICANTS & APPLICATIONS**

#### **APPLICATIONS**

**Sec. 5.** Application for admission to examinations conducted by the Civil Service Department shall be made on the forms furnished by the Commission. Applicants must submit separate application forms to take each announced examination. No filing fee will be required of any applicant. The application forms and any related attachments, proofs, and/or supplemental documents either required of, or voluntarily submitted by the applicant will be considered the property of the Civil Service Department and must be received during the periods established by the Civil Service Department. Filing periods shall be posted on the respective examination announcements. At his or her discretion, the Executive Director may extend an examination's filing period beyond its posted closing date and shall provide notice of such extension to all concerned parties. Each application form shall be signed by the applicant submitting it as an affirmation that all statements made in the application are true.

#### **DISQUALIFICATION OF APPLICANTS**

**Sec. 6.** The Commission may refuse to examine, or after an examination, may remove from any eligible list, disqualify, and/or refuse to certify any person who:

- (1) fails to submit a completed application and/or related supplemental documents to the Civil Service office on or before an examination announcement's established closing date;
- (2) does not meet the minimum requirements to file as stated in applicable examination announcements;
- (3) has made any false statement of material fact to the Commission, or its staff;
- (4) has practiced or has attempted to practice any deception or fraud in the application or examination process;
- (5) has failed the medical examination administered by the City Health Officer and either cannot be reasonably accommodated or is not entitled to reasonable accommodation because failure is not due to a disability;

- (6) has failed the background investigation administered by the Long Beach Police Department and/or by an appointing authority;
- (7) has been removed from a previous City eligible list for cause, or has been dismissed from City service for inefficiency or for other disciplinary reasons;
- (8) has failed to comply with or has otherwise ignored any instruction, direction, or request made or given by Commission staff either immediately prior to, during, or immediately subsequent to the administration of Civil Service examination processes;
- (9) has, after attaining a place on an eligible list, not responded to Civil Service Department inquiries regarding continued interest in City employment.

Rev. August 21, 2001

## **QUALIFICATIONS AND REQUIREMENTS**

**Sec. 7.** The Commission shall establish and display job announcements, publish the qualifications and minimum requirements needed to compete in examinations for classified employment, notify employees in advance of any changes in such minimum requirements or qualifications prior to job announcement approval, and may limit participation in promotional examinations to employees who are serving or who have served for the time specified on the job announcement, in certain classifications, departments, bureaus or divisions of the City.

The Commission shall make every effort to provide promotional examinations for those City employees in classifications wherein the skills needed for advancement are easily acquired. In all matters regarding qualification or disqualification of applicants, the decision of the Commission shall be final.

Rev. July 20, 1993

## ARTICLE III

### EXAMINATIONS

#### NOTICE OF EXAMINATIONS

**Sec. 10.** Subject to the approval of the Commission, Civil Service examination announcements shall be posted publicly for a minimum of seven days. Examination announcements shall contain information regarding the duties of and the minimum qualifications needed to perform the job, general information, including salary, and when and where to file applications. In addition to the above, announcements of promotional examinations shall also indicate the Civil Service Rules by which seniority points will be determined, the classifications eligible for participation, and shall be forwarded to all City departments for posting in areas where eligible employees pass in their normal course of employment.

#### EXAMINATION INFORMATION

**Sec. 11.** Information or advice regarding the actual problems and/or questions contained in Civil Service examinations shall not be given to applicants. However, general study manuals, and/or book lists authorized by the Executive Director, may be distributed to applicants, if the distribution is a part of the stated examination procedure.

#### CONDUCT OF EXAMINATIONS

**Sec. 12.** All Civil Service examinations and/or other employee selection procedures shall be administered fairly, objectively, and equitably pursuant to established Commission policy and procedures.

#### GRADING OF EXAMINATIONS

**Sec. 13.** The passing grade in examinations shall be 70 or above. Any applicant whose score in any examination part or section is less than the minimum level established by the Commission and these Rules shall be disqualified and prohibited from further participation in the examination process or placement on the eligible list. Each applicant's final score on an examination shall be used to determine placement in the rank or band order of applicants on an eligible list, except as indicated below:

- (1) where preference is given to veterans as provided by Section 1105 of the City Charter;
- (2) in promotional examinations where seniority credits are made a part of the final grade;
- (3) in non-competitive examinations where strict ranking of applicants is not required pursuant to Commission policy and procedures.

### **CREDIT FOR SENIORITY**

**Sec. 14.** On promotional examinations, the points to be allowed for seniority shall be based upon length of employment, subject to Section 102 of these rules, in all classified classifications designated on the examination announcement as qualifying classifications, and shall be computed using the following scale:

One-half point for each completed year of classified City employment up to and including the tenth year. Seniority credits shall be computed on a whole month basis.

- (1) In calculating seniority points, length of employment shall include all time during which the employee is carried on the payroll after permanent appointment to classifications which are designated on the examination announcement as qualifying, and shall encompass all time the employee is absent from duty and drawing disability compensation as a result of sickness or injury suffered or sustained during the course of employment, and all times during which the employee is serving in the Armed Forces of the United States during war or national emergency proclaimed by the President, or the Congress of the United States, or an Act of Congress providing for peacetime induction or conscription; but shall not include the times that the employee is absent from duty on leave of absence, laid off, or suspended.
- (2) Applicants for promotion in the Police Department and Fire Department shall be allowed the same credit for seniority as listed above, except that the applicant's total time of employment in the City's subordinate level Police or Fire classifications shall be added together to determine seniority credit. A maximum credit for seniority shall be five points (10 years of service).

Rev. August 21, 2001

### **LENGTH OF SERVICE REQUIRED FOR PROMOTION POLICE**

**Sec. 15.** No member of the Police Department shall be eligible to take a promotional examination unless he/she holds a permanent appointment in the classification from which promotion is sought and, after such appointment, shall have completed the

required minimum period of active service. The minimum periods of active service are as follows:

- (1) Police Corporal, three years combined service as a Police Officer and Police Recruit.
- (2) Police Sergeant
  - a) status as a Police Corporal or,
  - b) three years combined service as a Police Officer and Police Recruit.
- (3) Police Lieutenant, two years as a Police Sergeant. Time served in the classification of Policewoman Sergeant prior to November 1, 1973, shall be considered as equivalent to service as a Police Sergeant.
- (4) Police Captain, one year as a Police Lieutenant.

#### **LENGTH OF SERVICE REQUIRED FOR PROMOTION - FIRE**

**Sec. 16.** No member of the Fire Department shall be eligible to take a promotional examination unless he/she holds a permanent appointment in the classification from which a promotion is sought and, after such appointment, shall have completed the required minimum period of active service. The minimum periods of active service are as follows:

- (1) Engineer or Fireboat Operator, four years combined service as a Fire Fighter and Fire Recruit.
- (2) Fire Captain, six years combined service as a Fire Recruit, Fire Fighter, Engineer, and/or Fireboat Operator. Time served in any of these classifications may be cumulative.
- (3) Battalion Chief, three years as Fire Captain.

#### **PROMOTIONS - MARINE SAFETY SERGEANT - BOAT OPERATOR AND MARINE SAFETY - BOAT OPERATOR**

**Sec. 17.** All appointments to fill the position of "Marine Safety Sergeant - Boat Operator" or "Marine Safety - Boat Operator" shall be made from applicants who have completed at least two years active service as a Marine Safety Officer in the "permanent service" on or before the last day for filing of applications to take the examination. The Commission shall establish appropriate promotional eligible lists as described in these rules.

## **TIES IN OPEN EXAMINATIONS**

**Sec. 18.** When two or more applicants competing in an open examination achieve the same final score, rank order on the eligible list shall be determined by the order in which their applications were filed, with the exception of those applicants covered by Section 1105 of the City Charter. Applicants with a tie in final scores shall be certified to requisitions together.

Rev. July 23, 1996

## **TIES IN PROMOTIONAL EXAMINATIONS**

**Sec. 19.** When two or more employees achieve the same final score in a promotional examination, a higher rank order on the eligible list shall be given to the employee having the greatest seniority under Section 14 of these rules. If both employees' final score and seniority are the same, preference shall be determined by the order in which their applications were filed. Employees with a tie in final scores shall be certified to requisitions together.

## **PROTEST OF EXAMINATIONS**

**Sec. 20.** Examination materials including all testing instruments shall not be subject to review by the public.

The Commission shall not consider any claims against the judgment or expertise of the raters in assigning scores for tests.

Following each examination component, there shall be a two-business day protest period during which the candidate may submit a written protest against the conduct of his/her test to the Executive Director. Candidates shall submit written protest(s) on forms provided by the Commission. Civil Service staff will review written protests received during this protest period, and make a determination within three business days. Upon notification of staff's determination, where there is a disagreement with staff's disposition, candidates may appeal in writing to the Commission within five days for final determination.

After the Commission has approved the final examination results and final scores have been transmitted to all candidates, there shall be a period of five business days during which a candidate may submit a written notice to the Executive Director requesting that their final examination computations be checked for accuracy. Civil Service staff shall review the candidate's computation of final scores and make a determination within three business days. Upon notification of staff's determination, where there is a disagreement with staff's computation of the candidates' final scores, candidates may appeal in writing to the Commission within five days for final determination.

## ARTICLE IV

### ELIGIBLE AND PRIORITY LISTS

#### ESTABLISHMENT OF ELIGIBLE LISTS

**Sec. 25.** The Executive Director shall direct the establishment of eligible lists for classifications in the classified Civil Service. Names shall, without exception, be placed on promotional eligible lists in the rank order of total score achieved. On opencompetitive examinations, name placement by either rank or band order may be utilized. Names derived from continuous open-competitive examinations and placed on eligible lists shall also be subject to rank or band order as stated above, but the rank or band order of any candidate shall be subject to revision based on the passing scores achieved by applicants in succeeding administrations of the specific continuous examination. In non-competitive examinations, qualifying applicants shall be placed on eligible lists by application file number.

#### LIFE OF ELIGIBLE LISTS

**Sec. 26.** Eligible lists derived from open-competitive examinations shall generally expire one year from their established effective dates. Promotional eligible lists shall expire after two years. After determining the eligible list's utility, if needed, through polling of candidates of interest in City employment, an eligible list derived from an open-competitive examination may, subject to Commission review, be either reduced or extended by the Executive Director. However, the total life of such list shall not exceed three years.

Eligible lists for those classifications for which the continuous testing process is used **may** expire six months from their effective dates.

Rev August 21, 2001

#### CERTIFICATION FROM OPEN ELIGIBLE LISTS

**Sec. 27.** When no priority list exists for an open-competitive classification and a personnel requisition for that classification is received by the Civil Service Department, the Executive Director shall certify names in rank or band order from the eligible list established for that classification. The minimum number of names certified shall be four plus the number of vacancies; however, each candidate, on the specific eligible list from which certifications are being made, whose whole number score or band score is the same as the whole

number or band score of the last candidate certified to the requisition, shall also be certified. Operating departments shall send a notice of selection interview in writing or make personal contact, and shall provide job candidates a minimum of five days notice to respond. The appointing authority shall attempt to notify and interview the candidates in rank order when they are not score banded, then they may select from any of the names certified. Score banded candidates may be selected randomly; however, when two or more score bands are certified to the same requisition, candidates in the higher score bands must be offered an interview before selecting from lower bands. After making a selection, the appointing authority shall indicate on the requisition the person or persons selected, and the disposition of all other candidates in order of certification up to the candidate selected, and shall retransmit the requisition to the Executive Director at the conclusion of the selection process. Personnel/Payroll transactions relating to new personnel acquisitions shall not be cleared by the Executive Director until the above referenced dispositions are received by the Civil Service Department. With the exception of those not selected because of failure to meet the medical, physical, psychological, or background investigation standards established for the position sought, candidates shall be entitled to at least two certifications to an identical vacancy in the same department.

Notwithstanding the provisions of this or other sections governing appointment to classified positions, the following exceptions shall apply:

- (1) If less than the minimum number of names required are on an eligible list, the appointing authority may request a new examination, request other appointment pursuant to these rules, or consider the names certified by the Executive Director from an alternate eligible list.
- (2) If there are concurrent vacancies, the Executive Director may certify as many names as he/she feels are necessary to fill the listed vacancies.
- (3) After an analysis of the test results from an open-competitive examination, the Executive Director may certify candidates to existing vacancies by score bands.

Rev. August 21, 2001

## **SELECTIVE CERTIFICATION**

**Sec. 28.** When a vacancy occurs in a classification composed of more than one position and an appointing authority informs the Commission, in writing, that the vacant position requires, in addition to the classification's minimum qualifications, special skills, knowledge, or abilities not required of other employees in the classification, the Commission, at its discretion, shall authorize the Executive Director to certify only the names of those on the eligible list who possess the particular skill, knowledge or ability.

Authorization for certification under this section shall be granted if the Commission considers the written justification provided by the appointing authority to be satisfactory. Otherwise, certification shall be in accordance with Section 27 of these rules and regulations.

Rev. August 21, 2001

## **CERTIFICATION FROM PROMOTIONAL ELIGIBLE LISTS**

**Sec. 29.** Names certified from eligible lists, which have been derived from promotional examinations shall be certified in the rank order of their final score. The minimum number of names certified shall be four plus the number of vacancies shown on the requisition, and the appointing authority shall attempt to interview eligibles for selection in the order of their certification. Rev. August 21, 2001

## **PRIORITY LISTS**

**Sec. 30.** When these rules require employees names to be placed on priority lists, the Executive Director shall place the names on the appropriate list according to seniority, and the employee highest on the list shall be entitled to be offered reemployment first. If two or more employees in the same classification have the same seniority, then the employee who attained the highest standing on the classification's eligible list shall rank first.

## **DURATION OF TIME ON PRIORITY LIST**

**Sec. 31.** A person whose name has been placed on a priority list shall, for a period of one year, be entitled to re-employment in his/her previous classification with the same Civil Service status that he/she had at the time his/her name was placed on the priority list. However, a person whose name remains on a priority list continuously for more than one year, and who is subsequently reappointed, will be required to complete a new probationary period. The maximum length of a priority list shall be a total of three years.

Rev. August 21, 2001

## **REMOVAL OF NAMES FROM ELIGIBLE AND PRIORITY LISTS**

**Sec. 32.** The Executive Director, unless contrary to an action by the Commission, may either withhold certification of, or request the Commission to remove the name of a person from any eligible or priority list for any of the following reasons:

- (a) If a person whose name is on a priority or eligible list twice waives or declines a permanent appointment without giving satisfactory written reasons to the Commission for the inability to accept appointment;
- (b) If a person on a priority or eligibility list voluntarily requests in writing that his/her name be removed from such list;
- (c) If a person fails to pass the physical examination listed under Section 40;
- (d) If an employee on a priority list, who has been laid off from a seasonal position has waived his/her right to reappointment to that seasonal position without approval of the Commission;
- (e) If a person whose name is on an eligible or priority list is dismissed for disciplinary reasons;
- (f) If a person on an eligible or priority list fails to respond to Civil Service inquiries regarding continued interest in City employment.

Rev. August 21, 2001

### **COMBINING ELIGIBLE LISTS**

**Sec. 33.** When two or more classifications are consolidated and priority or eligible lists exist for the classifications prior to their consolidation, the Commission may, at its discretion, order the Executive Director to combine the priority and/or eligible lists or, in the event that only one of the classifications so consolidated has an eligible list, to use that list when filling vacancies in the classification resulting from the consolidation. The names of persons on affected eligible lists shall be combined in the rank order of the total score achieved on the examination given to establish the original eligible lists. The names which are placed on a combined priority list shall be ranked according to their seniority.

### **WAIVER OF APPOINTMENT - PRIORITY LIST LIFEGUARD SERVICE**

**Sec. 34.** A person whose name is on a priority list created for the position of Lifeguard (Seasonal) shall waive his/her right to appointment and be removed from the priority list if he/she fails to: a) respond to a notice of certification within five days after written notice to do so, or b) fails to report for duty on the day set by the appointing authority. However, the Commission, at its discretion, may permit a person to waive his/her right to appointment, for one season only, if he/she provides acceptable written reasons; i.e., sickness, accident, or summer school attendance, to the Commission.

## **CERTIFICATION FROM PRIORITY LISTS**

**Sec. 35.** When it has been determined that a priority list exists for a classification requisitioned by an appointing authority, the Executive Director shall certify names from that priority list. The order of certification and appointment shall follow the rank order of the names on the priority list.

## **CERTIFICATION FROM ALTERNATE ELIGIBLE LIST**

**Sec. 36.** Whenever a requisition is received in the Civil Service Department to fill a vacancy in a classification for which no priority or eligible list exists, the Executive Director may certify names from priority or eligible lists established for comparable or higher classifications in the same job specialty. If no lists exist for comparable or higher classifications in the same specialty, certification may be made from an eligible or priority list established for an allied classification of comparable or higher qualifications and duties. A permanent appointment under this section shall have no effect on the appointee's rank order or status on any eligible or priority list established for a comparable, higher level, or allied classification.

## **NOTIFICATION OF CHANGE OF ADDRESS**

**Sec. 37.** Every job candidate whose name has been placed on an eligible list or priority list, shall keep the Commission informed of his/her correct mailing address. Information submitted shall be signed by the candidate and shall include the name of the list or lists upon which his/her name appears. As necessary, the Commission shall send any notice required to the address furnished by the candidate. Failure by the candidate to keep the Commission informed of his/her correct address may be considered a waiver of his/her rank order of certification and his/her right to appointment from any list or lists.

## 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. Rev August 21, 2001

### **PERMANENT EMPLOYEE REINSTATEMENT AFTER TERMINATION OF PROVISIONAL APPOINTMENT**

**Sec. 44.** When no priority or eligible list exists for a classification, or when desirous of reassigning 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.

Rev. July 20, 1993

### **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.

Rev. July 20, 1993

### **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 noncareer 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.

**Sec. 54.** Consolidated with revised Section 40.

**Sec. 55.** Consolidated with revised Section 40.

Rev. July 20, 1993

## ARTICLE VI

### CLASSIFICATIONS, RECLASSIFICATIONS, REASSIGNMENTS AND TRANSFERS

#### REQUISITIONS

**Sec. 60.** The appointing authority shall transmit a personnel requisition to the Civil Service Department in a format prescribed by the Commission when filling any classified vacancy. The requisition shall state the number of vacant positions to be filled, the anticipated date of employment, the position's title according to Civil Service classification, and whether the requisition is submitted to fill a temporary or permanent classified position. After certification, personnel requisitions shall become void after either 90 days have passed or after all vacancies indicated on the requisition are filled. Upon request by the appointing authority, the Commission may extend the expiration of a requisition beyond 90 days.

#### DUTIES OF CLASSIFICATION

**Sec. 61.** The duties assigned to classified classifications shall be those designated by the appropriate appointing authority. If the appointing authority has not defined the duties of the classification, the type of work commonly attributed to the classification's specific title will be considered by the Commission as the primary duties of the classification and will be measured in Civil Service examinations.

Rev. July 23, 1996

#### DUTIES OF EMPLOYEE

**Sec. 62.** When an employee is performing the duties of the classification to which he/she was certified and appointed at least 75% of the time during a 30-day period, he/she shall be considered as properly performing the duties of the classification. However, if the employee is continually assigned duties that either belong to, or are more appropriately encompassed by, another classification more than 25% of the time and/or the employee is performing duties which are not in compliance with these rules, the Commission may, at its discretion, make an independent investigation of the matter pursuant to Section 1101(b) of the City Charter.

- (1) Should the investigation determine that the employee is continuously working outside his/her proper classification, the Commission may instruct the appropriate appointing authority to assign the employee to the duties for which the employee was examined and certified.

(2) Should the investigation determine that a new classification is necessary to encompass the subject duties, then such a classification shall be created pursuant to Section 1101(d) of the City Charter and an examination held to create an eligible list for the new classification.

(3) Should the investigation determine that permanent assignment to another classification is warranted, it shall be accomplished under the auspices of Section 67 of these rules.

Rev. July 20, 1993

### TEMPORARY REASSIGNMENTS

**Sec. 63.** All employees shall be assigned to and perform the duties of the classifications to which they have been certified and appointed; however, in certain instances, an employee may, upon recommendation of the concerned department head, approval of the appointing authority, approval of the Commission, and in compliance with the following, be temporarily assigned to the duties of another classification. Employees so reassigned shall not accrue Civil Service status in the temporary reassignment, but shall continue to accrue seniority in his/her current classification.

Temporary reassignments may be made in the following instances:

(1) In cases of emergency. Such assignments normally shall not exceed 30 days. However, the Commission may authorize an extension of said assignment if it finds such further extension to be in the best interest of the City.

(2) As specified in Section 43 of these rules.

(3) For purposes of training and development, provided the planned course and duration of training is agreed to by the appointing authority, the Commission, and the employee. Requests for training plans needing more than one year to complete shall require annual approval of the Commission. The employee shall be entitled to employee representation before the Commission when the matter is considered.

(4) For the purpose of recovery from a medical condition that has been certified as temporary by the City Health Officer. Notwithstanding the provisions of this section, the length of this type of temporary assignment shall be granted for the time required for the employee to regain the ability to perform in his/her proper classification as reported by the City Health

Officer subject to approval by the Commission at a hearing, if requested. Unclassified employees shall be covered by this subsection.

(5) For the purpose of rehabilitation and/or retraining, when an employee has either been declared permanently incapable of performing the duties of his/her current classification or it has been deemed advisable by the City Health Officer that he/she no longer be assigned such duties. Unclassified employees shall be covered by this subsection.

Rev August 21, 2001

## **TRANSFERS**

**Sec. 64.** A department head may transfer an employee in one bureau or division of a department to a position in the same classification in another bureau or division of the same department. With the consent of the appointing authority, the department heads involved, the employee and the Commission, an employee may be transferred from a position in one department to a position in the same classification in another department. However, the Commission may reverse or refuse to approve any transfer of a classified employee if, after investigation, it finds that the transfer was not in the City's best interest.

## **DIVISION OF CLASSIFICATION**

**Sec. 65.** When the duties of different positions within an existing classification become so diverse that a single examination will no longer provide eligibles who are qualified for all positions in the classification, the Commission shall divide the classification into two or more classifications, and allocate the subject positions to appropriate classifications. All incumbents shall retain seniority accrued in the affected classifications.

## **CONSOLIDATION OF CLASSIFICATIONS**

**Sec. 66.** When the duties of existing positions in different classifications become so similar that a single examination will provide eligibles who are qualified for all positions in the subject classifications, the Commission may consolidate the classifications, and allocate the subject positions to proper classifications as appropriate. All incumbents shall retain seniority accrued in the affected classifications.

## **PERMANENT ASSIGNMENTS**

**Sec. 67.** Permanent assignment to a position in a classification from a position in another classification shall be contingent on the approval of the appointing authority, the heads of

the departments involved, and the approval of the Commission and shall be accomplished in accordance with this section. An employee may be permanently assigned to:

- (1) A former classification in which he/she held permanent status if requested by the employee, or involuntarily to a former or lower classification for disciplinary reasons pursuant to Article VII of these rules. An employee involuntarily demoted to a lower classification shall not serve a probationary period.
- (2) Another classification without further examination if his/ her position is allocated to another classification as a result of class consolidation or division.
- (3) Another classification if he/she successfully completes rehabilitation and successfully completes probation pursuant to subsection 4(b) below.
- (4) Another classification if:
  - (a) The employee is the incumbent in a position which has been reclassified and the employee meets the entry qualifications established for the classification into which the reassignment is made;
  - (b) The employee serves the required probationary period in the classification into which the assignment is made as prescribed by these rules. If, during the probationary period, the employee proves unable to perform the duties of the new classification, he or she may be returned to his/her former classification and step with no loss of seniority. Should the employee be terminated from the probationary position and his/her seniority is not sufficient to enable him/her to displace any employee in a former classification his/her name shall be placed on a priority list established for the classification in which he/she holds permanent status.
- (5) When either the reorganization or the elimination of a City operation causes the layoff of a permanent employee who possesses knowledges, skills, and/or abilities which would be in the best interest of the City to retain, the employee may be permanently assigned to another classification. Any employee so assigned shall be required to serve a probationary period in the new classification.

Rev. August 21, 2001

## **TRANSFER FROM CLASSIFIED TO UNCLASSIFIED**

**Sec. 68.** Any employee in the classified service, whose position is changed pursuant to Section 1102 of the City Charter, from classified to unclassified status, shall be entitled to transfer to a position in the classified service in which he/she formerly held status.

### **TRANSFER FROM UNCLASSIFIED TO CLASSIFIED**

**Sec. 69.** An unclassified employee may request a transfer from a position in the unclassified service to a position in the classified service in which he/she formerly held status subject to the consent of the appointing authority, the department heads involved, and the approval of the Commission. Time spent by an employee in the unclassified service shall not be included in seniority point calculations for classified promotional examinations. Further, when an employee who formerly held classified status returns to the classified service from the unclassified service, he/she shall not receive credit for the time served in the unclassified service when calculating an order of layoff from the classified service.

### **FORFEITURE OF STATUS IN OTHER CLASSIFICATION UPON ACQUIRING NEW STATUS**

**Sec. 70.** No employee in the classified service shall acquire or hold permanent status in more than one classification in the classified service, and any employee who accepts an appointment to a position in another classification in the classified service shall, at the successful completion of the new classification's probationary period, forfeit his/her permanent status in his/her prior classification.

## ARTICLE VII

### PERSONNEL ACTIONS AND APPEAL

#### SPECIFIC CHARGES

**Sec. 75.** Prior to suspending, dismissing or demoting a permanent classified employee for disciplinary reasons, the appointing authority or his/her designated representative shall afford the employee an opportunity to respond to the allegations that caused the disciplinary action to be considered. Should the employee fail to provide sufficient reasons to cause a reconsideration of the contemplated discipline, a written letter of charges, which shall set forth the acts or omissions with which the employee is charged, shall be served upon the employee by, or on behalf of, the appointing authority. The letter of charges shall state the rule(s) and/or regulation(s) the employee is alleged to have violated. Service of the letter of charges may be accomplished by either personally delivering a copy to the employee or by mailing a copy certified United States mail with a return receipt. The letter of charges shall inform the employee of his or her right to appeal the disciplinary action to the Civil Service Commission and shall advise the employee that a written notice of appeal must be filed with the Commission: (1) no later than 10 days after the date the letter of charges was personally delivered; or (2) no later than 10 days after the date of delivery recorded on the certified mail return receipt; or (3) no later than 25 days after the date of mailing if the certified mail return receipt is not returned and the letter of charges was mailed to the employee's address on file.

Rev. August 21, 2001

#### EMPLOYEE APPEAL OF DISCIPLINE IMPOSITION

**Sec. 76.** With the exception of summary suspensions under Section 87, any permanent employee who is suspended, dismissed, or demoted for disciplinary reasons or pursuant to Section 40, shall be entitled to an appeal under Section 1103 of the City Charter and/or these rules. If an employee desires to appeal, he/she must file a written notice of appeal and request for a hearing: (1) no later than 10 days after the date the letter of charges was personally delivered; or (2) no later than 10 days after the date of delivery recorded on the certified mail return receipt; or (3) no later than 25 days after the date of mailing if the certified mail return receipt is not returned and the letter of charges was mailed to the employee's address on file. The Commission may, for good cause, grant an additional five days in which to file an appeal. In the absence of a timely appeal, the order of suspension, dismissal or demotion shall be final without any action of the Commission.

Rev. August 21, 2001

## **OBJECTION TO UNCERTAINTY OR AMBIGUITY OF DISCIPLINARY CHARGES**

**Sec. 77.** The employee may object to the letter of charges on the grounds of ambiguity or uncertainty, when filing an appeal and request for a hearing. If the objections are overruled by the Commission, the Executive Director shall inform the employee of the Commission's decision in writing. If the objections are sustained by the Commission, the Executive Director shall inform the disciplining authority, in writing, within three days of the Commission's decision. Within the following 10 days, the disciplining authority must then either file amended charges or withdraw the original charges. Should the disciplining authority amend the charges, then Section 75 shall apply to the amended charges. An employee who, without good cause, does not file a statement of objection to the letter of charges shall thereafter be deemed to have waived his/her rights to object to the letter of charges on the grounds of ambiguity or uncertainty.

## **REQUEST FOR CONTINUANCE**

**Sec. 78.** Except for good cause, no request for continuance or postponement of a hearing to another date and time shall be granted unless it is in writing and received by the Commission at least 10 days before the scheduled hearing date. Good cause for a continuance may include pending criminal charges but only when the employee is being disciplined for the same acts that are the basis for the pending criminal charge(s). Either the employee or his/her designated representative may request a continuance. Where there is a request for a continuance by either an employee or his/her designated representative, such continuance may be granted upon the condition that the employee waive any benefit, accumulation of seniority, or any other employee benefits that shall accrue to the employee for the period between the hearing date set and the new hearing date granted by the Commission.

Should the hearing be postponed because of the employee's involvement in criminal proceedings, which arose from the same acts for which the employee is being disciplined, the employee shall notify the Commission of the court's conclusion and/or disposition within five days of the court's issuance of such conclusion and/or disposition. Should the employee fail to comply with this notification procedure, he/she shall be deemed to have abandoned the appeal. After receiving the proper notice and after giving the employee a minimum of 10 days advance notice, in writing, of its intent to proceed, the Commission shall proceed pursuant to Section 79 of these rules. The Commission may waive application of this rule if the employee is involved in any criminal proceedings.

## **ESTABLISHING TIME AND CONDUCT OF CIVIL SERVICE COMMISSION HEARINGS**

**Sec. 79.** After acceptance of the employee's notice of appeal of a suspension, demotion, or dismissal and request for a hearing, the Commission shall set the date, time, and place for a hearing of the charges. Section 82 of these rules shall apply to all such hearings. At the appeal hearing, the employee shall have an opportunity to present evidence in his/her own defense, and shall have the right to be represented. All hearings shall be public, and need not be conducted according to technical rules of evidence. The proceedings of the hearing shall be recorded. Any party requesting transcripts of the proceedings shall pay all expenses incurred for that service.

### **HEARING OFFICERS/ADMINISTRATIVE LAW JUDGES**

**Sec. 80.** The Commission, at its discretion, may delegate an appeal to be heard by a hearing officer/administrative law judge. Appeals for disability retirement for safety personnel shall be conducted only by an Administrative Law Judge, including those disability retirement appeals heard by the Civil Service Commission. When so delegated, the hearing officer/administrative law judge shall be vested with the same powers resting in the Commission with respect to the scheduling and conduct of hearings, except that the decision of the hearing officer/administrative law judge shall not be binding, but shall be considered a recommendation to the Commission. The recommendation of the hearing officer/administrative law judge shall be presented to the Commission in a written report, in a format specified by the Commission. The Commission shall have the power to adopt, modify, or reject the recommendation of the hearing officer/administrative law judge. The Commission shall also have the power to order all or part of a hearing to be reheard by the same or another hearing officer/administrative law judge, or the Commission may hear the appeal itself anew. Notice of the Commission's consideration of the Hearing Officer's Report/Administrative Law Judge Report shall be sent to the concerned parties and either party may request the Commission to consider final arguments in the matter; however, neither party shall be required to do so as a requirement of exhausting its administrative remedies.

Rev. July 20, 1993

### **FAILURE OF EMPLOYEE TO APPEAR AT SCHEDULED HEARING**

**Sec. 81.** If an employee is granted a hearing and, without good cause, fails to appear, the Commission shall dismiss the appeal and sustain the administrative discipline.

## **COMMISSION AUTHORITY CIVIL SERVICE HEARINGS AND INVESTIGATIONS**

**Sec. 82.** In any investigation or hearing, the Commission shall have the power to issue subpoenas and/or subpoenas duces tecum and compel the attendance of witnesses and production by the witnesses of pertinent documents. Subpoenas and subpoenas duces tecum shall be issued and served in accordance with appropriate sections of the Code of Civil Procedure. Each party to a hearing shall be responsible for the service of the subpoenas as provided in the California Government Code. The Commission shall also be empowered to administer oaths to witnesses and it may punish as a contempt the disobedience or failure to comply with the provisions of these Rules. At least 72 hours before the time set for hearing, the respective parties shall furnish to the Commission the names of all witnesses who are to be called to testify in each party's case in chief and, in the absence of good cause, only those witnesses whose names are furnished to the Commission will be permitted to testify.

## **ORDERS OF THE COMMISSION AFTER HEARINGS ARE CONCLUDED**

**Sec. 83.** After a hearing, the Commission may, at its discretion, either sustain, reduce, or deny the charges. If the charges are denied the Commission shall order the employee reinstated to the classification, grade, or salary step held prior to the imposition of the discipline. If the charges are sustained or reduced, the Commission at its discretion, shall either set the period of suspension or demotion or order the employee permanently removed from City service. The decision of the Commission shall be final on the date it is made. Thereafter, any petition for judicial review of the Commission's decision must be filed within 90 days of the effective date of the Commission's decision pursuant to the provisions of the Code of Civil Procedure. Upon expiration of the prescribed period of suspension or reduction in classification, the employee shall be restored to his/her former classification, grade, or step.

## **CAUSES FOR SUSPENSION, DEMOTION, RELEASE OR DISCHARGE**

**Sec. 84.** At the discretion of the Commission, the following may be declared to constitute grounds for suspension, demotion, release or discharge (separation) of an employee from the classified service of the City:

- (1) Violation of any provision of the Charter of the City, the Rules and Regulations of the Commission, or any written departmental or citywide policy, procedure, rule, regulation, or directive.
- (2) Fraud in securing appointment.

(3) Inefficiency – Failure by an employee, usually over a period of time, to meet a level of productivity set by other employees in the same or similar position or a failure to produce an intended result with a minimum of waste, expense or unnecessary effort.

(4) Inexcusable Neglect of Duty – Intentional or grossly negligent failure to exercise due diligence in the performance of a known official duty.

(5) Insubordination – Refusal to respond, without justification, to a lawful order given by a superior or an employee, who is not a superior, but who has been empowered to give such orders.

(6) Dishonesty – Intentional misrepresentation of known facts, or omission of facts, which the employee has a duty to disclose.

(7) Unauthorized consumption or possession of and/or being under the unauthorized influence of any alcoholic beverage, narcotic, harmful or addictive drug which has not been prescribed by a licensed physician, while on duty or on standby duty.

(8) Unlawful sale or distribution of a narcotic or dangerous drug.

(9) Inexcusable or excessive absence from the City and/or violation of any sick leave provisions of the City.

(10) Discourteous, disruptive, or harassing conduct toward the public or other employees.

(11) Destruction, misuse, misappropriation, unauthorized use of or unauthorized possession of City property

(12) Brutality or cruelty to an inmate or prisoner of a City institution, or to a person in custody.

(13) On duty fighting, malicious mischief, discourteous, disruptive or harassing conduct toward the public or other employees, or destruction of property other than City property.

(14) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction. Notwithstanding

any further appellate proceedings, a conviction shall be deemed complete upon the date the court imposed judgment and sentence.

(15) Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the appointing authority or the person's employment.

(16) Unlawful retaliation against any other City employee or member of the public, who in good faith reports, discloses, divulges, or otherwise brings to the attention of any prosecuting agency, or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this City, County, State or the United States, occurring on the job, or directly related thereto.

(17) Failure to maintain necessary licenses or certification required to meet  
the minimum qualifications for the position.

## **DISMISSED EMPLOYEE NOT ELIGIBLE FOR REEMPLOYMENT**

**Sec. 85.** Any employee who has been dismissed from City service for disciplinary reasons shall have his/her name removed from all eligible and priority lists by the Executive Director, and shall neither be eligible to participate in any Civil Service examination, nor be reappointed to any classified position unless, after review, the Commission authorizes his/her eligibility.

## **DURATION OF EMPLOYEE SUSPENSION OR DEMOTION**

**Sec. 86.** The duration of an employee's suspension shall be designated by his/her department head and stated in the written charges presented to the employee with the exception of summary suspensions under Section 87. However, an employee's suspension shall not exceed six calendar months without the approval of both the appointing authority and the Commission.

Rev. August 21, 2001

## **SUMMARY SUSPENSION**

**Sec. 87.** Pending an investigation by the appointing authority of accusations against an employee involving misappropriation of City property and/or City funds, drug addiction, brutality or cruelty to a person in custody, acts which would constitute a felony, or a misdemeanor involving moral turpitude, or substantiated, job-related, extraordinary conduct requiring immediate removal of the employee from the workplace; the appointing authority may impose a summary suspension for a period not to exceed 30 days. Any summary suspension may be terminated by the appointing authority by giving 48 hours notice in writing to the employee. The summary suspension period shall be used by the appointing authority to expeditiously complete an administrative investigation of the incident and/or circumstances, which caused the disciplinary action to be taken. If the appointing authority does not file charges against the employee on or before the expiration date of the summary suspension then the summary suspension shall be with pay. However, if charges are filed against the employee on or before the summary suspension is terminated, the effective date of the discipline may be made retroactive to any date on or after the date the employee was summarily suspended. Time served or salary lost under a summary suspension may be considered in any final penalty assessed against the employee.

Rev. July 20, 1993

## **DEMOTION AFTER ACQUIRING STATUS IN A CLASSIFICATION**

**Sec. 88.** If a permanent employee is promoted to a new classification, acquires permanent status in that classification, and is subsequently demoted to his/her former classification and grade because of incapability or for disciplinary reasons, he/ she shall not be recertified for promotion to the classification from which he/she was demoted during the life of the eligible list from which the appointment was made. Pursuant to Section 1103 of the City Charter and these rules and regulations, any employee may, as a disciplinary measure, be demoted to any classification in job families recognized by the Commission. Such reassignments may occur even though the employee never held status in the classification specialty.

## **PERMANENT EMPLOYEE REDUCTION OR DISCHARGE DURING PROBATION**

**Sec. 89.** If a permanent employee is successful in either a promotional or opencompetitive examination and is subsequently appointed to another classification and during the probationary period is found to be incapable or inefficient, the appointing authority/designee may, terminate the appointment. Should such a termination occur, the employee shall be reinstated to the classification in which he/she held status prior to being promoted. If, in the opinion of the department head and the Commission, the employee is still regarded as competent for some other position in the same promotional or open classification, his/her name may be returned to the eligible list established for the open or promotional classification, should such a request be made by the terminated employee. Should any employee be displaced by the above reference reinstatement, his/her name shall be placed on a priority list for the subject classification.

## **NEW EMPLOYEE DISCHARGE DURING PROBATIONARY TERM**

**Sec. 90.** An employee may be terminated at will any time during their probationary period. If, in the opinion of the department head and the Commission, the person is still regarded as capable of performing in some other position in the same classification, his/her name may be returned to the eligible list established for the classification.

Rev. August 21, 2001

## **CLASSIFIED EMPLOYEES APPOINTED AND/OR DISMISSED FROM UNCLASSIFIED SERVICE**

**Sec. 91.** If an employee in the classified service is appointed to a position in the unclassified service and is subsequently dismissed or laid off, he/she shall, dependent

upon seniority in the classified service, either be restored to his/her prior classified classification, or placed on a priority list for the classified classifications in which he/she holds status. However, if the employee's dismissal from the unclassified service was for a violation of Federal or State law, Charter Provisions, City Ordinances, duly authorized and adopted written departmental rules and regulations, or City Administrative Directives, dismissal shall accomplish a separation from both the classified and unclassified service of the City and the employee shall have no right of appeal to the Commission.

- (1) Prior to accepting employment in the unclassified service of the City, all permanent, classified employees shall sign an acknowledgment and waiver that states the employee recognizes the new position is unclassified, that acceptance of the position will result in a waiver of all rights to appeal a dismissal to the Commission, and that this is done voluntarily.

Rev. July 20, 1993

### **REDUCTION IN FORCE**

**Sec. 92.** For reasons of economy or due to a lack of work or funds, an appointing authority may reorganize or eliminate any department, bureau, or division, or may abolish any position under its direct jurisdiction, and/or reduce the number of, or the hours worked by City employees. When any such action causes a layoff of employees, the selection of those to be laid off shall be made under the following:

- (1) To decrease the work force in any department, the appointing authority shall specify to the Commission the number and classification of employees to be laid off, together with the department, bureau, and division in which the layoff is to be made. The Commission shall then determine, under these rules, the particular employees to be laid off, and advise the appointing authority of its finding.
- (2) For purposes of this Article, the term "layoff" shall include removal from City employment, reassignment to a former classification, reduction from fulltime to part-time status or permanent assignment to another classification in order to avoid layoff. The term "seniority" shall refer to length of service in a particular classification regardless of grade designation.

### **ORDER OF LAYOFFS**

**Sec. 93.** Layoffs in each classification shall be made in the following order: first, provisional employees; second, probationary employees; and third, permanent employees who have completed their probationary periods.

(1) When one or more probationary or permanent employees must be laid off, those who are laid off shall be those with the lowest seniority, under these rules, from all the departments, bureaus, and divisions of the City. However, the Commission may, upon the recommendation of the appointing authority, order the layoff to be effective City-wide or confined to one or more departments, bureaus, or divisions if, in its judgment, the best interests of the City will be served.

(2) If an employee who is laid off in a department in which a reduction in force is made has greater seniority in the classification affected by layoff than an employee in that same classification in another department, the employee in the latter department with the lowest seniority in the classification shall be laid off and the employee with the greater seniority shall be transferred to fill the position made vacant by the layoff.

(3) Where the layoff is limited to provisional employees, the appointing authority may determine which of the employees within the particular classification shall be laid off.

(4) In the event two or more permanent employees have the same seniority, the person who placed lowest on the eligible list seniority shall be laid off first.

(5) In the event two or more employees occupy the same placement on the eligible list, the person to be laid off shall be determined by the order in which their applications were filed.

(6) Employees hired through "selective certification" shall be laid off only upon an approved order of layoff specifying the reduction of "selective certification" employees.

Rev. August 21, 2001

## **REDUCTION IN FORCE SEASONAL AND RECURRENT EMPLOYEES**

**Sec. 94.** The provisions of this Article shall apply to and govern classified "seasonal and/or recurrent" positions of City employment provided, however, that should layoffs occur in classifications, which encompass classified "seasonal and/or recurrent" positions of employment, then the incumbents occupying such positions shall be laid off prior to applying the provisions of Section 93. Upon the reemployment of employees affected by the layoff, all employees laid off from permanent positions of employment within the subject classification shall be reappointed before the reappointment of employees laid off from "seasonal and/or recurrent" positions.

## **SENIORITY IN LAYOFFS**

**Sec. 95.** Seniority in layoffs shall be calculated by adding together the following periods of service:

- (1) All time served by an employee after permanent appointment to the current classification from which he/she is being laid off.
- (2) Time spent in all former classifications from which the employee was sequentially laid off, and reverted consecutively, until either a classification is reached in which he/she has the greater seniority, or his/her name is placed on a priority list.
- (3) All time in the above classifications during which the employee was absent with pay or was on approved long-term military leave under these rules.

## **NOTICE OF LAYOFF**

**Sec. 96.** Notice of any layoff, under these rules, shall be made by giving a letter to the employees to be laid off a minimum of three days prior to the effective date of the layoff. The letter shall inform the employees of the appointing authority's decision to reduce the work force. If any employee affected by the layoff cannot be located within twenty-four (24) hours after the effective date of layoff, the letter containing the layoff notice shall be mailed to that employee's last known address as shown on the employee's records on file in the Commission's office.

## **PLACEMENT OF NAMES ON PRIORITY LISTS**

**Sec. 97.** On the date layoffs become effective, the Executive Director shall order the names of laid off permanent and/or probationary employees to be placed on the priority lists established for all classifications from which they were laid off.

## **REVERSION TO FORMER STATUS**

**Sec. 98.** When a reduction in the work force results in the layoff of an employee who had acquired permanent status in a former classification, the employee shall, dependent upon

seniority in his/her former classification, be reinstated to that former classification. If the employee's seniority is not sufficient to displace any employee in his/ her former classification, he/she shall be placed on the priority list for that classification. However, the employee must have continuous service with the City and may not have been permanently removed from his/her former classification for cause.

### **OBJECTION TO AND APPEAL OF LAYOFF**

**Sec. 99.** Any laid off probationary or permanent employee may object to his/her layoff on grounds that the seniority calculation was incorrect or that the layoff action was the result of an improper or illegal employment practice. The employee may do so by filing an appeal within ten days after being either personally served with a notice of layoff by the appointing authority, or after receiving a certified or first-class letter informing him/her of the pending layoff. The Commission shall determine the method of its review and may conduct its own investigation, call witnesses, review documents, and/or proceed in the same manner it would for a hearing under these rules. After either a review or hearing, the Commission shall make a final determination. If the employee who is laid off fails to make a timely protest and/or objection to his/her layoff, the layoff shall be effective as of the date specified in the notice of layoff. However, the Commission may correct an error in seniority calculations at any time and may make appropriate adjustments in an order of layoff or a priority list ranking due to the correction.

### **OUT OF ORDER LAYOFF**

**Sec. 100.** After receiving either a written request from an employee and the subsequent consent of the appropriate appointing authority, or after being furnished with good cause, the Commission may approve an employee's layoff either ahead of or in place of some other employee with lower seniority. However, the Commission shall not grant approval of an out-of-order layoff, if it is determined that good cause has not been shown, or that the employee requesting an out-of order layoff was either doing so under duress, or was making the request to avoid disciplinary action.

### **RESIGNATION**

**Sec. 101.** Any employee who desires to terminate his/her employment with the City must convey one of the following to the appointing authority:

- (1) a signed letter of resignation.

(2) verbal notification of resignation not withdrawn within three scheduled working days.

Pending acceptance of 1 or 2 above by the appointing authority and subsequent filing with the Commission, the resignation shall become effective. Notwithstanding 1 or 2 above, an employee's absence without authorization for three or more consecutive workdays, wherein the employee fails to show up for work, call in, and/or provide documentation of a disability or legitimate absence, shall be deemed an abandonment of his/her position and an automatic resignation from City service.

### **RESIGNED EMPLOYEE SEVERS ALL RIGHTS**

**Sec. 102.** Any employee in the classified service who resigns his/her position shall have severed all previously accrued Civil Service seniority and status, and his/her name shall not be restored to any promotional eligible list without re-examination.

### **CONSENT TO ABSENCE**

**Sec. 103.** If an appointing authority or department head approves an employee's request for leave of absence from City service, the approval shall be in writing, shall state the name of the employee, the position held, and the period the employee is to be absent from City service. A copy of the approval shall be forwarded to the Commission.

### **RETURN FROM LEAVE OF ABSENCE**

**Sec. 104.** Upon return from an authorized leave of absence, an employee shall be returned to the classification, position, grade and step, which he/she held when the leave was granted. With the consent of the appointing authority, the employee may return to work at any time during the authorized leave period.

## ARTICLE VIII

### CIVIL SERVICE COMMISSION - OFFICERS, POWERS, ETC.

#### ELECTING OFFICERS OF THE COMMISSION

**Sec. 110.** An election shall be held for President and Vice President of the Commission yearly at the third meeting in April. Should the office of President become vacant during his/her term, the Vice President shall become President, and a special election shall be held for a new Vice President. In the absence of the President or upon the President's request, the Vice President shall act as President. Elected members shall hold office for a term of one year, or if selected to fill an unexpired term, shall hold office until the expiration of that term.

#### CALLING OF MEETINGS OF THE COMMISSION

**Sec. 111.** Meetings of the Commission shall be held either at the call of its President or at the request of two members of the Commission. The Executive Director shall give public notice of all Commission meetings pursuant to State law.

#### CONSENT CALENDAR OF THE COMMISSION

**Sec. 112.** All matters which are designated as routine by the Commission may be placed under the consent section of the Commission's agenda and maybe approved by one motion. Discussion of separate items under the consent section shall not occur unless members of the Commission, City staff, or a member of the public requests that specific items be separately discussed or removed from the consent calendar for separate action.

#### CLASSIFIED EMPLOYEES' SERVICE RECORDS

**Sec. 113.** Records of classified Civil Service employees shall be kept by the Commission. The records shall contain the following:(1) the names of all persons employed or receiving compensation in the classified Civil Service; (2) the position titles and the salary or compensation allocated to them; (3) the dates of appointments to positions; (4) the dates employees entered the classified Civil Service; (5) all transfers and all positions formerly filled by each employee, and by whom the appointments were made.

## REPORTS REQUIRED BY THE COMMISSION

**Sec. 114.** So that the Commission may keep proper records of changes in the service and the efficiency and performance levels of classified employees, appointing authorities and all department heads shall promptly transmit the following information regarding classified employees to the Commission:

- (1) Every refusal or act of negligence on the part of an eligible who has been certified or offered an appointment to accept the appointment.
- (2) Every change in compensation.
- (3) Every suspension.
- (4) Every absence from duty for one day or more, and whether the absence was caused by dismissal, resignation, suspension, sickness, or some other reason.
- (5) Every return to duty at the expiration of suspension or other absence.
- (6) Performance ratings at regular intervals.
- (7) A copy of each payroll for classified employees.

## **EXCEPTIONS TO RULES MAY BE AUTHORIZED**

**Sec. 115.** Exceptions to the Civil Service Rules and Regulations may be made as follows:

- (1) At the request of an appointing authority, the Commission may authorize exceptions to its Rules when required to implement the terms of a proposed settlement of claims brought before a court of competent jurisdiction or other agency of government charged with protecting the employee or applicant against discrimination if, in the opinion of the Commission, the best interests of the City would be served by doing so.
  
- (2) At the request of the City Council, the Commission shall authorize whatever exception to its rules as may be required to implement the settlement of claims authorized by the City Council.
  
- (3) Further, the Commission may authorize an exception to its rules, if such exception is consistent with the mandate of Article XI of the City Charter and if, in the opinion of the Commission, the best interest of the city would be served. This subsection shall expire six months after the date City Council Adopts this rule unless extended by Commission action.

## **APPOINTMENT OF EXECUTIVE DIRECTOR**

**Sec. 116.** The Commission shall appoint an Executive Director who shall also act as Secretary to the Commission. The Executive Director shall hold his/her position subject to the pleasure of the Commission, and the Commission may appoint other employees as it may find necessary to carry out the business of the Commission and other functions which may be designated by the City Council.

## **RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR**

**Sec. 117.** The Executive Director, under the direction of the Commission, shall be in charge of all matters regarding the program administration of the Civil Service Department.

## **CERTIFICATION OF PAYROLL**

**Sec. 118.** The City shall not pay any salary or compensation for service to any person holding a position in the classified service unless the payroll or account for that salary or compensation contains the certification of the Commission, by its Executive Director, that the persons whose names appear on the payroll have been appointed or employed by the City and are performing City service under the provisions of the City Charter and of the Civil Service Rules and Regulations established under its authority

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