

RULES AND REGULATIONS

of the

CIVIL SERVICE BOARD

CITY OF SACRAMENTO

CALIFORNIA

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## **RULE 1 – AUTHORITY AND PURPOSE**

- 1.1 Authority. Under the authority of Article VII, Sections 80 through 92 and 107 of the Charter of the City of Sacramento, the Civil Service Board adopts these rules and regulations which shall have the force and effect of law.
- 1.2 Purpose. The Civil Service Board hereby declares its intent that these rules shall be used as a general guide by all affected persons; that they be interpreted broadly on the basis of what is the reasonable approach to specific problems and situations; that they be considered as a total set of working regulations rather than each section, subsection, sentence or phrase being interpreted in isolation and out of context; and that the following general principles be accepted as setting the tone of personnel management within the City service:
- (a) The citizens of the City of Sacramento, their elected legislative and administrative representatives and appointed City department heads have the right to expect that the City will employ the best qualified persons reasonably available; that the tenure of every employee will be based upon demonstrated need for the work performed, availability of funds, faithful effective performance, proper personal conduct, and continuing fitness for a position; and that each employee will be encouraged, trained and developed to assure optimum performance.
  - (b) Each employee of the City has the right to expect to be fairly and equitably treated under the provisions of these rules; to be sufficiently informed as to duties and responsibilities; to be provided with adequate administrative and supervisory direction; to be informed as to how well the employee is performing assigned duties and to be encouraged and helped to improve the level of performance; that promotions will be made on the basis of demonstrated merit and ability; that progressively improved work performance over an extended period will be recognized and rewarded; and, that there will be no discipline without justification, and due process provided in the event of discipline.
- 1.3 Director of Personnel as Agent of the Board. As referred to in these rules, the term Director of Personnel shall mean the Secretary of the Civil Service Board and Chief Examiner.

The Director of Personnel is hereby specifically designated as the agent of the Board. Subject to review of the Director's actions and decisions by the Board as set forth in Section 1.4 below, the Director acts with the authority of the Board and shall be responsible for performing all duties imposed by Charter upon the Board, except for the adoption of rules; the creation, abolition or combination of classes; and the conduct of hearings upon appeals from disciplinary actions or from allocation actions.

- 1.4 Appeal of Director's Actions and Decision. All actions and decisions of the Director of Personnel acting as agent for the Board may be subject to review by the Board. Review by the Board at the request of affected employee(s) under this section shall only be initiated by a written notice of appeal filed with the Director within fifteen (15) calendar days of the effective date of the action or decision. The notice shall state the basis of the appeal and the remedy requested. The Board shall have discretion in such case as to whether or not it will grant an appeal hearing.
- 1.5 Appeal Processes. Where a specific appeal process is provided in these rules, only that process shall be used. Where no specific process is provided, only the appeal process contained in Section 1.4 shall be used.
- 1.6 Collective Bargaining Agreements. Wherever any provision of these rules conflicts with the provisions of a collective bargaining agreement, the provisions of the agreement shall prevail.
- 1.7 Scope of Bargaining. Any rule or classification specification which falls within the scope of bargaining shall not be established or revised by the Board until completion of the bargaining process between the City and affected recognized employee organization(s).

## **RULE 2 – ORGANIZATION AND DUTIES**

- 2.1 Election of President and Other Officers. The Board shall elect one of its members to serve as President who shall preside at all meetings of the Board for a period of one (1) year. The Board shall elect a Vice President who shall preside at the meetings in the absence of the President, and shall elect any other officers of other boards and commissions of which a Civil Service Board member is a member. In the event of a vacancy of the President, Vice President, or other officers of other boards and commissions, the Board shall elect one (1) of its members to fill such vacancy. The annual elections shall be conducted at the first regular meeting during the month of January of each year.
- 2.2 Meetings.
- (a) Regular. Unless otherwise properly noticed, regular meetings of the Board shall be held at 1:30 p.m. on the first and third Tuesday of each month. Proper notice of regular meetings shall be given to City departments, to the press, to recognized employee organizations, and to the public generally.
  - (b) Special. Special meetings may be held at any time when called by the President or upon request of any three (3) members of the Board, provided that reasonable advance notice shall be given to each member of the Board. Proper notice of such special meetings shall be given to City departments, to the press, to recognized employee organizations, and to the public generally.
  - (c) Open to Public. All meetings shall be open to the public in accordance with provisions of Section 54950, et seq, of the Government Code, except as otherwise specified in Rule 12.
- 2.3 Quorum. Three (3) members of the Board shall constitute a quorum.
- 2.4 Rules of Order. “Roberts’ Rules of Order,” except as otherwise provided herein, shall guide the Board in its proceedings. The Rules of Order may be suspended at any meeting upon the unanimous approval of the Board members present.
- 2.5 Amendments. These rules and regulations may be amended by a majority vote of the Board at any meeting, provided that notice of the proposed amendment has been given at a previous meeting.
- 2.6 Communications. Communications and requests to the Board shall, whenever possible, be made in writing, and shall be in writing in the case of appeals, as provided in these rules. The substance of such request and the action of the Board thereon shall be noted in the minutes.

- 2.7 Minutes. The Director of Personnel shall act as Secretary to the Board and shall record in the minutes the time and place of each meeting of the Board, the names of the Board members present, all official acts of the Board, the votes given by Board members except when the action is unanimous and, when requested, a Board member's dissent with the reasons given. The minutes shall be prepared and presented to the Board for approval at the next regular meeting. The minutes, or a true copy thereof, certified by the President and the Secretary, shall be open to public inspection.
- 2.8 Duties and Responsibilities of the Board. The duties and responsibilities of the Board, as outlined in the City Charter and City Code, shall be:
- (a) To determine the order of business for the conduct of its meetings.
  - (b) To adopt, amend or repeal rules and regulations covering areas of personnel administration and civil service, and to hear appeals of disqualified applicants, as defined in Rule 4.10(b).
  - (c) To adopt and maintain the Classification Plan.
  - (d) To formulate rules and regulations covering the examination of applicants for positions in the classified service, and to hear appeals from disqualified applicants, as defined in Rule 4.10(b).
  - (e) To hear appeals from any employee in the classified service from any disciplinary action.
  - (f) To hear appeals from any employee in the classified service with reference to the allocation or reallocation of the employee's position by the Director of Personnel.
  - (g) To provide, by rule, for the interpretation and administration of ordinances affecting personnel, when specifically directed to do so by the City Council.
  - (h) To hear any employee in the classified service on any matter affecting the employee which falls within the jurisdiction of the Board.
  - (i) To provide for the regulation and/or investigation of any other matter pertaining to personnel management not in conflict with the provisions of the City Charter.
  - (j) To ascertain that the rules and regulations are properly administered.
- 2.9 Voting. In all cases, it is the policy of the Board that any matter brought before the Board, and as to which the Board is required to take action, shall be determined by a vote of the Board members.

It is the policy of the Board that appeals and other proceedings shall be determined by the full Board, if possible. If all Board members are unable to be present, the Board may undertake any reasonable procedure designed to bring the matter to a determination, including, but not limited to:

- (a) Select a special meeting date at which all Board members will be present;
- (b) Continue the matter to the next regular meeting;
- (c) Conduct the hearing without the absent member or members, and determine the matter with less than a full Board. If the vote in such a case is a tie, the matter shall be rescheduled to a later regular or special meeting. The absent member shall review those matters considered together with the transcript or tape of the Board's hearing. At the latter hearing, the Board may order further argument by the parties on its own motion or at the request of a party, and shall determine the matter as provided in these rules.

2.10 Extension of Time. Where the last day to perform an act under these rules falls on a Saturday, Sunday, or legal holiday, the time to perform that act shall be extended to the next day that City offices are generally open to the public.

### **RULE 3 – POSITION CLASSIFICATION**

- 3.1 Adoption of and Amendments to Classification Plan. The Director shall prepare and maintain the classification plan. The plan shall consist of classifications in the classified service and specifications for each.

The classification plan or any amendment to it shall become effective upon final approval of the Board.

- 3.2 Allocation of Positions to Classifications. Each position in the City service shall be allocated by the Director to a classification in the classification plan. The allocation shall be based upon those factors set forth in the definition of “classification”, in Rule 18.

- 3.3 Reallocation. When the duties and responsibilities of a position have changed significantly, the position may be reallocated by the Director to a more appropriate classification.

- 3.4 Right to Appeal. Any allocation or reallocation decision may be appealed to the Board within fifteen (15) calendar days from its effective date.

- 3.5 Status of Employee Whose Position is Reallocated. If an occupied position is reallocated, the incumbent shall be affected as follows, except that if the position is occupied by a probationary employee, the employee must serve the necessary time in the reallocated classification to attain permanent status.

- (a) To a lower classification. When a position is reallocated to a lower classification, the incumbent shall:

- (1) Be eligible to transfer to a higher classification as provided under Rule 8.3; and
- (2) Be granted permanent status in the lower classification; and
- (3) Not incur a salary reduction. If the salary is greater than the “E” step of the lower classification, the employee shall be Y-rated until the salary of the lower classification is at or above the Y-rate. If the salary is less than the “E” step of the lower classification, the employee shall be placed at a step in the lower classification which is equal to the salary or, if there is not an equal step, at the closest higher step in the lower classification.

- (b) To a different classification with the same salary range. When a position is reallocated to a different classification with the same salary range, the incumbent shall be granted the same status in the new classification as was held in the other classification, shall be paid at the same step of the range, and shall maintain the same salary rights.

- (c) To a higher classification. When a position has been reallocated to a higher classification:
- (1) Permanent status shall be granted in the higher classification, without examination, if the reallocation was:
    - (i) Part of a study affecting several positions assigned to the same section of a department; or
    - (ii) Part of a classification study affecting all positions in a classification series; or
    - (iii) Part of a classification study affecting all positions in the classified service.
  - (2) In all cases except for those covered by Rule 3.5(c)(1) or Rule 3.5(c)(3) below, temporary status in the higher classification shall be granted, and each affected employee shall be eligible to compete in an examination for the higher classification.
    - (i) If successful, the employee's name shall be numerically merged with the eligible list for the higher classification in accordance with the score obtained on the examination, if a list exists. If no list exists, an examination shall be given on either a City employee or promotional basis. If the employee is appointed from the eligible list, a probationary period shall be served in the higher classification.
    - (ii) If the employee fails the examination, or if the employee is not appointed because of relative placement on the list, the employee shall be returned to permanent status in a position in the former classification, or to a vacant position in a comparable classification.
  - (3) An employee who is in a position which is reallocated to a higher classification, and whose name is on a current eligible list for a comparable classification, within the same occupational group, may at the employee's or an appointing authority's request be certified for appointment to the reallocated classification from the comparable list. In order to be appointed, the employee must be reachable on the comparable list. If the employee is appointed, the employee shall serve a probationary period in the higher classification.
  - (4) Where reallocation occurs through flexible staffing, the following shall apply:

- (i) Police cadet to police officer. When a Police Cadet position is reallocated to Police Officer as provided for in the classification specification, the incumbent shall be granted probationary status in the new classification and shall serve the full probationary period.
  - (ii) Fire recruit to firefighter. When a Fire Recruit position is reallocated to Firefighter as provided for in the classification specification, the incumbent shall be granted probationary status in the new classification and shall serve the full probationary period.
  - (iii) Dispatcher recruit to Dispatcher I. When a Dispatcher position is reallocated to Dispatcher I as provided for in the classification specification, the incumbent shall be granted probationary status in the new classification and shall serve the full probationary period.
  - (iv) All other civil service classifications. When a position is reallocated as provided for in the classification specification, the incumbent shall be granted permanent status in the new classification.
- (d) Through classification split-off. When an employee has permanent status in a classification, the duties and responsibilities of which are split into two or more classifications, the incumbent employee shall be given permanent status in the new classification to which the position has been reallocated. In addition, the incumbent may, for a period of twelve (12) months from the date of reallocation, be considered for appointment without further examination to positions in any of the other classifications from which split-off was made providing the employee meets the qualification standards of such other classifications.

(Revised 8/20/91)

## **RULE 4 – ANNOUNCEMENTS, APPLICANTS AND EXAMINATIONS**

### **4.1 Announcements.**

- (a) Contents of announcement; report to Board. The Director shall publish announcements of examinations which shall state the classification title, salary, nature of work to be performed, qualification standards, when and where to file applications, special examination procedures, and other pertinent information. Where weighting is planned for an examination, such weighting shall be listed in the announcement. Qualification standards stated in the announcement shall be those established for the classification as approved by the Board. The Director shall report all announcements to the Board at the first meeting following publication.
- (b) Promotional examination announcements. Recognized employee organizations shall receive written notification in advance of publication of promotional examination announcements.
- (c) Appeal of announcement. An appeal of an announcement under Rule 4.1 shall be heard and decided by the Board prior to publication by the Director. Such appeals shall be filed and heard in accordance with the provisions of Rule 1.4.
- (d) Cancellation of examination; filing period extension. Examinations may be cancelled or filing periods extended by the Director for good cause.
- (e) Modification of testing procedures. Testing procedures as set forth in the announcement notice may be modified by the Director, in which event all concerned applicants shall be notified.
- (f) Publication of announcements. Announcements shall be considered published when they are posted on the official bulletin board maintained for that purpose in the reception area of the employment office of the Department of Personnel. Announcements may be for one (1) administration of an examination, or may be for open, continuous testing. In the latter instance, a single announcement without a filing date may be published, and when the Director determines that a sufficient number of applications has been received, a seven (7) calendar day notice shall be given prior to the termination of the examination process.
- (g) Applications. Applications to take examinations must be filed on a City of Sacramento application form.

Completed applications must be on file by the final filing date and time as indicated on the announcement notice.

- 4.2 Qualifications of Applicants. Applicants for examinations must meet the qualification standards for the classification by the date set forth in the announcement. Any license requirements, however, shall be met at time of appointment.
- 4.3 Disqualification. The Director has the authority to disqualify applicants, candidates or eligibles consistent with the provisions of these rules. The following shall constitute grounds for disqualification of an applicant, candidate or eligible:
- (a) Failure to meet any of the requirements or qualifications established for the examination, as published in the announcement.
  - (b) False statement of material fact or actual or attempted deception, fraud or misconduct in connection with the application or the examination.
  - (c) Use or attempted use of political pressure or bribery to secure an advantage in an examination or appointment.
  - (d) Conviction (including pleas of guilty or nolo contendere) of a felony or misdemeanor if the Director determines that the conviction has a rational relationship to the position for which application is made. It shall be the duty of the Director to determine whether every eligible whom the appointing authority intends to appoint has been convicted of a felony or misdemeanor. In making the determination, the Director shall consider the duties and responsibilities of the position, the nature of the conviction, the length of time since the conviction, the circumstances surrounding the crime, and the candidate's record since the conviction. In the case of applicants, candidates or eligibles for peace officer (as defined in Penal Code Sections 830, et seq.) positions, a felony conviction shall automatically disqualify the individual.
- 4.4 Notice of Qualification. Applicants and candidates shall be sent written notice of the acceptance or rejection of their application and the results of their examination. If rejected, the notice shall state the reason. Said notice shall be mailed to the address of record on the application filed for the examination.
- 4.5 Disabled Accommodation. Notwithstanding other portions of this Rule 4, applicants who are unable to meet qualifications due to a physical handicap will be individually reviewed for accommodation.
- 4.6 Confidentiality of Applicants' Names. The name of an applicant or candidate shall not be made public except by permission of the applicant and the Director.
- 4.7 Types of Examinations. Eligible lists shall be established as a result of open, City, and promotional examinations. If necessary, open, City, and promotional examinations may be given concurrently.
- (a) Open examinations shall be open to all candidates who meet the

qualification standards as set forth on the examination announcement.

- (b) City examinations shall be open to all City employees, regardless of status. They may be used when there is sufficient number of candidates within the City service to meet staffing needs, but an insufficient number of candidates who would meet examination requirements.
- (c) Promotional examinations, except for uniformed safety classifications, shall be open to City employees who are appointed to career positions.

4.8 Types of Tests. The examination shall consist of any testing devices that will establish and confirm the qualifications of candidates as required by the classification for which candidates are being examined. These may include, but are not limited to, written, oral performance, physical agility, education, and experience.

4.9 Test Administration. The Director shall be responsible for administering and scoring tests.

(a) Qualifying grades and rating tests. The final score of a candidate shall be based upon all tests in the examination according to the weights of each test established by the Director. The Director shall set minimum qualifying ratings for each phase of the examination and shall provide that all candidates failing to achieve such rating in any phase shall be disqualified from any further participation in the examination. The Director shall set minimum qualifying ratings in accordance with the Director's normal practices which shall be in compliance with state and federal law.

(b) Seniority credit. For promotional examinations, candidates shall be given credit for seniority based upon the total time served in the classification or classifications specified in the examination announcement to be or to have been in the line of promotion on the basis of one-fourth (1/4) point to be added for each year of career service in said classification(s). Seniority credit shall be computed from the final filing date for the examination as set forth in the examination announcement.

(1) Promotional credit. For fire promotional examinations only, candidates shall be given promotional credit based upon the total time served in the classification or classifications specified in the examination announcement to be or to have been in the line of promotion on the basis of one-eighth (1/8) point for every 1,456 hours of out-of-classification work performed in said classification(s) beginning October 28, 1995. Promotional credit shall be computed from the final filing date for the examination as set forth in the examination announcement.

(c) Veteran's credit.

- (1) Subject to the provisions of paragraph (2) of this section, in all tests and examinations held by the Board pursuant to the provisions of the City Charter, any person who at the time of taking such test or examination has served in the armed forces of the United States in time of war and who received an honorable discharge therefrom or who, after such service to the United States in time of war, has continued in such service or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, as such persons are defined by state law in effect at that time, and who has attained a percentage qualifying such applicant for any position under civil service regulations, shall be allowed an increase of ten (10) points above the score such applicant has attained in such examination.
- (2) Any person who has previously received a veteran's preference on an examination for federal employment, or for employment with any public agency in California, and who, by virtue of the preference, was certified and subsequently appointed to a position with the federal government or any public agency in California, shall not be entitled to a preference under this section. However, for an examination given by the City, an eligible shall be deemed not to have used veteran's preference if the eligible would have been certified to a position without benefit of veteran's preference.
  - (i) No preference shall be granted under this section to any veteran who was discharged from active duty more than ten (10) years prior to the final filing date stated on the examination announcement, or prior to the date on which an eligible list is established if no final filing date is stated on the announcement; provided, however, that veterans who are declared by the United States Veterans Administration to have a service-connected disability of thirty percent (30%) or more at the time of taking such test or examination, if otherwise qualified for the preference provided for by subsection (1), shall be entitled to such preference without limitation as to the time during which such preference may be used. "Discharged from active duty", for purposes of these rules, means the date of release from active military service. "Active military service" does not include reserve time, whether active or inactive.
  - (ii) No preference shall be granted under this section to any person who retired from the armed forces at or above the rank of major, or its equivalent.

- (iii) The preference granted under this section shall not apply to promotions or to promotional examinations.
- (d) Ties. When two (2) or more candidates have the same final rating, placement on the eligible list shall be determined by lot.
- (e) Correction of grading or rating error. An error in grading or rating, if called to the attention of the Director within fifteen (15) calendar days after the mailing of notices of results of an examination, shall be corrected. Corrections made after the fifteen (15) day period shall not affect certifications or appointments already made from the eligible list.
- (f) Random selection. When provided for on the examination announcement, the Director may utilize random selection in the event the Director determines that the number of candidates for the examination exceeds the ability of staff to process applications in the time available to meet the City's staffing needs. Under the random selection procedure the Director shall establish the number of candidates to be invited to the examination and by lot select such invitees. Candidates who are City employees on the closing date of the examination announcement shall be exempt from random selection, and disabled candidates shall be exempt when they comprise less than ten percent (10%) of the candidate pool. Candidates not initially selected will be given the opportunity to compete in such subsequent examinations as may be needed during the life of the eligible list.
- (g) Random ranking. When provided on the examination announcement, the Director may utilize random ranking for placement on the eligible list when the Director determines that no valid criteria exist for ranking candidates otherwise eligible for employment.

Under the random ranking procedure the rank and score on the eligible list shall be determined by lot for the candidates otherwise eligible for employment. Candidates who are City employees on the closing date of the examination announcement shall be randomly ranked on the eligible list prior to candidates not employed by the City on said date.

- (h) Screening to most qualified applicants. When provided on the examination announcement for an open examination, the Director may screen the applicant pool down to the most qualified applicants. Candidates who are City employees on the closing date of the examination announcement shall be exempt from this process.

#### 4.10 Appeals from Disqualification.

- (a) Notice of appeal. A candidate may appeal disqualification in any phase of the examination or selection process. A notice of appeal must be filed with the Director within fifteen (15) calendar days after notice of examination results has been mailed to the candidate. The notice of examination results shall specifically state that the candidate has a right to appeal to the Board within fifteen (15) calendar days from the date of mailing of the disqualification notice. The notice of appeal shall state the grounds for appeal, remedy requested, and facts which support the appeal. The appellant shall not be prejudiced by the initial filing of the appeal.
- (b) Disqualification. "Disqualification", for purposes of this section, includes actions taken by the director pursuant to rule 4.3, and failure to achieve the minimum qualifying score on any phase of the examination itself. "Disqualification" shall not include a candidate who is on the eligible list established after the examination, and who is dissatisfied with the level of placement on the eligible list, except where discrimination is alleged as provided under subsection (c) of Rule 4.10. Qualified eligibles alleging fraud or improper procedure in the examination process may appeal under the provisions of Rule 1.4, but not under the provisions of this rule 4.10(b).
- (c) Grounds for appeal. The following are the grounds for appeal of disqualifications:
  - (1) Erroneous interpretation or application of the qualification standards prescribed for the classification; or
  - (2) Improper procedure in the administration of the test; or
  - (3) Discrimination based on race, color, religion, national origin, political beliefs, sex, physical or mental handicap, medical condition as defined by the California Department of Fair Employment and Housing, marital status, pregnancy, age, or sexual orientation.
- (d) Remedy. In the event that the Board grants the appeal by finding in favor of the appellant, the Board shall have the power to decree remedial relief designed to achieve a fair and equitable resolution of the appeal. The Board shall not have the power to affect, order, or rescind appointments made before, during or after the appeal process.

#### 4.11 Appeal Hearing Procedure.

- (a) The appeal shall be heard by the Board unless the Board requests and receives permission from the City Council to utilize the services of a hearing officer. In any case in which the Board hears the appeal, the Board may utilize the services of its counsel in ruling on procedural questions, objections to evidence, and issue of law. The provisions of this Rule 4.11 shall apply to all appeals, whether heard by the Board or a hearing officer, unless waived by all involved parties.

Notwithstanding the provisions of this procedure, judicial relief may be sought to freeze the affected eligible list(s) either before or during the hearing process.

(b) Procedures to be followed by hearing officer.

- (1) Hearing procedures. The hearing officer shall follow the procedures specified in subsection (c) below in conducting the hearing. The hearing officer may waive rules of procedure in the same manner as the Board, pursuant to Rule 4.11(c)(7) below.
- (2) Proposed decision. The hearing officer shall prepare a proposed decision in such form that it may be adopted by the Board as the decision in the matter. A copy of the proposed decision shall be filed by the hearing officer with the Director. The proposed decision shall be a public record and shall be furnished by the Director to each party within ten (10) working days after the proposed decision is filed.
- (3) Determination of discovery issues. The hearing officer shall determine any disputes between the parties arising under Rule 4.12 and may impose penalties pursuant to Rule 4.12(c)(7) except that the hearing officer may not impose any penalty under Rule 4.12(c)(7)(iii).
- (4) Board action on proposed decision. After the proposed decision is filed with the director, the Board shall promptly determine the matter pursuant to Rule 4.11(c)(6).
- (c) Rules for conduct of hearing. The following rules shall be used in a hearing conducted by a hearing officer. The rules shall be used in a hearing conducted by the Board, unless the Board chooses to waive them as provided under Rule 4.11(c)(7).

- (1) Statement of issues. At the commencement of the hearing, the parties shall submit to the Board an agreed statement of the issues. In the event the parties are unable to agree upon the issues before the hearing, each party shall submit to the Board a separate statement of the issues. The Board may rule upon any disputed issues, and the ruling of the Board shall be final. To the extent that the Board does not rule on the issues, the parties shall not be bound by their respective statements.
- (2) Opening statement. Each party shall be afforded an opportunity to make an opening statement prior to presentation of evidence. Such statement shall be no longer than ten (10) minutes in length, and shall be limited to a presentation of those facts that the party expects to be proven through the evidence. Argument shall not be permitted in the opening statement.
- (3) Evidence
  - (i) Oral evidence shall be taken only on oath or affirmation.
  - (ii) Each party shall have these rights: To call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the specific grounds set forth in the notice of appeal covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to offer rebuttal on any evidence. If the appellant does not testify on his or her own behalf, he or she may be called and examined as if under cross-examination.
  - (iii) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any evidence relevant to the grounds set forth in the notice of appeal may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Where a claim of privilege or confidentiality is made at the hearing, the Board shall follow the procedures set forth in Rule 4.12(b) below relating to confidentiality and privilege claims in discovery requests. Irrelevant and unduly repetitious evidence shall be excluded.

- (iv) The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who does not proficiently speak the English language shall provide, and pay for, a qualified interpreter to serve during the hearing.
- (4) Argument. Each party shall be afforded an opportunity to make a closing argument. The appellant shall proceed first with a fifteen (15) minute time limitation. The Director's representative shall proceed next, also with a fifteen (15) minute limitation: The appellant shall then be afforded an opportunity for rebuttal, limited to five (5) minutes. The Director's representative shall then have an opportunity for a five (5) minute rebuttal. No further argument shall be permitted. Nothing in this section shall be construed to prevent the Board from asking questions or eliciting comments from the parties before, during, or after argument. The time limitations may be waived in complex cases or where otherwise warranted.
- (5) Standard for decision. Upon completion of the hearing procedure as specified in the Rule, the Board shall determine whether the appellant has proven, by a preponderance of the evidence, that disqualification as defined in Rule 4.10(b) occurred because of the grounds for appeal specified in the notice of appeal.
- (6) Findings and decision. At the close of the hearing, the Board shall promptly determine the matter before it by adopting findings of fact, determinations based on those findings, and a decision on the issues. Such findings, determinations and decision shall be final, and the Director shall forthwith serve a copy thereof on the appellant.

If the matter was heard by the Board itself without a hearing officer, the Board shall formulate its own findings, determinations and decision for adoption and incorporation into the official Board minutes.

If the matter has been heard by a hearing officer, the Board shall determine the matter by:

- (i) Adopting the proposed decision in its entirety; or
- (ii) Rejecting or modifying part of the proposed decision and adopting the balance thereof; or
- (iii) Rejecting the proposed decision in its entirety.

In so determining the matter, the Board may in its discretion direct preparation of transcripts of the proceedings before the hearing officer, and may review those transcripts prior to making its decision.

If the Board adopts the decision in whole, the proposed decision shall become the Board's decision.

If the Board modifies the proposed decision, the Board's findings and determination shall be announced and adopted by the Board, and as thus adopted shall become the Board's decision.

If the Board rejects the proposed decision in its entirety, each party shall be notified of such action and the Board may itself decide the matter, in accordance with this Rule, upon the record, including the transcript, with or without the taking of additional evidence, or it may refer the matter to the same or another hearing officer to take additional evidence. If the Board hears the matter itself it shall determine the matter by announcing and adopting a decision in the same manner as if the Board had originally heard the matter itself. If the Board refers the matter to the same or another hearing officer, the hearing officer shall prepare a proposed decision as provided in rule 4.11(b)(2) upon any additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of such proposed decision shall forthwith be filed by the hearing officer with the Director and shall be furnished by the Director to each party within ten (10) working days after such filing.

- (7) Waiver of rules of procedure by Board. The Board may make such orders to modify the procedure set forth herein in individual cases, as it may deem necessary to promote the ends of justice; however, the Board shall not waive the time limit set forth in Rule 4.10(a).
- (8) Time for seeking judicial review. Judicial action to review any decision of the Board pursuant to this Rule shall be filed within the time limits prescribed in Code of Civil Procedure Section 1904.6. Notice of such time limit shall be given to the appellant in writing at the time that the Director serves the findings and decision on appellant pursuant to subsection (6) above.

#### 4.12 Discovery.

- (a) Permissible discovery. Pursuant to the procedure set forth in subsection (b) below, any party may obtain the following information in the hands of or reasonably obtainable by the responding party or the responding party's representative:
- (1) Any material facts known to the appellant which are not set forth in the notice of appeal.
  - (2) The name and address of each witness whom the responding party intends to call to testify at the hearing. (As used herein, "responding party" shall mean the person of whom the information is requested.)
  - (3) Copies of statements by any person whom the responding party intends to call as a witness.
  - (4) All writings relevant to the appeal ("writings" as used herein shall have the meaning defined in Evidence Code Section 250, which states: "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof.)
- (b) Confidential or privileged matter. If the responding party determines that the writing or other material requested is confidential or privileged, the response to the discovery request shall specifically so state, and shall set forth in detail the grounds upon which confidentiality or privilege is claimed.

If the requesting party disputes the claim of privilege or confidentiality, the Board shall resolve the claim. In resolving the claim the Board may order that the writing or other material be deposited with the Board in a sealed container. In ruling on such claims, the Board may grant or deny the claim of confidentiality or privilege in whole or in part.

If after examining the writing or other material the Board determines that the material is confidential, but limited disclosure is necessary, the Board may impose conditions upon the use or disclosure of the item by the requesting party. Examination materials, including but not limited to test questions, score sheets, and oral interviewers' notes, shall be confidential, but shall be subject to the Board's discretionary power to review such material and to allow disclosure and use with such conditions as the Board deems appropriate.

If the Board determines that the material requested is subject to an evidentiary privilege, the Board's decision regarding disclosure of the matter shall be strictly governed by the provisions of the Evidence Code.

(c) Procedure for discovery

- (1) Personal service. At any time after the Board sets a hearing date for an appeal, but in no event later than the fifth working day before the date set for such hearing, any party may personally serve a written request upon the responding party for any or all of the information set forth in subsection (a) above.
- (2) Service by mail. At any time after the Board sets a hearing date for an appeal, but in no event later than the eighth working day before the date set for such hearing, any party may serve by first class mail a written request upon the responding party for any or all of the information set forth in subsection (a) above. The date of service shall be the date of the postmark.
- (3) Response. Within three (3) working days of receiving the request mentioned in (1) and (2) above, the responding party shall prepare and serve a response to the request. Such response shall be served upon the requesting party as provided by (c)(1) or (c)(2).
- (4) Request to be deemed continuing request. The discovery request is a continuing request, which requires a continuous response. Where new or additional information becomes available to the responding party, such information shall forthwith be furnished to the requesting party.
- (5) Negative response. In the event the responding party does not have an item of the information requested, the responding party shall give a written negative response as to that particular item within the time specified for response, but shall respond fully as to the information which the responding party does possess. The responding party shall comply with (4) above after such negative response.
- (6) Disputes. Any dispute between parties regarding discovery shall be resolved by the Board.
- (7) Penalties for failure to comply. The Board may impose penalties for failure to comply with this Rule 4. These penalties shall be based upon the seriousness of the failure to comply, the good or bad faith of the non-complying party, and the extent to which the noncompliance results in surprise to the requesting party and handicaps the requesting party in preparing the case. The following penalties may be imposed:

- (i) Exclusion of evidence;
- (ii) Continuing the hearing at any stage; or
- (iii) In the case of a willful or repeated violation, the Board may determine the issue against the non-complying party.

#### 4.13 Subpoenas.

- (a) Before the hearing has commenced, or during the hearing, the Board, or the assigned hearing officer, shall have the power to issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing.
- (b) No subpoena duces tecum shall be issued unless the requesting party shall have complied with the requirements of Code of Civil Procedure Section 1985 regarding affidavits or declarations in support of the subpoena duces tecum.
- (c) All non-party witnesses appearing pursuant to subpoena, shall receive witness fees and mileage allowances as specified by state law for a witness in civil actions in superior court.
- (d) Nothing herein shall authorize the issuance of a subpoena or subpoena duces tecum in cases provided for by Government Code Sections 68097.1 to 68097.10, inclusive, of the Government Code (for successor, amended or renumbered sections) of the Government code unless the required payment or deposit has been made.

No bond will be required when an employee is subpoenaed to be a witness during duty hours.

- (e) Any action to quash a subpoena shall be taken in the Superior Court, County of Sacramento.

## RULE 5 – ELIGIBLE LISTS

- 5.1 Preparation. The Director shall prepare and maintain the eligible lists specified in Rule 5.3 and defined in Rule 18.
- 5.2 Effective Date. Open, City, and promotional eligible lists shall become effective on the date approved by the Director.
- 5.3 Priority of Eligible Lists. Priority shall be given in certification of persons from eligible lists in the following order, except as provided in Rule 10.6(c):
- (a) Recall lists. These lists consist of former City employees who were laid off. Certification and appointment of the first person on this list is mandatory. The “rule of three” certification called for by Rule 6.3 shall not apply to recall lists.
  - (b) Reinstatement lists. These lists consist of persons returning from leaves of absence and who do not qualify for immediate reinstatement under Rule 10.6. Certification and appointment of the first person on the reinstatement list is mandatory, but only to the department from which the leave was taken. As to any other department, appointment is optional. The “rule of three” certifications called for by Rule 6.3 shall not apply to reinstatement lists.
  - (c) Promotional lists. These lists consist of career employees who have successfully competed in a promotional examination.
  - (d) City lists. These lists consist of employees who have successfully competed in a City examination.
  - (e) Open lists. These lists consist of eligibles who have successfully competed in an examination open to any person.
- 5.4 Other Sources of Eligibles. Persons may be appointed from the sources listed below. The “rule of three”, called for in Rule 6.3 does not apply and the sources are not listed in priority order.
- (a) Reemployment lists. These lists consist of persons who resigned and wish to rejoin the City. Appointment of persons from reemployment lists is optional with the appointing authority.
  - (b) Reallocation lists. These lists consist of persons reallocated to lower classifications. Appointment is optional with the appointing authority.
  - (c) Transfer lists. These lists consist of employees who wish to transfer.

5.5 Duration of Eligible Lists. Recall and reallocation lists shall be effective for five (5) years. The life of other eligible lists shall be one (1) year from the date established or from the last candidate's placement on the list, unless:

- (a) The list is extended by the Director. In no event shall an eligible list remain in effect for longer than four (4) years for an open list or longer than two (2) years for a promotional list. The Director shall report to the Board list extensions at the first meeting following the extension.

Recognized employee organizations shall receive advance written notification of list extensions for classifications in their units. The notice shall specify the proposed effective date of the extension. Recognized employee organizations and unrepresented employees may file a notice of appeal with the Director prior to the stated effective date of the extension. The provisions of Rule 1.4 shall apply with respect to further proceedings on such appeals. When a timely appeal is filed, the appeal shall be heard and decided by the Board prior to an extension. Pending resolution of the appeal, the Board may temporarily extend the list.

- (b) An open list has fewer than three (3) names, in which case the Director may abolish it.

5.6 Effect of Eligible Lists on Non-Career Employees. Within thirty (30) calendar days from the effective date of an eligible list, the appointing authority shall terminate the services of any non-career employee hired in a career position pending the establishment of the eligible list for that classification. This Rule shall not apply to career employees who are laid off and temporarily placed in permanent positions.

5.7 Removal of Names From Eligible Lists. Names of eligibles may be removed from an eligible list by the Director for any of the following reasons:

- (a) Any cause set forth in Rule 4.3.
- (b) Failure to accept appointment when certified from a recall, reinstatement or reemployment list.
- (c) Inability of the postal authorities to deliver mail to the eligible within a reasonable length of time. Proof of mailing shall constitute a rebuttable presumption of delivery and receipt of the certification notice.
- (d) Failure to report to the appointing authority to whom certification was made within five (5) working days from the date of certification.
- (e) Certification for career appointment three (3) times, each of which has resulted in the appointment of an eligible who placed lower on the eligible list.

- (f) Failure of background investigations, psychological examinations or polygraph examinations for an eligible certified from an open list.
- (g) Waiver of certification three (3) times.
- (h) In the case of promotional and City examinations, termination (by resignation or discharge) from City employment.
- (i) Career appointment from the eligible list.
- (j) Failure to pass the medical examination required prior to appointment.

Eligibles whose names have been removed from the eligible list shall have the right to appeal the Director's action pursuant to the provisions of Rule 1.4.

- 5.8 Restoration of Names to Eligible Lists. Names which have been removed from eligible lists may be restored for good cause by the Director.
- 5.9 Status of Eligible Lists Affected by Classification Actions. Whenever two (2) or more classifications are combined into a single classification, existing eligible lists for affected classifications shall be abolished.
- 5.10 Adoption of Sacramento County Eligible Lists. The Director may adopt eligible lists established by the County of Sacramento. The Director shall report to the Board adoption of County lists at the first meeting following the adoption.

Recognized employee organizations shall receive advance written notification of list adoptions for classifications in their units. The notice shall state the proposed effective date of the list adoption. Recognized employee organizations or any adversely affected individual may file a notice of appeal with the Director prior to the stated effective date of the list adoption. The provisions of Rule 1.4 shall apply to further proceedings on such appeals. When a timely appeal is filed, the list adoption shall not become effective until the matter has been heard and determined by the Board.

## **RULE 6 – CERTIFICATION AND APPOINTMENTS**

- 6.1 Filling of Vacancies. All vacancies in the classified service shall be filled from eligibles certified by the Director to the appointing authority.
- 6.2 Certification in Absence of Eligible List. When an eligible list does not exist for the classification in which a requisition has been made to fill a position, the Director may certify eligibles from comparable eligible lists which provide eligibles possessing the necessary qualifications to perform the duties of the position. In the absence of comparable eligible lists, temporary appointments of qualified persons may be made until such time as an eligible list is established.
- 6.3 Order of Certification. The Director shall, in certifying eligibles to the appointing authority, follow the priority order set forth in Rule 5.3. Except for recall lists, reinstatement lists, transfer lists, reallocation lists, and re-employment lists, the Director shall certify as follows the appropriate number of eligibles on the relevant list to the appointing authority. For the filling of one vacancy, the appointment shall be made from among the eligible persons whose scores, at the time of certification, represent the three highest whole percentage score ranks on the list. For the purpose of ranking, scores of eligibles on an eligible list shall be rounded to the next highest whole percent and a rank shall consist of one or more eligibles with the same score. However, in the case of an appointment from an eligible list resulting from a promotional examination, the appointment shall be made from the three candidates standing highest on the list. If a promotional list contains less than three (3) eligibles, or a non-promotional list contains less than three ranks, an appointing authority may make a selection from those eligibles certified; wait until a new eligible list is established; or request a temporary appointment of a qualified individual not on the list after having considered the eligibles. If a new eligible list is established prior to the expiration or abolishment of the existing eligible list, all remaining names on the existing list shall be certified, together with sufficient names from the list, to provide three (3) eligibles for promotional lists and three ranks for non-promotional lists.
- 6.4 Certification for Promotional Uniformed Safety Classifications. For promotional examinations for uniformed safety classifications in the Police and Fire Departments, an error in grading or rating, if called to the attention of the Director within fourteen (14) calendar days after the mailing of notices of results of an examination, shall be corrected. Certification shall not be made for fifteen (15) days after mailing of notices of examination results. Correction shall not, thereafter, affect appointments already made from the eligible list.
- 6.5 Eligibles' Non-Interest in Certification.
- (a) Inactive status. Eligibles may, in writing, declare themselves inactive for certification purposes for a period not longer than one (1) year.

- (b) Waiver. Eligibles may waive certification upon giving written notification to the Director. Eligibles shall be entitled to three (3) waivers, each of which shall count as a certification; three waivers is cause for removal under Rule 5.7.
- (c) Certification preference. Eligibles who make written request to be considered only for specified positions shall not be considered to have waived other positions.
- (d) Solicitation of waivers. Solicitation of waivers is prohibited, and shall constitute cause for discipline under Rule 12.
- (e) If a single certification is made for more than one (1) position, any waivers or passovers shall be counted only once against an eligible.

6.6 Certification for Temporary Positions. Certifications for temporary positions shall be made from an established eligible list for the classification to which the position is allocated. If there are fewer than three (3) names on an eligible list, a temporary appointment may be made after having considered the eligibles. In the absence of an eligible list, temporary appointments of qualified individuals may be made.

Notwithstanding the provisions above, qualified individuals whose names appear on recall lists may be considered for temporary appointment.

6.7 Selective Certification (Special Qualifications).

- (a) The citizens of Sacramento have the right to expect that the City will hire, train and develop (whenever necessary), and maintain a workforce that can most effectively deliver services to all citizens of the City. One reasonable and effective way to accomplish this goal is to hire persons who have demonstrated the ability to relate to different cultural and/or sexual groups, as well as persons who are handicapped, as indicated by the applicant's unique work experiences, socio-economic background, special training and other relevant personal qualities. This will insure that the City workforce is diverse enough to communicate with, interpret the needs of, and deliver services to all the citizens of Sacramento.

(Revised 6/4/91)

- (b) If a vacancy exists within a classification, the appointing authority may request a selective certification (special qualifications) of eligibles having the specialized qualifications required if such request is made prior to certification. If the Board, after public hearing, determines that the facts and reasons justify such selective certification, the highest ranking eligibles who possess the special qualifications shall be certified. Notwithstanding any other provision of these rules, the Board must initiate selective certification (special qualifications) whenever the City workforce

is constituted in such a manner that certain segments of the population are being insufficiently served because the workforce cannot adequately relate to their needs or culture. Such certification shall be applicable in all classifications where open competitive examinations are given and where the Board determines that the desired special qualifications will most effectively meet the needs of those under-served citizens of Sacramento and help further the goal of achieving a diversified workforce.

- (c) When selective certification (special qualifications) is initiated, the Director shall determine which eligibles in order of ranking on the applicable open competitive eligible list have the required special qualifications. The Director shall certify as available for appointment to each vacancy to be filled the eligible persons having the required special qualifications whose scores, at the time of certification, represent the three highest whole percentage score ranks on the applicable open competitive list. For the purpose of ranking, scores of eligibles on an open eligible list shall be rounded to the next highest whole percent and a rank shall consist of one or more eligibles with the same score. The appointing authority may appoint any one (1) eligible of those three (3) ranks of eligibles to fill the non-promotional vacancy.
- (d) The special qualification may be tested for on a pass-or-fail basis as a part of the examination for the classification. Applicants must be notified of their opportunity to be tested for the special qualification.
- (e) Separate selective certification (special qualifications) eligible lists will be established for each type of special qualification approved for a classification. The eligible persons on selective certification (special qualifications) lists also shall be included on the regular list for the classification.
- (f) Separate classifications may be established in-lieu-of utilizing selective certification (special qualifications).
- (g) On the last day of each quarter of the calendar year, the Director shall submit to the City Council a report concerning the use of the selective certification (special qualifications) process for that quarter. The report shall include the names of those individuals selectively certified, the positions filled by selective certification, and the reasons for the filling of the positions by selective certification.

6.8 Selective Certification (Racial, Ethnic or Sex Groups).

(a) Definitions. As used herein:

“Identifiable discrimination” shall mean constitutional or statutory violations resulting in racial, ethnic or sex-based injuries.

“Selective certification” shall mean the certification to the appointing authority of the names of the three (3) persons standing highest on the eligible list who are members of a discrete racial, ethnic or sex group.

(b) Hearings and findings. After a public hearing the Board may order the selective certification of members of discrete racial, ethnic or sex groups within a particular classification if the Board makes factual findings and legal conclusions based on those findings, under either or both of alternatives (1) and (2) below:

(1) Compelling governmental interest other than past discrimination.

- (i) The Board finds that there is a compelling governmental interest in invoking the use of selective certification for the classification; and
- (ii) The Board finds that the use of selective certification is the least intrusive means of achieving the governmental interest; or

(2) Identifiable past discrimination in City employment:

- (i) The Board finds that there has been identifiable past discrimination by the City against a particular racial, ethnic or sex group applying to, or within, the particular classification, department or division thereof; and
- (ii) The Board finds that the use of selective certification will remedy the effects of the discriminating found to have occurred under subparagraph (2)(i) above; and
- (iii) The Board finds that the use of selective certification is the least intrusive means of remedying the effects of that identifiable past discrimination.

(c) Relevant evidence (identifiable past discrimination). In determining under subparagraph (b)(2) above whether identifiable past discrimination has occurred, all relevant evidence shall be considered in the inquiry, including but not limited to:

- (1) Whether the particular racial, ethnic or sex group is under-represented within the particular classification, department or division thereof;
- (2) Whether intentional acts of discrimination have occurred;
- (3) Whether discriminatory employment practices and procedures have been used.

The absence of one (1) or more of these factors shall not prevent a finding of identifiable past discrimination.

(d) Order. If the Board determines that the requirements of (b)(1) or (b)(2) or both of those subsections have been met, detailed written findings of fact and conclusions of law shall be prepared and adopted by the Board. Such findings and conclusions shall be included in a formal order of the Board specifying temporary remedial measures designed to achieve the compelling governmental interest involved, or to eradicate the effects of the identifiable past discrimination found to exist. In the event that the Board selects selective certification of a particular racial, ethnic or sex group as one of the applicable remedial measures, the following shall be specifically set forth in the Board's order:

- (1) The representational goal sought to be achieved through use of selective certification, expressed in terms of a percentage of the applicable portion of the City workforce;
- (2) A specific alternating ratio which will govern certifications to be made from the applicable eligible list, and specifically identifying the racial, ethnic or sex group or groups to be selectively certified from that list. In determining the mathematical ratio to be used, the Board shall consider the composition of the applicant pool; the length of time it will take to reach the goal as stated; and any other relevant circumstances.
- (3) The length of time that the selective certification procedure is to be in force, in recognition of the fact that such remedial measures are temporary by definition and must terminate when stated goals have been reasonably achieved and cannot be utilized to maintain racial, ethnic or sex balance in the workforce.
- (4) Any other remedial measures or requirements which the Board determines are reasonably necessary to assure effective compliance with the order and the attainment of the stated goal, such as focused recruitment, educational programs, and similar measures.

- (5) If the classification is used by more than one (1) department, the order shall specify the number of selective certification appointments to be made by each department using the classification.
- (6) The approximate time at which the Director must report back to the Board as to progress toward the stated goal so that the order remains a currently efficacious remedial device.

An order may be rescinded or revised from time to time by the Board as it determines to be necessary or appropriate. In determining whether to rescind or revise an order, the Board may consider any relevant information including, but not limited to, the needs of the service, changed circumstances, problems encountered in implementing the order, and information which was not previously considered by the Board.

- (e) Certification. If the Board orders the use of selective certification, the Director shall certify the names of eligible persons of the particular racial, ethnic or sex group whose scores, at the time of certification, represent the three highest whole percentage score ranks on the open eligible list for the classification for which the Board has ordered the use of selective certification, in accordance with the Board's order.

6.9 Types of Appointments. The following are the types of appointments in the classified service:

- (a) Career. Appointment to a position which is subject to a probationary period, including full-time positions, and part-time positions which are budgeted for twelve (12) months or more.
- (b) Non-Career. Appointment to a position not included under Rule 6.9(a), but which may be assigned as follows:
  - (1) Extra board. A position requiring the employee to report to work daily but assigned to duty only when the incumbent in the career position is not on duty.
  - (2) Limited-term. A position stipulated to be of certain duration, made necessary by seasonal workloads, special projects, or other reasons.

The position may be full-time or less than full-time. These positions shall be limited to less than twelve (12) months, and there shall be no appointment extensions beyond the initial twelve (12) months.

- (3) Military service replacement. A career position filled on an interim basis replacing an employee called into the military service.

- (4) Part-Time. A position where the work schedule calls for less than the normal eight (8) hours per day, either on an irregular or regular basis.
- (5) Relief. A position subject to call which replaces a position when the incumbent in the position is unavailable for duty.
- (6) Temporary. A position normally filled by a career appointment, but which is filled on a temporary basis pending establishment of an eligible list. These appointments shall be limited to less than twelve (12) months.

6.10 Transition from Non-Career to Career Appointment.

- (a) Where the Director has determined that the employee training and development program purposes of the Charter will be served, the Director may authorize inclusion of a position in such a training and development program. Such authorization shall be in advance of appointment.
- (b) The Director may approve an appointing authority's request that an employee who has completed six (6) months of continuous full-time service in a non-career appointment in a training and development program be appointed to a career position in a single classification or the lowest classification in a classification series. If the request is approved, the employee shall be appointed without examination, and shall be made probationary.
- (c) The career appointment may be made to:
  - (1) The same classification in which the six (6) month period was served;
  - (2) To a comparable classification; or,
  - (3) To a lower classification.
- (d) The Director's denial of a request may be appealed to the Board, and shall be heard under the provisions of Rule 1.4.

6.11 Appointment of Career Employee to Non-Career Position.

When necessary an appointing authority may, with the approval of the Director and the employee having permanent status, appoint the employee to a non-career position in the same or another classification. Upon termination of the non-career position, the employee shall be reinstated to the former department in the former classification or, with the employee's approval, in a comparable classification, at the salary step at which the employee was paid immediately prior to the non-career appointment. If the former classification has been

abolished or if no comparable classification then exists, the Board shall determine the appropriate classification for reinstatement. In such a case the employee's salary shall be Y-rated at the salary step at which the employee was paid immediately prior to the non-career appointment.

- 6.12 Medical Examination. As a precondition to employment, appointment at entry level, reinstatement, re-employment or appointment to a different classification series which is more physically demanding than an employee's current classification, any candidate may be required to take a physical examination to be conducted by a physician designated by the City. The procedures for conducting the physical examination, together with the method of evaluation of the results of the physical examination, and procedures for appeal from adverse determinations, shall be as specified in Appendix "C".
- 6.13 Psychological Examination. As a precondition to employment as a Police Cadet or Police Officer, any candidate may be required to take a psychological examination to be conducted by a psychologist designated by the City. The procedures for conducting the psychological examination, evaluating its results, and appealing adverse determinations shall be as specified in Appendix "D".

## **RULE 7 – PROBATIONARY PERIOD**

- 7.1 Objective of Probationary Period. The probationary period is an extension of and an integral part of the examination process. It shall be utilized for closely observing the employee's work, for securing the most effective assimilation of a new employee, and for releasing any probationer whose performance does not meet the required standards of the job.
- 7.2 Appointments Subject to Probationary Period. Provisional employees who are not reachable on an eligible list and who return to a former or comparable class as provided in Rule 3.5(c)(2)(ii), and employees appointed from a recall list, a reinstatement list, a reallocation list, or a special rehabilitation transfer, and who have previously completed a probationary period, shall not serve a probationary period. All other persons appointed under the provisions of Rule 5.3 and all persons transitioned into permanent positions under the provisions of Rule 6.10 shall be subject to a probationary period. Employees transferred within the same classification or to a new classification pursuant to Rule 8 shall not be required to serve a probationary period if the transfer is within the same department, or if permanent status was previously held in that classification. In all other transfer cases under Rule 8, a new probationary period must be served in the classification.
- 7.3 Duration of Probationary Period. A probationary period shall be six (6) or twelve (12) months, as established by the Board and provided in the classification specification. Persons appointed to a permanent position from a recall list and who have not completed the probationary period when laid off shall be required to serve the remainder of the probationary period in that permanent position. Employees in permanent part-time positions shall serve the probationary period on the basis of full-time equivalent. For example, the probationary period for a half-time employee in a classification which has a six (6) month probationary period shall consist of 1,040 work hours.
- 7.4 Extension of Probationary Period. In computing an employee's probationary period, leaves of absence, periods of "light duty" required due to medical conditions, sick leave, and "injury-on-duty time" shall extend the probationary period by the equivalent amount of the such time. However, the probationary period shall only be extended if the time exceeds thirty (30) consecutive calendar days.
- 7.5 Completion of Probationary Period While Serving in Higher Temporary or Exempt Classification. An employee who, while serving a probationary period, is temporarily appointed to a position in a higher classification in the classified service or who is appointed to a position in a higher exempt classification shall be entitled to add the time served in such higher classification to the probationary period. If the probationary period is completed while the employee is serving in the higher classification, permanent status shall be acquired in the classification where the probationary period was started.

7.6 Failure to Successfully Complete Probationary Period.

- (a) Release of probationer. An employee may be released, without right to appeal, during the probationary period. Written notice stating the reason for release shall be furnished the probationer.
- (b) Absenteeism in basic recruit course. Any person in the classification of Police Cadet who, while attending the basic recruit course at the police academy, is absent for any reason for more than forty (40) hours, consecutive or otherwise, shall be released. Such person's name shall be placed at the top of the eligible list for Police Cadet, and shall be the first appointed to the next Academy; provided, however, that any person who is again absent for more than forty (40) hours, consecutive or otherwise, shall be released without any right to be placed upon an eligible list or to return to the next basic recruit course. This subsection (b) shall not be considered to limit the provisions of subsection (a) above.
- (c) Release following promotion or transfer. An employee released during the probationary period following promotion or transfer shall, subject to the provisions of Rule 12, be reinstated to the classification from which promoted or transferred. Nothing in this subsection (c) shall affect the City's right to discipline the employee for conduct occurring during the probationary time served in the promotional or transfer classification.

7.7 Permanent Status Allowed in Only One Classification. No person shall acquire permanent status in more than one (1) classification. Any person who holds permanent status in a classification and accepts an appointment to a position in another classification shall, upon the completion of the probationary period, acquire permanent status in the other classification, and shall not retain permanent status in the former classification.

7.8 Periodic Evaluation of Probationary Employees. Written evaluations of employees shall be made during the probationary period. Typically this will occur at the end of the third and sixth month of the probationary period for classes with a six (6) month period, and at the end of the sixth month and twelfth month for classes with a twelve (12) month period. More frequent evaluations may be provided by appointing authorities. The periodic probationary evaluation shall be reviewed with the employee to provide information as to progress and acceptability for the position.

## **RULE 8 – TRANSFERS**

- 8.1 Definition. A transfer denotes the movement of an employee from one position to another position in the same or different classification, in the same or different department. A transfer under this Rule 8 shall not be interpreted as a promotion.
- 8.2 Transfers Within Classification.
- (a) Intra-departmental transfers. The appointing authority shall have the authority to transfer an employee from a position in one (1) division of a department to a position in the same classification in the same division or to another division of the same department at any time and for any duration.
  - (b) Inter-departmental transfers.
    - (i) An employee may transfer from a position in one (1) department to a position in the same classification in another department, provided the consent of the two (2) appointing authorities is obtained. An employee who has obtained the transferee appointing authority's consent, but who has been refused consent by the transferer appointing authority may at the expiration of thirty (30) calendar days from the date of request for consent, transfer without the consent of the transferer appointing authority.  
  
An employee may not be transferred between appointing authorities without the employee's consent. An employee's refusal to consent to such a transfer shall not affect the employee's standing in the department from which a transfer was originally proposed.
    - (ii) An employee who transfers under this Rule 8.2(b) shall have a trial period in the new department. The employee may be released from or may voluntarily terminate the trial period at any time and be returned to the previous department in the same or a comparable classification.
- 8.3 Transfer to a Different Classification. The following sections shall govern employee requests to transfer to a different classification. Where a transfer under Rule 8.3 is between two appointing authorities, the approval of both is necessary. An employee who has obtained the transferee appointing authority's consent, but who has been refused consent by the transferer appointing authority may at the expiration of thirty (30) calendar days from the date of request for consent, transfer without the consent of the transferer appointing authority.

(a) Transfer to a higher classification. No employee shall be permitted to transfer to a higher classification unless permitted by one of the following three subsections. For purposes of this rule, the term “higher classification” shall mean a classification in which Step E of the salary range is higher than Step E of the salary range in the employee’s present classification.

(1) General rule.

(i) The Director may approve a request to transfer to a higher classification if the following conditions are met:

(aa) The difference in salary range between Step E of the higher classification and Step E of the employee’s present classification does not exceed five percent (5%); and

(bb) The employee meets all of the qualification standards of the classification to which the transfer is requested; and

(cc) The prior approval of the appointing authority is obtained.

(ii) Upon approval and if all conditions specified in subsection (i) above are met, the employee shall be appointed to a position in the higher classification, and shall maintain the salary of the previous classification. The employee shall retain the lower classification anniversary date for subsequent in-grade salary adjustments.

(2) Prior permanent status in higher classification.

(i) The Director may approve a request to transfer to a higher classification if the following conditions are met:

(aa) The employee previously held permanent status in the higher classification to which transfer is requested.

(bb) The employee meets all of the qualification standards of the higher classification.

(cc) The prior approval of the appointing authority is obtained.

- (ii) Upon approval and if all of the above conditions are met, the employee shall be appointed to a position in the higher classification, and shall maintain the salary of the lower classification or receive the salary step last held by the employee in the higher classification, whichever is higher. The employee shall retain the lower classification anniversary date for subsequent in-grade salary adjustments if the employee retains the lower classification salary. If the employee receives the higher classification salary step, the anniversary date shall be the date of transfer to the new classification.

(3) Employees in Classifications Affected by Layoff

- (i) When the City Manager determines that it is necessary to layoff, the Director of Personnel may approve a request to transfer to a higher classification if the following conditions are met:
  - (aa) The employee presently holds permanent status.
  - (bb) The employee is in a classification or classification series or related classification or series in which positions have been targeted for layoff.
  - (cc) The employee meets all of the qualification standards of the classification to which the transfer is requested.
  - (dd) The classification to which the transfer is requested is outside the employee's current line of progression.
  - (ee) Transfer is to a classification at the lowest level in the series that is closest in salary (Step E to Step E) to the employee's current classification provided that no salary loss occurs.
  - (ff) The difference in the salary between Step E of the classification to which the transfer is requested and Step E of the employee's present classification does not exceed fifteen percent (15%).
  - (gg) Prior approval of the appointing authority is obtained. If the transfer is inter-departmental, the process under Rule 8.2(B)(i) shall apply.

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- (ii) Upon approval and if all of the above conditions are met, the employee shall be appointed to the position in the classification requested. The employee's salary shall be the same as it was in the previous classification or Step A of the higher classification, whichever is greater. In all cases, a new probationary period will be served.

(b) Transfer to classification with same salary range

- (1) The Director may approve an employee's request to transfer to a classification in which the Step E salary is the same as the Step E salary for the employee's classification if the following conditions are met:
  - (i) The employee meets all of the qualification standards of the classification to which transfer is requested.
  - (ii) The prior approval of the appointing authority is obtained.
- (2) Upon approval and if all of the above conditions are met, the employee shall be appointed to a position in the new classification at the same salary step which the employee received in the previous classification. The employee shall retain the previous classification anniversary date for subsequent in-grade salary adjustments.

(c) Transfer to classification with lower salary range. A transfer to a lower classification may be permitted pursuant to this subsection (c). For purposes of this subsection, the term "lower classification" shall mean a classification in which Step E of the salary range is lower than Step E in the employee's present classification.

- (1) The Director may approve an employee's request to transfer to a lower classification if the following conditions are met:
  - (i) The employee meets all of the qualification standards of the lower classification.
  - (ii) The prior approval of the appointing authority or authorities is obtained.
- (2) Upon approval and if all of the above conditions are met, the employee shall be appointed to a position in the lower classification at a salary step which is closest to the salary received by the employee in the higher classification. In no event shall the employee be appointed to a salary step which would grant the employee an increase in salary.

The employee shall retain the previous classification anniversary date for subsequent in-grade salary adjustments.

- (3) An involuntary demotion is a disciplinary action and shall be handled in accordance with Rule 12.

8.4 Transfers Not Permitted. Transfers shall not be permitted when, upon investigation, the Director has determined that the request was made (a) with the intent of forcing or causing an employee to resign; (b) because of political influence; (c) subsequent to another transfer, and will result in circumventing the merit promotional process.

## **RULE 9 – SEPARATION FROM SERVICE**

- 9.1 Resignation. Any employee wishing to leave the City service in good standing shall notify the employee's department or division head in writing at least two (2) weeks before leaving, unless such notice is waived by, or a shorter notice is acceptable to, the appointing authority. A written resignation may be withdrawn within forty-eight (48) hours of submittal, excluding any Saturday, Sunday, or recognized City holiday. Once signed and filed in the Personnel Department, a resignation may not be withdrawn, except with the permission of the City Manager. An appraisal of work performance approved by the department or division head shall be submitted to the Personnel Department immediately following resignation, and may be signed by the employee. Failure to sign the appraisal shall not invalidate it.
- 9.2 Dismissal. An employee in the classified service with permanent status may be dismissed only in accordance with the procedures specified in Rule 12.

## **RULE 10 – LEAVE OF ABSENCE WITHOUT PAY; REINSTATEMENT; RE-EMPLOYMENT**

- 10.1 Administration by Director. The Director shall administer the provisions of this Rule acting as agent for the Board. All actions taken by the Director under this Rule 10 shall be reported to the Board at the meeting next following the action.

Any action taken by the Director under this Rule 10 may be appealed to the Board under the provisions of Rule 1.4.

- 10.2 Reasons for Leave of Absence. A request must be approved by the appointing authority. The Director may grant a leave of absence without pay to an employee at the written request of the employee for the following reasons:

- (a) Non-industrial illness or injury which will cause absence from work;
- (b) Education or training which will benefit the City;
- (c) Military service covered by the California Military and Veterans Code; or
- (d) Personal reasons, provided that the employee's absence will not cause excessive inconvenience to or interference with the orderly conduct of the department's business, as determined by the appointing authority.

- 10.3 Duration.

- (a) Ten working days or less. Absence from duty for a period not exceeding ten (10) working days is not deemed to be a leave of absence and need only be reported to the Personnel Department as a matter of record if:
  - (1) The absence is approved by the appointing authority; and
  - (2) The appointing authority requests certification to fill the vacant position.
- (b) Ninety calendar days or less; extension to one year.
  - (1) Upon prior approval of the appointing authority, an employee may be granted a leave of absence for any of the reasons specified in Rule 10.2, for up to ninety (90) calendar days during any elapsed period of one (1) year. Such leaves shall be reported to the Personnel Department.
  - (2) Upon written request made by the employee to the appointing authority, and upon recommendation of the appointing authority, the Director may grant an extension of the ninety (90) day period for a total period not to exceed one (1) year including the original period and any prior extension period.

- (c) One year. Where the circumstances set forth in subsection (b)(2) above exist at the time that the employee's original request is made for leave of absence, the original leave of absence period may be granted by the Director for a period of up to one (1) year.
- (d) Over one year. Upon written request by the employee and recommendation of the appointing authority, the Director may grant a leave of absence for a period exceeding one (1) year.

10.4 Proof of Non-Industrial Illness or Injury. Where due to non-industrial illness or injury an extension request is made pursuant to Rule 10.3(b)(2), or where a leave of absence exceeding ninety (90) days is requested due to non-industrial illness or injury under Rule 10.3(c) or 10.3(d), each request shall be accompanied by a medical report from the employee's physician reporting that the employee is disabled from performance of the employee's duties and is expected to remain disabled for the duration of the period requested.

Where leave of absence is requested, or is actually taken, for a period exceeding ninety (90) days due to non-industrial illness or injury, the Director shall have discretionary authority at reasonable times during such leave of absence to require the employee to be examined by a physician designated and paid for by the City to determine the nature, extent and duration of the employee's disability. If an employee is physically capable to attend such an examination, failure to attend after reasonable request is made shall be grounds for revocation of the leave of absence pursuant to Rule 10.5 and for discipline pursuant to Rule 12.

10.5 Revocation of Leave of Absence. A leave of absence may be revoked by the Director upon evidence that the cause for granting it was misrepresented or has ceased to exist, but before any revocation is ordered, the employee shall have the right to a hearing before the Board pursuant to the provisions of Rule 1.4.

10.6 Reinstatement From Leave of Absence.

- (a) Upon return from a leave of absence granted for military service, the employee shall be reinstated to a position in the former classification, or one comparable to it, where such reinstatement is required pursuant to the California Military and Veterans Code. When that Code does not require reinstatement, the returning employee's rights shall be governed by subsections (b) and (c) below.
- (b) Upon return from a leave of absence which did not exceed ninety (90) days, or in the case of family care leave exceeded four (4) months, or in the case of non-industrial illness or injury did not exceed six (6) months, the employee shall be reinstated to the former department in the classification last held.

- (c) Upon return from a leave of absence which exceeded ninety (90) days, or in the case of family care leave exceeded four (4) months, or in the case of non-industrial illness or injury, which exceeded six (6) months, the employee shall be reinstated to the former department in the classification last held provided that a vacancy which has been approved by the City Manager to be filled then exists. If no such vacancy exists, the employee's name shall be placed on the reinstatement list as specified in Rule 5.3(b). Subject to the priority specified in Rule 5.3, when a vacancy exists in the employee's classification in the employee's former department, which has been approved by the City Manager to be filled, the employee, if first on the reinstatement list shall be appointed, except that if a recall list exists, the employee, if on a reinstatement list due to a leave of absence for non-industrial illness or injury, shall be placed on the recall list in order of the employee's seniority.

10.7 Failure to Return From Leave of Absence. An inexcusable failure to report for duty after expiration of the leave of absence period as granted, or after revocation pursuant to Rule 10.5, shall be deemed to be an automatic resignation. Such automatic resignation shall be treated as a dismissal, and shall be subject to appeal as set forth in Rule 12.

10.8 Reinstatement Following Termination or Resignation From Exempt Position. Where an employee is terminated or resigns from an exempt position, and where the employee held permanent status in a classification within the classified service without a break in service prior to the exempt appointment, the employee shall be reinstated to the former department in a position in the classification last held or in a comparable classification, at the salary step at which the employee was paid immediately prior to the exempt appointment. If the former classification has been abolished or if no comparable classification then exists, the Board shall determine the appropriate classification for reinstatement. In such a case the employee's salary shall be Y-rated at the salary step at which the employee was paid immediately prior to the exempt appointment. Reinstatement shall be conditional on all of the following being met:

- (a) The employee shall make written application to the Director for reinstatement under this Rule 10.8 within thirty (30) calendar days from the date of resignation from, or from the date of notice of termination from, the exempt position. The Director shall not accept applications filed after the expiration of that time period.
- (b) The facts and circumstances surrounding a termination from an exempt position are not such, in the Director's judgment, that ground for dismissal exists under Rule 12. If the termination from the exempt position was due to incompetency or inefficiency in that position, the employee's right to reinstatement shall not be affected.

Any employee terminated from an exempt position shall be given written notice, at the time of notice of termination, of the provisions of this Rule 10.8. Any employee adversely affected by the provisions of subsection (b) above shall be deemed to have been dismissed from a position in the classified service and shall have all of the rights specified in Rule 12.

#### 10.9 Re-Employment After Resignation.

- (a) A person who resigned from City service in good standing and who at the time of resignation held permanent status in the classified service may, within three (3) years from the effective date of resignation, make written application to the Director for re-employment. If the Director refuses to accept an application, or refuses to place the person's name on the re-employment list pursuant to subsection (b) below, because of a determination that the individual did not resign in good standing, such action may be appealed pursuant to the provisions of Rule 1.4. A person who resigned in-lieu-of being dismissed is ineligible for re-employment.
- (b) Persons who file timely applications under this Rule 10.9 shall be placed on a re-employment list, as specified in Rule 5.4(a) for the classification(s) where permanent status was held. Re-employment may be to a permanent full-time or part-time position. If a former full-time employee accepts a part-time position, the employee shall remain on the re-employment list for the duration of the list. Subject to the priority specified in Rule 5.3, when a vacancy exists in that classification, all employees on the re-employment list shall be eligible for consideration by the appointing authority, who may appoint any employee to the vacancy. Appointments from the re-employment list are optional with the appointing authority.
- (c) Persons appointed from the re-employment list shall be subject to the following provisions:
  - (1) Sick leave credit forfeited upon termination shall remain forfeited;
  - (2) The employee shall return to the same step of the salary range occupied on the date of resignation. If the employee is returning to a classification lower than that in which last employed, the employee may receive any step, but not to exceed the salary of the classification in which last employed. If that step is other than the maximum step of the salary range, the anniversary date for subsequent in-grade salary adjustments shall be twelve (12) months from the date of re-employment and each year thereafter until the maximum step of the salary range is reached;
  - (3) The employee shall be required to serve the probationary period established for the classification prior to obtaining permanent status; and

- (4) The employee shall be required to take and pass the City's pre-placement medical screening process.

#### 10.10 Return After Disability Retirement.

An employee receiving disability retirement who is found to be no longer incapacitated as provided under applicable provisions of the City Charter, or under Public Employees' Retirement Law shall be eligible to return to the classification last held. If the City makes an offer and the employee accepts the offer within thirty (30) days, the employee shall be returned at the salary step last held, with all previous rights and benefits, except that time spent during retirement shall not be considered City service. Provided, however, that only the sick leave hours accrued after return shall be applied to sick leave payoff related to subsequent termination. An employee on probationary status at the time of retirement shall be required to complete the remainder of the probationary period. An employee's disability allowance shall continue until the employee re-enters City service.

If the position held prior to disability retirement has been reallocated, abolished, or otherwise modified, or if the department in which the employee worked has been abolished or superseded, the employee shall be eligible to return to comparable positions as determined by the Director, subject to the provisions of Rule 1.4.

## **RULE 11 – LAYOFF AND RECALL**

- 11.1 Layoff List. When the City Council has ordered layoffs of employees, the Director shall prepare a layoff list.
- 11.2 Order of Reduction. Within each job classification in each department in which a layoff occurs, employees shall be laid off in the following order: first, all non-career employees; second, all probationary employees in the order of their classification seniority; and, third, career employees in the order of their classification seniority, beginning with the employee with the least such seniority. Length of service in a classification shall include time served in a higher promotional classification, or a comparable one if authorized by the Board. The term higher classification shall mean a job classification in which the top rate of pay (Step E) is greater than the top rate of pay (Step E) of the employee's present job classification. For those classifications which has flexible staffing as defined in the Civil Service Rules and provided for in the classification specifications, classification seniority shall be defined as the effective date of probationary appointment to the lowest classification in the classification series. If two (2) or more employees have an equal amount of classification seniority, the senior employee shall be determined on the basis of greater City service seniority. If two (2) or more employees have an equal amount of City service seniority, the senior employee shall be determined on the basis of greater hire date seniority, or by the relative standing on the eligibility list in the event of a tie.
- 11.3 Notice of Layoff. In the event of a layoff, the City shall send by certified mail a layoff notice to all affected employee(s). Such notice shall be postmarked at least fourteen (14) calendar days in advance of the effective date of layoff. Such layoff notice shall be mailed to the employee's address currently printed on the employee's paycheck, and shall be deemed appropriate notice. The employee(s) who is on a paid or unpaid leave shall be affected by the layoff in accordance with the provisions of this Rule in the same manner as all other employees. However, the employee who is on sick leave or injury-on-duty status on the date of layoff notice shall not be laid off or downgraded until the employee returns to work; except that the effective date for recall purposes shall be the date of actual layoff as stated on the layoff notice.
- 11.4 Right to Downgrade. A career employee with permanent status in an unrepresented classification who is to be laid off or displaced has the right to downgrade, within the department, to unrepresented classifications within the series in which the employee's classification falls, and to unrepresented classifications in which the employee previously held permanent status. An employee may accept layoff in lieu of the opportunity to downgrade by written notification to the City within forty-eight (48) hours of receiving notice of layoff. Where the employee accepts a layoff in lieu of a downgrade, said employee shall forfeit all recall rights except to a vacancy within the same classification within the department from which the employee was laid off.

(Revised 6/4/91)

- 11.5 Order of Recall. When a vacancy exists and employees are to be recalled to a job classification, the laid off or downgraded employee(s) eligible to return to that job classification, within the department, shall be recalled in inverse order of layoff. Notice of the opening(s) shall be sent to the mailing address as shown on the employee's last paycheck unless a more recent address has been furnished by the laid off/downgraded employee. To expedite recall, more than one (1) employee may be notified of an opening. This recall notice shall be by certified mail and the employee shall have fourteen (14) calendar days to report to work from the date of postmark of the recall notice. If said employee fails to report to work within fourteen (14) calendar days, he/she will lose all recall rights. An employee who has been laid off or downgraded shall be required to meet the physical and other minimum qualifications of the classification to which he/she is recalled.

## **RULE 12 – DISCIPLINARY ACTIONS, APPEALS, AND HEARING PROCEDURES**

- 12.1 Disciplinary Power. The City Manager, or other official or Board in whom is vested disciplinary or removal power, shall be allowed full freedom on such matters, it being the intent and spirit of this article to provide a fair and honest approach to municipal employment for every inhabitant of the City, but, in no sense, to handicap or curtail the responsible administrative officer in securing efficient service.
- 12.2 Causes for Disciplinary Action. Any City employee may be disciplined for just cause, including but not limited to the following forms of conduct if found to exist:
- (a) Fraud in securing employment;
  - (b) Incompetence. As used herein, the term “incompetence” shall mean that the employee lacks adequate ability, knowledge or fitness to perform the duties which are within the scope of the employee’s employment. “Fitness” is a physical or mental inability to perform the duties of a classification, and shall be applied in a manner consistent with local, state and federal statutes, regulations and case law with respect to employment of the physically handicapped. An employee who is physically or mentally incapable of performing the duties of the classification shall be considered to have been released rather than to have been disciplined. Such released employee shall have the same due process rights as a disciplined employee, and shall be considered to have left in good standing;
  - (c) Inefficiency in performance of work which results in performance lower than that which is typically expected of a similar employee in a similar position;
  - (d) Inexcusable neglect of duty;
  - (e) Insubordination;
  - (f) Dishonesty rationally related to employment;
  - (g) Unless authorized to do so, consuming, possessing an open container or being under the influence of an alcoholic beverage, while on duty;
  - (h) Unless legally authorized to do so, using, consuming, injecting, possessing, being under the influence of, selling or offering for sale, while on duty, any controlled substance as the latter term is defined in the California Health and Safety Code;
  - (i) Addiction to the use of any “controlled substance,” as that term is defined in the California Health and Safety Code;
  - (j) Inexcusable absence without leave;

- (k) Failure to return from an authorized leave of absence as specified in Rule 10.7;
- (l) Use of sick leave in a manner not authorized by the Board, or, where provided for in Rule 16.10;
- (m) Conviction of a felony or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea of guilty or conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. Notwithstanding any further proceedings in the case or any appeal or appellate decision, a conviction shall be deemed to be complete upon the date the court imposes judgment and sentence;
- (n) Discourteous treatment of any member of the public where, at the time of the incident, such member of the public could reasonably believe that the employee was acting within the scope of City employment;
- (o) Discourteous treatment of any other City employee in a situation where an employment relationship exists at the time of the incident;
- (p) Willful disobedience of a lawful rule, order or direction;
- (q) Negligence which causes damage to City or public property;
- (r) Intentional misconduct which causes damage to City or public property;
- (s) Unauthorized possession or use of City or public property;
- (t) Violation of the written City policy regarding garnishment. The initiation of bankruptcy proceedings shall not constitute cause for disciplinary action;
- (u) Violation of any of the provisions of the City Charter of the City relating to conduct of City employees;
- (v) Failure to pay a service fee, or a contribution required in lieu of a service fee, pursuant to a collective bargaining agreement between the City and a recognized employee organization, where such an agreement contains an agency shop provision, and the disciplinary action in question is provided for in such agreement, and is permitted by applicable law, statutory or otherwise;
- (w) Any conduct rationally related to employment which impairs, disrupts or causes discredit to the employee's employment or the public service;

- (x) Solicitation of a waiver from an eligible on an employment list, pursuant to Rule 6.5.

12.3 Definition of "Disciplinary Action". The term "disciplinary action" as used in Rule 12 shall mean and include:

- (a) letter of reprimand;
- (b) suspension;
- (c) withholding in-grade salary increase;
- (d) in-grade salary reduction;
- (e) demotion; or
- (f) dismissal;

when any such action is taken toward an employee for misconduct pursuant to Section 12.2 of this rule.

12.4 Notice of Disciplinary Action. Whenever a disciplinary action is taken against an employee, the employee shall be notified in writing of the disciplinary action taken. Such written notification shall include:

- (a) A statement of the disciplinary action taken against the employee;
- (b) A statement of the facts upon which the disciplinary action is based, which shall set forth clearly and with particularity the charges against the employee so that the employee can understand the charges;
- (c) A statement indicating the cause for the disciplinary action pursuant to Rule 12.2;
- (d) A statement which generally describes any disciplinary actions taken against the employee in the past; and
- (e) A statement advising the employee that the written notice is to be placed in the employee's official personnel file and that the employee has the right to appeal to the Board pursuant to Rule 12.

The written notice of disciplinary action shall be deemed sufficient notice to the employee if the required information is contained therein. The written notice of disciplinary action may be personally served, or mailed to the employee by certified mail, return receipt requested, addressed to the last address which such employee has furnished to the appointing authority.

12.5 Presumption of Delivery.

- (a) Personal service. Any written notice shall be conclusively presumed to be delivered to the employee on the date the written notice is personally served on the employee.
- (b) Certified mail--receipt returned. In the event any notice is sent to an employee by certified mail, return receipt requested, the notice shall be conclusively presumed to be delivered to the employee on the date the receipt was signed by the employee or any other adult person residing with the employee at the address to which the certified mail is sent.
- (c) Certified mail--receipt not returned. In the event the certified mail is refused, or in the event the employee has moved or is absent without leave, and no person at the address to which the certified mail is sent signs for the certified mail, a copy of the notice shall be deposited in the regular mail addressed to the employee at the employee's last-known address. It shall be presumed the notice was delivered as of the date the copy of the notice was deposited in the regular mail following return of the certified mail.

12.6 Date Discipline Final. Disciplinary action shall be final:

- (a) When the time for appeal to the Board has run, and no appeal has been timely filed; or
- (b) After the Board's determination of the matter at the hearing pursuant to Rule 12.10(d).

12.7 Time for Appeal. Any employee against whom disciplinary action is taken shall have the right to appeal from such disciplinary action; provided, however, that the employee must deliver a written notice of appeal to the Director within fifteen (15) calendar days of the date of delivery of the written notice of disciplinary action as specified by Rule 12.5. The date following the date of delivery shall be deemed to be the first day of the fifteen-day period. The notice of appeal shall be presumed to be delivered to the Board on the date of receipt of the notice by the Director. In the event the employee fails to deliver a notice of appeal to the Director within the fifteen-day period, the disciplinary action shall become final, and the employee shall have no further right to appeal.

12.8 Notice of Appeal, Contents. The written notice of appeal filed with the Director shall not be required to be in any particular format; however, it shall contain at least the following information:

- (a) The name and current address of the employee;
- (b) The date of the notice of disciplinary action;

- (c) A statement to the effect that the employee appeals from the disciplinary action; and
- (d) The date and signature of the employee or an authorized representative.

12.9 Setting Hearing Date. When the Director receives a notice of appeal which complies with the requirements of Rules 12.7 and 12.8, the Director shall forthwith schedule the matter for hearing with a hearing officer.

Any person may appeal to the Board pursuant to Rule 1.4 from the Director's action in scheduling a hearing.

At its first meeting following the scheduling of the hearing with a hearing officer, the Board may, if it wishes, review the case and determine whether to hear the matter itself. If it decides to hear the case itself, the Board shall schedule forthwith the hearing.

12.10 Hearing by Board or Hearing Officer: Hearing Officer Procedures.

- (a) Appointment of hearing officer. The appeal shall be heard by a hearing officer unless the Board decides to hear the appeal. In any case in which the Board hears the appeal, the Board may utilize the services of its counsel or a hearing officer in ruling upon procedural questions, objections to evidence, and issues of law. The provisions of this Rule 12.10 shall apply to all appeals, whether heard by the Board or by hearing officer.

The City and a recognized employee organization may agree to a hearing process which utilizes a third party neutral arbitrator chosen by striking names from a panel provided by the State Mediation and Conciliation Service. The arbitrator shall follow the rules set forth in Civil Service Rule 12 applicable to discipline appeal hearings. The decision of the arbitrator, which shall be presented as the joint recommendation of the parties, shall be advisory to the Civil Service Board.

Any agreement reached between the City and a recognized employee organization which is a deviation from these procedures requires the approval of the Board.

(Revised 5/18/93)

(b) Procedures to be followed by hearing officer.

- (1) After the appointment of a hearing officer, all requests for continuance shall be directed to the hearing officer. Continuances are to be granted only upon a showing of good cause, following the procedure specified herein. The party making a request for a continuance shall do so in writing, and shall serve a copy of the request upon the other party.
- (2) Hearing procedures. The hearing officer shall follow the procedures specified in subsection (c) below in conducting the hearing. In applying the provisions of subsection (c) below, the words "hearing officer" shall be substituted for the word "Board" wherever it appears. The hearing officer for just cause may waive the rules of procedure in the same manner as the Board, pursuant to Rule 12.10(e).
- (3) Proposed decision. The hearing officer shall prepare a proposed decision in such form that it may be adopted by the Board as the decision in the matter. A copy of the proposed decision shall be filed by the hearing officer with the Director.

The proposed decision shall be furnished by the Director to each party within ten (10) days after the proposed decision is filed.

The proposed decision shall set forth detailed findings of fact and conclusions, and a determination of issues. In the determination of issues, the decision shall separately determine:

- (i) Whether the conduct constitutes just cause for discipline under Rule 12.2; and
- (ii) The propriety of the discipline imposed by the appointing authority.

(Revised 5/18/93)

- (4) Determination of discovery items. The hearing officer shall determine any disputes between the parties arising under Rule 12.11, and may impose penalties pursuant to Rule 12.11 (c)(7) except that the hearing officer may not impose any penalty under Rule 12.11 (c)(7)(iii).
- (5) Board action on proposed decision. After the proposed decision is filed with the Director, the Board shall hold a hearing and promptly determine the matter pursuant to Rule 12.10(d).

(c) Rules for conduct of hearing.

- (1) Statement of issues. At the commencement of the hearing, the parties shall submit to the Board an agreed statement of the issues. In the event the parties are unable to agree upon the issues before the hearing, each party shall submit to the Board a separate statement of the issues. The Board may rule upon any disputed issues, and the ruling of the Board shall be final. To the extent the Board does not rule on the issues, the parties shall not be bound by their respective statements.
- (2) Opening statement. Each party shall be afforded an opportunity to make an opening statement prior to presentation of evidence. Such statement shall be no longer than ten (10) minutes in length, and shall be limited to a presentation of those facts that the party expects to be proven through the evidence. Argument shall not be permitted in the opening statement.
- (3) Evidence.
  - (i) Oral evidence shall be taken only on oath or affirmation.
  - (ii) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to offer rebuttal on any evidence. If the appellant does not testify on his or her own behalf, he or she may be called and examined as if under cross-examination.
  - (iii) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Where a claim of privilege or confidentiality is made at the hearing, the Board shall follow the procedures set forth in Rule 12.11(b) below relating to confidentiality and privilege claims in discovery proceedings. Irrelevant and unduly repetitious evidence shall be excluded.

- (iv) The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who does not proficiently speak the English language shall provide, and pay for, a certified interpreter to serve during the hearing.
- (4) Closing argument. Each party shall be afforded an opportunity to make a closing argument after the presentation of evidence. The appointing authority's representative shall proceed first, with a fifteen (15) minute time limitation. The appellant shall proceed next, also with a fifteen (15) minute limitation. The appointing authority shall then be afforded a rebuttal opportunity, limited to five (5) minutes. The appellant shall then be afforded a rebuttal opportunity, limited to five (5) minutes. No further argument shall be permitted. Nothing in this section shall be construed to prevent the Board from asking questions or eliciting comments from the parties before, during, or after argument. The time limitations may be waived by the Board in complex cases or where otherwise warranted.
- (5) Burden of proof.
  - (i) At all times during the proceedings before the Board the City shall have the burden of proof as to all issues and facts necessary to support the disciplinary action imposed by the appointing authority.
  - (ii) The quantum of proof required shall be the "preponderance of the evidence" test utilized in ordinary civil actions.
- (6) Public hearing
  - (i) General Rule.

All hearings conducted by or on behalf of the Board under this Rule shall conform to the requirements of Government Code Section 54950, et seq., as those sections now exist or as they may be amended, supplemented, or renumbered.
  - (ii) Closed session.

All proceedings before the hearing officer shall be held in closed session, subject to the appellant's right to have those proceedings conducted in open session.

When the matter is initially heard by the Board, or when the Board hears the matter after a hearing before the hearing officer, the Board shall have discretion to hold a closed or an open hearing, subject to the appellant's right to have the hearing conducted in open session.

Where the hearing or any part thereof has been closed, no person other than the appellant, the appointing authority and their respective representatives shall be present unless specifically authorized by the hearing officer or the Board.

After argument has been presented or there has been an opportunity to present argument as provided in these Rules, any member of the Board may make a motion that the Board's deliberations be conducted with only the Board and, if the Board desires, its counsel, present.

If the motion passes, and if there is no objection from the appellant, the Board shall conduct its deliberations with no person other than Board members, and if the Board desires, its counsel, present. Upon completion of such deliberations, the Board shall return to public or closed meeting, whichever is applicable, and the Board's vote shall be taken in relation to the proposed decision.

Where the hearing and deliberations including the vote are held in closed session, the hearing officer's proposed decision, the Board's decision, all documents, papers, transcripts, or other written matter or tangible evidence shall be confidential.

(iii) Appellant's request for closed session.

An appellant shall have the right to request, at any stage of the proceedings, that the Board conduct the proceedings in closed session. When such a request has been made, the Board shall consider it and determine the issue by a motion and vote.

(d) Findings and decision.

At the close of the hearing, the Board shall promptly determine the matter before it. If the Board has heard the matter itself without a hearing officer, the Board shall determine the matter by announcing and adopting a decision in the format prescribed by Rule 12.10(b)(3), and such decision shall be incorporated into the official Board minutes.

Where the matter has been heard by a hearing officer, the Board shall determine the matter by:

- (1) Adopting the proposed decision in its entirety; or
- (2) Modifying the proposed decision and adopting it as modified; or
- (3) Reducing the disciplinary action set forth therein and adopting the balance of the proposed decision; or
- (4) Rejecting a proposed reduction in penalty, approving the penalty sought by the disciplining authority or any lesser penalty, and adopting the balance of the proposed decision; or
- (5) Rejecting the proposed decision in its entirety.

In so determining the matter, the Board may in its discretion direct preparation of transcripts of the proceedings before the hearing officer and may review those transcripts prior to making its decision.

If the Board adopts the decision in whole, the proposed decision shall become the Board's decision, which shall be incorporated into the official Board minutes.

If the Board modifies the proposed decision, the Board's findings shall be announced and adopted by the Board, and shall be incorporated into the official Board minutes.

If the Board rejects the proposed decision in its entirety, each party shall be notified of such action and the Board may itself decide the matter in accordance with this Rule 12, upon the record, including the transcript, with or without the taking of additional evidence, or it may refer the matter to the same or another hearing officer to take additional evidence. If the Board hears the matter itself, it shall determine the matter by announcing and adopting a decision in the format prescribed by Rule 12.10(b)(3) and such decision shall be incorporated into the official Board minutes. If the Board refers the case to the same or another hearing officer, the hearing officer shall prepare a proposed decision as provided in Rule 12.10(b)(3) upon any additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of such proposed decision shall forthwith be filed by the hearing officer with the Director and shall be furnished by the Director to each party within ten (10) days after such filing.

When the Board's determination has become final as provided in Rule 12.6, the Board's findings and decision shall be forthwith served upon the appointing authority and the appellant.

- (e) Waiver of rules of procedure by Board. The Board for just cause may make such orders to modify the procedure set forth herein as it may deem necessary to promote the ends of justice; however, the Board shall not waive the time limit set forth in Rule 12.7.
- (f) Time for seeking judicial review. Judicial action to review any decision of the Board pursuant to this Rule shall be filed within the time limits prescribed in Code of Civil Procedure Section 1094.6. Notice of such time limit shall be given to the appellant in writing at the time the Director serves the findings and decision on appellant pursuant to subsection (d) above.

#### 12.11 Discovery.

- (a) Permissible discovery. Pursuant to the procedure set forth in subsection (b) below, any party may obtain the following information in the hands of or which may reasonably be obtained by the responding party or the responding party's representative:
  - (1) Those allegations in the notice of disciplinary action which are admitted by the employee and those allegations in the notice of disciplinary action which are denied by the employee;
  - (2) Any information known to the employee which is not set forth in the notice of disciplinary action which is material to the employee's appeal;
  - (3) The name, address and telephone number of each witness whom the responding party intends to call to testify at the hearing. (As used herein, "responding party" shall mean the person of whom the information is requested.);
  - (4) Copies of statements by any person whom the responding party intends to call as a witness;
  - (5) All writing relevant to the issues involved in the appeal including but not limited to reports of mental, physical and blood examinations which the responding party intends to introduce into evidence. ("Writings" as used herein shall have the meaning defined in Evidence Code Section 250 which states:

"Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof.)

- (b) Confidential or privileged matter. If the responding party determines that the writing or other material requested is confidential or privileged, the response to the discovery request shall specifically so state, and shall set forth in detail the grounds upon which confidentiality or privilege is claimed.

If the requesting party disputes the claim of privilege or confidentiality, the Board or hearing officer sitting for the Board shall resolve the claim. In resolving the claim, the Board or hearing officer may order that the writing or other material be deposited with the Board or hearing officer in a sealed container. In ruling on such claims, the Board or hearing officer may grant or deny the claim of confidentiality or privilege in whole or in part.

If the Board or hearing officer determines that the material is confidential, but limited disclosure is necessary, the Board or hearing officer may impose conditions upon the use or disclosure of the item by the requesting party.

If the Board or hearing officer determines that the material requested is subject to an evidentiary privilege, the decision regarding disclosure of the matter shall be strictly governed by the provisions of the Evidence Code.

- (c) Procedure for discovery.

(1) Personal service. At any time after the Director sets a hearing date for an appeal, but in no event later than the tenth calendar day before the date set for such hearing, any party may personally serve a written request upon the responding party for any or all of the information set forth in subsection (a) above.

(2) Service by mail. At any time after the Director sets a hearing date for an appeal, but in no event later than the fifteenth calendar day before the date set for such hearing, any party may serve by first-class mail a written request upon the responding party for any or all of the information set forth in subsection (a) above. The date of service shall be the date of the postmark.

(3) Response. Within five (5) calendar days of receiving the request mentioned in (1) and (2) above, the responding party shall prepare and serve a response to the request. Such response shall be served upon the requesting party as provided by (c)(1) or (c)(2).

(4) Request to be deemed continuing request. The discovery request is a continuing request, which requires a continuous response. Where new or additional information becomes available to the responding party, such information shall forthwith be furnished to the requesting party.

- (5) Negative response. In the event the responding party does not have an item of the information requested, the responding party shall give a written negative response as to that particular item within the time specified for response, but shall respond fully as to the information which the responding party does possess. The responding party shall comply with (4) above after such negative response.
- (6) Disputes. Any dispute between parties regarding discovery shall be resolved by the Board.
- (7) Penalties for failure to comply. The Board shall impose penalties for failure to comply with this Rule 12.11. These penalties shall be based upon the seriousness of the failure to comply, the good or bad faith of the noncomplying party, and the extent to which the noncompliance results in surprise to the requesting party and handicaps the requesting party in preparing the case. The following penalties may be imposed:
  - (i) Exclusion of evidence;
  - (ii) Continuing the hearing at any stage; or
  - (iii) Upon proof of a willful or repeated violation, the Board shall determine the issue against the noncomplying party.

#### 12.12 Subpoenas.

- (a) Before the hearing has commenced, or during the hearing, the Board, or the assigned hearing officer, shall have the power to issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing.
- (b) No subpoena duces tecum shall be issued unless the requesting party shall have complied with the requirements of Code of Civil Procedure Section 1985 regarding affidavits or declarations in support of the subpoena duces tecum.
- (c) All non-party witnesses appearing pursuant to subpoena, shall receive witness fees and mileage allowances as specified by state law for a witness in civil actions in superior court.

- (d) Nothing herein shall authorize the issuance of a subpoena or subpoena duces tecum in cases provided for by Government Code Sections 68097.1 to 68097.10, inclusive, of the Government Code (or successor, amended or renumbered sections) of the Government Code unless the required payment or deposit has been made.

No bond will be required when an employee is subpoenaed to be a witness during duty hours.

- (e) Any action to quash a subpoena shall be taken in the Superior Court, County of Sacramento.

#### 12.13 Contempt.

If any member of the general public in proceedings before the Board disobeys or resists any lawful order or refuses to respond to a subpoena, or refuses to take the oath or affirmation as a witness, or thereafter refuses to be examined, or is guilty of misconduct during a hearing, the Board shall certify the facts to the Superior Court in and for the County of Sacramento. In such a case, the procedures specified in Government Code Section 11525 (or successor, amended or renumbered section) shall be utilized by the parties and the court.

## **RULE 13 – RESTRICTIONS UPON OFFICERS AND EMPLOYEES**

- 13.1 General. No person shall be appointed to any civil service position or employment the compensation of which was increased or fixed by the City Council while said person was a member thereof, until after the expiration of one (1) year from the date when he or she ceased to be a member of the City Council. No civil service employee, shall be interested directly or indirectly in any contract or transaction with the City or with any department, board, officer or employee thereof, nor become surety for the performance of any contract made with or for the City upon bonds given to the City. No civil service employee shall receive any commission, money or thing of value, or derive any profit, benefit or advantage, directly or indirectly, from or by reason of any dealings with or service for the City by himself or herself or others, except the lawful compensation paid to such employee. The violation of the provisions of this Rule shall be grounds for dismissal from City service. No person shall hold status in more than one (1) civil service classification, nor receive more than one (1) salary from the City for the same work or hours of work.
- 13.2 Supplementary Employment. No officer or employee holding a position with the City in the classified service shall accept any employment, position or service outside of City employment for which such officer or employee is compensated in any form, including salary, wage, fee, commission, except as hereinafter provided. Non-career employees shall not be subject to the provisions of this Rule.
- (a) Such persons who desire to accept other employment in addition to their regular municipal employment must obtain permission from their appointing authority or designee, on a form provided by the Director.
  - (b) The appointing authority or designee shall decide whether the performance of the duties of the other employment or service shall be allowed. No permit shall be approved where the employment, activity or enterprise:
    - (1) Involves the use for private gain or advantage of City time, facilities, equipment and supplies, or the prestige or influence of one's City office or employment; or
    - (2) Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the City for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course of hours as a City official or employee; or

- (3) Involves the performance of an act in other than the employee's capacity as a City official or employee which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such officer or employee; or
  - (4) Is in any way inconsistent, incompatible or in conflict with assigned duties of employees involved; or
  - (5) Involves the performance of work which may impair the efficiency of such employee in his or her regular City employment, be contrary to the best interests of the City, or reflect discredit on the City service.
- (c) On the basis of such investigation, the appointing authority or designee shall approve or deny such requests for supplementary employment. No request shall be granted which entails any duty whatsoever by the employee during regular hours of employment with the City.
  - (d) A copy of all applications, either approved or denied by the appointing authority or designee, shall be filed with the Personnel Department.
  - (e) Any employee whose request for supplementary employment is denied by an appointing authority or designee shall have the right to appeal to the Board and the decision of the Board shall be final.
  - (f) A statement of policy on supplementary employment, outlining procedures and restrictions in further detail, is set forth as Appendix "B" to these rules.

13.3 Residence. Employees in positions in the following classifications within the classified service, in addition to those employees having custody of City vehicles, must reside within thirty-five (35) air miles from the freeway interchange at W-X, 29th-30th Streets, so as to provide the citizens of this City with an effective response capability to emergencies. Upon written request approved by the appointing authority, and for good cause, the Director may approve a waiver of the residency requirements. Denials of such requests shall be appealable under Rule 1.4.

Construction Inspector III  
 Electrician  
 Electrician Supervisor  
 Fire Investigator I, II  
 Fire Captain  
 Fire Apparatus Operator  
 Firefighter  
 Landfill Equipment Operator  
 Machinist  
 Machinist Supervisor

Plumber  
Police Lieutenant  
Police Officer  
Police Sergeant  
Senior Landfill Equipment Operator  
Senior Plumber  
Street Construction Laborer  
Street Construction Equipment Operator  
Street Maintenance Supervisor  
Lighting and Signal Supervisor  
Lighting and Signal Technician I, II  
Water and Sewer Supervisor  
Water and Sewer Serviceworker  
Water and Sewer Leadworker

Any employee in the above classifications whose residence is outside the designated area shall be required to move the employee's residence within the designated area within one (1) year from the commencement of employment, provided, however, that no employee shall be required to move the employee's residence if the employee resides within the City.

## **RULE 14 – REPORTS AND RECORDS**

- 14.1 Reports of Personnel Transactions. To enable the Personnel Department to perform its duties accurately and expeditiously, each appointing authority shall report promptly, on forms provided, the following transactions:
- (a) Requisitions for certifications;
  - (b) All appointments, recalls from layoff, re-employment, and reinstatements;
  - (c) Separation from service;
  - (d) Transfers and demotions;
  - (e) Sick leave, injury and vacations;
  - (f) Salary increases;
  - (g) Completion of probationary periods;
  - (h) Leaves of absence and time off without pay;
  - (i) Disciplinary actions;
  - (j) Changes in organization resulting in the creation or abolishment of a position, promotion or demotion, changes in duties or classification;
  - (k) Assignments to special duty within a class;
  - (l) Changes of name, address, and telephone number.
- 14.2 Responsibility for Transactions. Each department head shall designate an employee as liaison with the Personnel Department, to be responsible for reporting personnel transactions for distribution of personnel material and information, and for posting of notices.
- 14.3 Office Records.
- (a) The Personnel Department shall keep records, including but not limited to, all examinations, eligible lists, records and files of employment history of each employee, history of each position, classification plan, compensation plan, files, books and correspondence.
  - (b) The Personnel Department shall maintain an official roster containing the names, addresses, telephone numbers, classification and department of all employees holding positions in the classified service of the City.

- 14.4 Confidential Nature of Personnel Records. All personnel records and files and examination materials are confidential. The Director shall take all necessary steps to protect the confidentiality of those materials. Disclosure of such records shall be governed by the Public Records Act, Government Code Sections 6250, et. seq. Individual employees may review their official personnel file maintained by the Personnel Department and/or their respective appointing authority. With the written consent of the employee, the authorized representative of the recognized employee organization may also review that personnel file.
- 14.5 Destruction of Records. Employee history roster cards shall be considered permanent records. All other records relating to personnel, including correspondence, applications, examination records, and reports, may be destroyed after two (2) years and state and federal requirements relating to destruction of public records have been satisfied. No record may be destroyed without the proper consent of the Board and the advice of the City Attorney.
- 14.6 Annual Report. If previously requested by the Board, the Director shall at the end of the fiscal year prepare a written summary of personnel activities and programs covering that fiscal year.
- 14.7 Written Notice. Any written notice required by the provisions of these rules shall be made in a timely manner and may be given either by personal service or by mail. The notice, if given by mail, must be deposited in the U.S. Post Office with postage prepaid and addressed to the person on whom it is to be served at the last address appearing on the records in the Personnel Department. Except where otherwise specifically provided, such service shall be complete at the time of the deposit in the post office.
- 14.8 Change of Address. All persons employed in the classified service and persons whose names appear on any eligible list shall notify the Director in writing of any change of address and telephone number. Any notice to employees or eligibles sent by mail to the last address of record shall be deemed to have been sufficiently given.
- 14.9 Performance Appraisals. Upon completion of the probationary period, a performance evaluation report shall be reviewed with the employee and submitted to the Personnel Department yearly thereafter on each employee in the classified service until Step E of the salary range is reached, as a means of determining whether in-grade salary increases are merited, and as a means of improving employee performance and communication between supervisors and subordinates.

## **RULE 15 – VACATION ADMINISTRATION**

15.1 Authority. The provisions of Section 107 of the Sacramento City Charter authorize the Board to enact regulations to interpret and implement its provisions. That section reads as follows:

“Sec. 107 Vacations.

“All employees of the City of Sacramento shall be entitled to vacation allowances on the following basis:

- “(a) During the first calendar year of employment, and after the completion of at least six (6) months of service, employees shall be entitled to a vacation allowance on a pro-rata basis of ten (10) working days per year for the number of months worked prior to the beginning of the first calendar year.
- “(b) Upon the completion of one calendar year and continuing thereafter through the fifth calendar year of employment, all employees shall be entitled to a vacation allowance of ten (10) working days per year.
- “(c) Upon the completion of five calendar years and continuing thereafter through the fifteenth calendar year of employment, all employees shall be entitled to a vacation allowance of fifteen (15) working days per year.
- “(d) Upon the completion of fifteen (15) calendar years of employment and continuing thereafter, all employees shall be entitled to a vacation allowance of twenty (20) working days per year; provided, further, that such employees so qualified to receive twenty (20) working days of yearly vacation allowance shall have the option, to be exercised not later than the first day of December in each year, to receive pro-rata payment for five (5) days of such vacation in lieu of using such five (5) days for vacation purposes.

“For the purpose of this section, the first calendar year shall be considered to be the period between January 1 and December 31 next following the employee’s original date of appointment. For the purpose of computing vacation time, each employee shall be considered to work not more than five (5) days each week. Vacation time shall not be earned when an employee is absent from duty without pay, except that there shall be no reduction in the yearly vacation allowance if such time absent from duty without pay does not exceed ten (10) days per year.

“Upon termination of employment for any reason, after completion of at least six (6) months of service, an employee entitled to receive vacation allowance shall be paid in a lump sum for all unused accumulated vacation time. All vacation shall be taken at such time as the executive head of the department in which such officer or employee may be serving shall direct.

“Any City employee in the Reserve Corps, Naval Reserve, Marine Corps, or National Guard of the United States Army and Navy, when called for the annual period of intensive training, shall be permitted to participate therein and shall not suffer loss of pay through such absence, nor shall such period devoted to said training be construed as the annual vacation of such employee, but said employee shall have in addition thereto the usual vacation period or pay allotted to City employees.

“The Civil Service Board shall by rule define and interpret the terms of this section and such definition and interpretation shall be conclusive; shall by rule provide for the regulation and accumulation of vacations; shall by rule define those categories of temporary employment in which employees shall not be entitled to earn vacation allowance; and shall by rule provide for the method of computation of accumulated or unused vacation allowance for employees leaving City service.”

- 15.2 Definition of “Calendar Year”. For purposes of Rule 15, the term “calendar year” shall mean the period between January 1 and December 31.

(Revised 2/19/2008)

- 15.3 Vacation Allowance Accrual. Vacation allowance accrual shall be determined on the basis of calendar years, in accordance with the following procedure:

- (a) First partial calendar year of employment. During the first partial calendar year of employment, vacation allowance shall be accrued at the rate of ten (10) working days per year, on a pro-rata basis. The rate of accrual shall be .83 days per month for each month or major portion of a month during the first partial calendar year.
- (b) First through fourth calendar year of employment. Commencing with the first full calendar year of employment, vacation allowance shall be accrued at the rate of ten (10) working days per year.
- (c) Fifth through fourteenth year of employment. For the fifth through the fourteenth full calendar years of employment, vacation allowance shall continue to accrue at the rate of 15 working days per year.
- (d) Fifteenth and succeeding years of employment. For the fifteenth and succeeding full calendar years of employment, vacation allowance shall

continue to accrue at the rate of 20 working days per year.

- (e) Special rule for employees who have resigned and who have been reappointed. Any employee placed on a re-employment list after resignation shall, upon appointment from that list, be permitted to include City service prior to resignation for the purpose of determining the rate of vacation accrual. Such time between resignation and reappointment shall, for purposes of this Rule, be considered as time absent from duty without pay.
- (f) Vacation allowance accrual for part-time career and non-career (+1040) employees. Part-time career and non-career (+1040) employees shall accrue vacation on a pro-rata basis.
- (g) Employees temporarily appointed in absence of eligible list. Employees temporarily appointed to fill full-time positions in the absence of eligible lists, and who thereafter receive a probationary appointment in the same class without a break in service, shall accrue vacation from the date of original temporary appointment.
- (h) Non-career employees receiving permanent appointments. Non-career employees who receive permanent appointments without a break in service shall have their vacation allowance accrual rate computed from the most recent date of appointment beginning with the last period of continuous service as a non-career employee. There shall be no retroactive accrual.

#### 15.4 Eligibility to Use Vacation Which Has Been Accrued Under Rule 15.3.

- (a) First partial calendar year. During the first partial calendar year of employment, employees shall not be entitled to utilize the pro-rata vacation allowance accrued for the first partial calendar year of employment.
- (b) First full calendar year. During the first full calendar year of employment and after the completion of at least six (6) months of continuous service, employees shall be entitled to utilize any unused vacation allowance accrued since their appointment date.
- (c) Calendar years following the first full calendar year of employment. During calendar years following the first full calendar year of employment, employees shall be entitled to utilize the unused vacation allowance accrued since their appointment date.

(Revised 2/19/2008)

15.5 Accumulation and Carryover of Usable Vacation.

- (a) Right to accumulate and carry over. If an employee does not utilize all vacation usable under Rule 15.4 in a calendar year, the employee shall be permitted to accumulate and carry over the unused portion thereof to the following calendar year subject to the limitations of subsections (b) and (c) below.
- (b) Maximum accumulation generally. The maximum amount of unused vacation that an employee may accumulate is 480 hours.
- (c) Maximum accumulation for employees on a fire suppression schedule. The maximum amount of unused vacation that a fire suppression schedule employee may accumulate is 672 hours.

(Revised 2/19/2008)

15.6 Rules Regarding Manner of Utilization of Vacation.

- (a) Right to vacation. In the event that the appointing authority does not permit a vacation for an employee for two (2) successive years, the employee shall be entitled to a vacation as a matter of right. The amount of vacation to be taken shall be the amount of vacation allowance to which the employee was entitled in the first of these two (2) successive years, as calculated immediately preceding the end of the second of such successive calendar years. The balance of the employee's accumulated vacation shall remain to the employee's credit.
- (b) When allowed. The time at which the employee shall be granted a vacation is at the discretion of the department head. An employee shall be deemed to have lost the right to a vacation if the employee fails to take a vacation when directed to do so by the appointing authority. The department head shall immediately transmit in writing to the Personnel Department such information.
- (c) Splitting of vacation periods. With prior permission of the appointing authority, an employee may be permitted to use accumulated vacation in time units of one (1) or more hours.

15.7 Leaves of Absence - Effect Upon Vacation Accrual and Use.

- (a) Reduction of accrual for time on unpaid leave. Time absent from City service without pay shall have the effect of reducing proportionately the amount of vacation allowance which an employee shall receive during the following year, except that there shall be no reduction in the yearly allowance if such time absent from duty without pay does not exceed ten (10) days in any year. Time absent from City service without pay shall not include absence from duty without pay as a result of mandatory furlough

time or approved voluntary furlough time for purposes of this provision.

(Revised 7/7/2009)

- (b) Eligibility to use accrued and usable vacation upon return from unpaid leave exceeding ninety (90) days. Subject to the provisions of Section 15.8 of this Rule, upon returning to City service from a leave of absence without pay exceeding ninety (90) days, the provisions of Section 15.4(a) of this Rule shall apply. Time on such leave of absence without pay, with the exception of parental leave and family care leave, shall not be counted as time in the City service for the purpose of determining the amount of vacation allowance to be received upon return.

15.8 Payment on Separation From Service or Leave of Absence Exceeding Ninety (90) Days.

- (a) Separation. Upon a separation from service for any reason after six (6) months of continuous employment, an employee shall be paid a lump sum payment as of the date of separation for any accrued or accumulated and unused vacation on the following basis:
  - (i) If separation occurs prior to the first calendar year or during the first four (4) calendar years of service, lump sum payment shall be made for all legally accumulated and usable vacation time, in addition to 0.83 days for each month worked in the calendar year that resignation was effective.
  - (ii) If separation occurs during the fifth through the fourteenth calendar year of service, lump sum payment shall be made for all legally accumulated and usable vacation time, in addition to 1.25 days for each month worked, in the calendar year that resignation was effective.
  - (iii) If separation occurs during the fifteenth calendar year of service or thereafter, lump sum payment shall be made for all legally accumulated and usable vacation time, in addition to 1.67 days for each month worked in the calendar year that resignation was effective.
  - (iv) All such lump sum payments shall be made to the nearest tenth of an hour of vacation allowance due.
- (b) Leave of absence exceeding ninety (90) days. Upon a leave of absence for any reason extending beyond ninety (90) days, an employee shall be entitled upon request to a lump sum payment as of the date such leave of absence becomes effective for any unused or accumulated vacation in accordance with these rules.

#### 15.9 Optional Payment in Lieu of Vacation.

Any employee who is eligible to accrue twenty (20) working days of vacation annually pursuant to Section 15.3 of this Rule, shall have the option to receive pro-rata payment for five (5) days of such vacation in lieu of using such five (5) days for vacation purposes. The following rules shall govern this optional payment:

- (a) Any employee exercising such option shall be required to sign an appropriate form requesting payment in lieu of the one (1) week of vacation which shall be submitted to Payroll not less than ten (10) working days prior to the date on which payment is to be made, and not later than the first day of December.
- (b) Payment for one (1) week in lieu of vacation may be made only once in any calendar year, regardless of vacation accumulation, and the one-week payment shall be charged against the current year's usable vacation allowance.
- (c) Payment for the one (1) week period shall be determined by multiplying the employee's hourly rate of pay computed on 2,080 hours per year (26 pay periods times 80 hours per pay period) by 40 (40 hours per week). For employees assigned to the fire duty schedule, payment shall be computed on 2,912 hours per year (26 pay periods times 112 hours per pay period) by 56 (hours per week).
- (d) Reduction of vacation allowance in accordance with the provisions of Section 15.7 (a) of this Rule shall not affect the employee's right to elect to receive one (1) week of additional pay in lieu of one (1) week of vacation, as long as the employee shall have at least two (2) weeks of accumulated usable vacation credit which was earned in the previous year.

#### 15.10 Effect of Holidays Occurring During Vacation.

No authorized City holiday occurring during the time period when an employee is on vacation shall be considered as a part of the employee's vacation time usage.

#### 15.11 Effect of Entry and Return From Military Service on Vacation Accrual and Usage, and Entitlement to Lump Sum Payment.

- (a) Accrual rate upon return. For purposes of determining the employee's time in City service in applying time provisions of Section 15.3 of this Rule to determine accrual rate, all time spent in military service shall be counted as time in City service. During such absence there shall be no actual accrual.

- (b) Eligibility to use vacation. Upon return from military service, the provisions of Section 15.4 (a) of this Rule shall apply.
- (c) Lump sum payment. Employees who have been continuously employed for at least six (6) months immediately preceding the date of entry into military service shall be entitled to and shall be subject to the provisions of Section 15.8 of this Rule.
- (d) Definition of “military service”. For purposes of this Rule, “military service” shall be defined as set forth in Rule 17.1.

## **RULE 16 – SICK OR SPECIAL LEAVE**

- 16.1 Authority For. The following rules and those in Rule 10 shall govern leaves of absence on account of personal sickness or injury, or for special leave as authorized under the provisions of City Code.
- 16.2 Eligibility. Career and non-career (+1,040) employees shall be eligible for sick leave benefits or special leave benefits.
- 16.3 Rate of Accrual. Full-time career employees shall accumulate sick leave credits at the rate of one (1) day per month (3.692 hours per bi-weekly pay period) of employment. Part-time career and non-career (+1,040) employees shall earn sick leave on a pro-rata basis.
- 16.4 Effect of Leave of Absence Without Pay. Employees shall accrue sick leave benefit credits on a pro-rata basis during a bi-weekly pay period when absent without pay for fifty percent (50%) or more of the regularly-scheduled hours during a bi-weekly pay period.
- 16.5 Maximum Accumulation. Sick leave benefit credit shall accumulate indefinitely without limitation.
- 16.6 Sick Leave Defined. Sick leave shall be defined as leave granted for the following conditions:
- (a) A personal illness that physically incapacitates an employee from performing the regular duties of the classification. Inability to work because of a “hangover” is not an authorized reason for sick leave absence;
  - (b) Injury not incurred in the line of City employment duties. Where the injury is attributable to employment with an employer other than the City, use of sick leave is not permitted;
  - (c) Medical, dental or eye examination or treatment for which appointments cannot be made outside of work hours;
  - (d) Childbirth, miscarriage, or other medical problems related to pregnancy;
  - (e) Employee’s off-duty exposure to contagious disease when the employee’s presence for duty would endanger the health of others.

- (f) Notwithstanding the above provisions of this Rule 16.6, up to one-third (1/3) of sick leave hours accrued at the time an employee has exhausted injury-on-duty time may be used. At the time of layoff or termination, all such sick leave hours used shall be deducted from any cash-out amount.

For example, an employee has 300 hours of sick leave time accrued when the employee exhausts injury-on-duty time. The employee is entitled to use up to one-third (1/3) of sick leave time accrued (100 hours). The employee uses only 50 of the 100 hours leaving a balance of 50 unused cash-out hours. During injury-on-duty or upon return to work, the employee accrues 50 sick leave hours and does not utilize any other sick leave hours. The employee, at the time of retirement, is entitled to cash-out of the 50 unused cash-out hours plus one-third (1/3) of the subsequently accrued 50 hours (16.7 hours) or 66.7 hours.

16.7 Special Leave Defined. Special leave benefits for the following reasons shall be chargeable to sick leave credits:

- (a) Death of a member of the immediate family or of a close relative;
- (b) Hospitalization of a member of the immediate family;
- (c) Providing care for a member of the immediate family where such family member is seriously ill or injured, and requires the care and attendance of the employee.

16.8 Medical Examination. If in the opinion of the appointing authority an employee is incapacitated from performing the duties of the employee's position on account of personal sickness or injury such employee may be required to submit to an examination by physicians designated by the City. In such cases, the appointing authority shall contact the Director regarding scheduling such examination.

If the report of such physician or physicians shows the employee to be incapacitated from performing the employee's duties, the appointing authority shall have the authority, subject to the approval of the City Manager, to require the employee to take sufficient sick leave benefits or other leave of absence as will be necessary to allow the employee to recover sufficiently to perform the duties of the position. If from the medical reports it appears that such employee is eligible for disability retirement under appropriate provisions of the City Charter, the City Manager may order the Director to submit the medical report of such physicians to the Retirement System Manager for the purpose of considering the disability retirement of the employee.

- 16.9 Rate of Payment. Sick leave and special leave benefits shall be paid at the employee's base rate of pay. For purposes of this Rule 16.9, "base rate of pay" for fire and police personnel shall include educational incentive pay to which the individual employee is entitled.

Employees shall be required to state on a written form to be provided by the City whether their absence from work was for sick leave as defined above or for special leave as defined above.

- 16.10 Physician's Certificate.

Use of sick leave for periods of more than five (5) consecutive workdays requires a physician's certificate briefly stating the nature of the illness or injury, and the need for absence from work. A physician's certificate to support sick leave or special leave usage for medical reasons may be required at any time when in the judgment of the appointing authority reasonable cause exists for requiring such a certificate.

- 16.11 Effect of Retirement. On the effective date of an employee's voluntary or involuntary retirement, sick leave shall terminate.

- 16.12 Statement of Policy. A statement of policy and standards adopted by the Board applying to the use of sick leave or special leave benefits by all City employees shall be made available to all department and division heads and employees (Appendix "A").

## **RULE 17 – EMPLOYEES AND ELIGIBLES ENTERING MILITARY SERVICE**

- 17.1 Leave of Absence--Wartime, National Emergencies and Inductions (Military Service in Excess of One Hundred Eighty (180) Days). For purpose of this Rule 17.1, the term “military service” shall include service pursuant to Military and Veterans Code Section 395.02 (Inducted or Ordered), Section 395.1(a) and (d), and Section 395.4.
- (a) Right to leave of absence. Any probationary or permanent employee of the City in a career position who enters or enlists in military service (regardless of whether the employee is drafted, volunteers or is called into active duty from a reserve force) has an absolute right to a leave of absence for such military service.
  - (b) Duration of leave. Leave of absence shall remain in effect until ninety (90) days after the termination of such military service or within six (6) months after any rehabilitation afforded by the United States or the State of California following such military service. Within those time periods, the employee shall present to the Director authentic copies of discharge papers or other documents on which the date of entry and date of release from active service are indicated.
  - (c) Effect of military service on
    - (1) Sick leave accumulation. An employee who returns to City service after absence on military leave will be entitled to accumulation of sick leave credits in accordance with Rule 17.3 with time in active military service to be considered as time in City service. Upon return to City service, the employee will be immediately eligible to draw upon accumulated sick leave.
    - (2) Vacation allowance. Any employee of the City who has been employed for a period of at least six (6) months immediately preceding the date of entrance into military service shall be entitled to a lump sum payment for any unused accumulated vacation in accordance with the provisions of Rule 15.8. Upon an employee’s return to City service from military duty, all time spent in military service shall be counted as time in the City service for the purpose of determining the vacation allowance accrual rate to be received upon return.
    - (3) Salary increases. Time spent in military service will be counted in determining an employee’s eligibility for regular in-grade salary increases. The employee shall also be eligible to receive, upon return from military service, any and all general or special salary adjustments granted during the leave of absence.

- (4) Seniority rights. Time spent in military service will be counted in computing seniority rights for all purposes if such employee is properly reinstated under the conditions set forth in this Rule.
  - (5) Probationary period. A probationary employee who enters military service before completion of the probationary period shall be required, upon return to City service, to complete a new probationary period. Upon successful completion of the probationary period, the employee will be granted seniority and employment rights dating from the employee's original probationary appointment previous to entering military service.
  - (6) Salary for first thirty (30) days. Employees who have a right to a leave of absence under this Rule 17.1 and who have been City employees for a period of not less than one (1) year immediately prior to the date on which the leave of absence begins shall be entitled to receive salary for the first thirty (30) calendar days while engaged in the performance of ordered military duty covered by this Rule 17.1. Time going to and from the military duty shall be included in the thirty (30) days for purposes of payment.
  - (7) Longevity service credit. Time spent in military service will be counted in determining an employee's eligibility for longevity service credit.
  - (8) Promotional examinations. The employee shall be entitled to take such promotional examinations given during the absence that the employee would have been entitled to take had the employee remained on the job, if application is made to the Director within thirty (30) days following return to City service.
- (d) Procedure for leave of absence and reinstatement under Rule 17.1
- (1) To effect a military leave under the provisions of this Rule 17.1, the appointing authority shall submit to the Director the proper form, together with a copy of the employee's military orders. The statement of justification shall be "military leave" and the duration should be indicated as "indefinite".
  - (2) To effect the reinstatement of an employee after military leave, the appointing authority shall submit to the Director the proper form, accompanied by official copies of discharge papers or other documents on which the date of entry and date of release from active service are indicated.
  - (3) The employee shall make application for reinstatement to the Director within six (6) months after termination of active service.

- 17.2 Leave of Absence--State of Emergency Declared by Governor. The provisions of this Rule 17.2 shall apply only to those employees who are members of the National Guard and who are called to ordered military duty pursuant to Military and Veterans Code Section 395.05, where the Governor has declared a state of extreme emergency or acted under Military and Veterans Code Section 146.
- (a) Rights during first thirty (30) calendar days. During the first thirty (30) calendar days of service of the emergency, including time going to and from such duty, any City employee shall receive the full salary, promotions, vacation, sick leave, seniority, salary increases, holiday accumulation, and other benefits to which the employee would have been entitled had the employee remained at work for that period. These rights shall be available for no more than the first thirty (30) calendar days during any single emergency.
  - (b) Rights after expiration of thirty (30) days. After the thirty (30) days period specified in subsection (a) above has elapsed, the employee's right to obtain a leave of absence is governed by Rule 17.1(a). Rights incidental to such leave of absence are governed by Rule 17.1(b), (c) and (d).
- 17.3 Leave of Absence--Temporary Military Service (Short Training Periods). The provisions of this Rule 17.3 shall apply to any City employee who is, under Military and Veterans Code Section 395, entitled to temporary military leave of absence where the period of ordered duty is for training (active or inactive) and is of a duration of one hundred eighty (180) calendar days or less, including time involved in going to and coming from such duty. Scheduled reserve drill periods, including weekend drills, are not considered temporary military service.
- (a) Eligibility for leave. A City employee covered by this Rule 17.3 is entitled to a leave of absence for the period of training not to exceed a total of one hundred eighty (180) calendar days during any one (1) fiscal year. This one hundred eighty (180) day period shall include time going to and returning from such duty.
  - (b) Rights and benefits of employees with one (1) year or more of service. Any such employee who has been employed by the City for one (1) year or more or who has a combination of City service and federal military service equaling one (1) year or more, shall receive the following rights and benefits:
    - (1) Salary. The employee shall receive full City salary for the first thirty (30) calendar days of such absence during a fiscal year, if the training period is for active duty. Where such absence is continuous and extends into another fiscal year, such salary is nevertheless limited to the first thirty (30) calendar days of such absence.
    - (2) Other benefits. The employee shall receive, for the entire period of

absence, vacation, sick leave, seniority credits, and salary adjustments in the same amounts as if the employee had been on the job during the training period.

- (3) Promotional examinations. The employee shall be entitled to take such promotional examinations given during the absence that the employee would have been entitled to take had the employee remained on the job, if application is made to the Director within thirty (30) days following return to City service.
  - (4) Probationary period. The employee shall complete the probationary period following return from the short training period; however, the remaining time to be served shall not be less than thirty (30) days.
- (c) Employee lacking one year of service. A City employee who has not been employed continuously by the City for one (1) year before the leave of absence begins or who does not have a combination of City service and federal military service during a national emergency (as defined in Military and Veterans Code Section 395.1) equaling one (1) year is not entitled to the rights and benefits outlined in Rule 17.3(b)(1),(2) and (3). Such employee's rights are limited to a leave of absence for ordered military duty, and to reinstatement at the expiration of such leave, subject to completion of the probationary period, as specified in Rule 17.3(b)(4).
- (d) Procedures for military leave and reinstatement under Rule 17.3
- (1) To effect a military leave under the provisions of this Rule 17.3, the appointing authority shall submit to the Director the proper form, together with one copy of military orders of the employee. The statement of justification should be "military leave" and the duration should be indicated.
  - (2) To effect the reinstatement of an employee after military leave for their training periods, the appointing authority shall submit to me Director the proper form indicating "return to duty".
  - (3) The employee shall make application for reinstatement to the Director within six (6) months after termination of active service.

17.4 Peacetime Enlistments. For purposes of this Rule 17.4, military service shall include service pursuant to Military and Veterans Code Sections 395.02 (Enlisted) and 395.3.

- (a) Right to leave of absence. A City employee covered by this Rule 17.4 is entitled to a leave of absence for such service.

- (b) Salary for first thirty (30) days. An employee who has a right to a leave of absence under this Rule 17.4 and who has been a City employee for a period of not less than one (1) year immediately prior to the date on which the leave of absence begins shall be entitled to receive salary for the first thirty (30) calendar days while engaged in the performance of such service.
- (c) Probationary period. A probationary employee who enters military service before completion of the probationary period shall be required, upon return to City service, to complete a new probationary period.
- (d) Procedure for leave of absence and reinstatement under Rule 17.4.
  - (1) To effect a military leave under the provisions of this Rule 17.4, the appointing authority shall submit to the Director the proper form, together with a copy of the employee's military orders. The statement of justification shall be "military leave" and the duration shall be indicated.
  - (2) To effect the reinstatement of an employee after military leave, the appointing authority shall submit to the Director the proper form, accompanied by official copies of discharge papers or other documents on which the date of entry and date of release from active service are shown.
  - (3) The employee must make application for reinstatement to the Director within six (6) months after termination of active service.

17.5 Military Replacement Appointments. Appointments to positions which have become vacant because of military service of the employee holding the position shall be filled from the available eligible list by certification in the following manner:

- (a) These appointments shall be termed "military replacement" appointments, and shall be so identified when notifying eligibles of certification.
- (b) Eligibles certified for military replacement appointments may decline such appointment without penalty.
- (c) Eligibles receiving military replacement appointments shall be entitled to sick leave and vacation.
- (d) The status of a military replacement appointee shall be that of a non-career employee, and probationary service or seniority shall not be earned while so employed.

- (e) After a position has been filled by a military replacement appointment from the eligible list and a permanent position becomes vacant due to resignation, retirement, death or other reason, the position, if filled, shall be filled through the certification processes as specified in these Rules.
- (f) An employee, while serving under a military replacement appointment, who is called into military service, shall not be eligible for a leave of absence. The name of the eligible shall be restored to the eligible list in its proper order of final grade.

17.6 Examinations.

When a new examination is held to replace an existing eligible list, the names of those eligibles who were in military service at the time of certification for probationary appointment or who are called for military service while serving under a military replacement appointment, shall be placed at the top of the new eligible list.

17.7 Automatic Resignation on Voluntary Re-Enlistment. Subject to the provisions of Military and Veterans Code Section 395.1(d), any employee who voluntarily requests and obtains an extension of the original term of enlistment, service or tour of duty shall not be eligible for leave of absence for such service. Such voluntary extension shall constitute an automatic resignation from the City service as of the date such voluntary extension begins. Any employee involuntarily ordered to active duty under Section 395.1, and who elects to serve out the original period of active duty under Section 395.1(d) shall not be deemed to have automatically resigned.

## **RULE 18 – DEFINITIONS**

For the interpretation of these rules the following words and terms shall be construed as stated:

Allocation. The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibility exercised.

Applicant. A person who, under the rules, has made formal application for employment.

Appointing Authority. The officers of the City who, in their individual capacities, or as a board, commission, or City Council, have the final authority to make the appointment to the position to be filled.

Appointment. The offer to a person and acceptance by that person of a position in accordance with these rules, subject to successful completion of the pre-employment medical physical examination pursuant to Rule 6.12.

Board. The Civil Service Board established pursuant to the provisions of the Charter of the City of Sacramento.

Candidate. A person whose application has been accepted.

Career Employees. Those employees having either probationary or permanent status in civil service classifications.

Classification. A title under which are grouped all positions sufficiently similar in duties, responsibilities, working conditions, qualification standards, and requirements to permit such grouping, with equitable application of common standards of selection, transfer, promotion and salary.

Classification Series. Two (2) or more classifications performing similar work but recognizing increasing levels of responsibility, complexity, and skill.

Classification Specification. An official statement or guideline of the general duties, responsibilities and qualification standards of positions included in a particular classification. It usually consists of the following parts: (1) a title, (2) a definition, (3) a statement of distinguishing characteristics, (4) examples of duties, (5) qualification standards, and (6) length of probationary period.

Classification Title. The designation given to a classification and to each position allocated to the classification.

Classification Plan. The arrangement of positions in classifications, together with the titles and specifications describing each classification.

Classified Service. All positions now existing or hereafter created in or under any of the departments or boards, but not including those positions in classifications specifically exempted from the operation of civil service rules as outlined by resolution of the City Council.

Certification. The submission of names of eligibles from an appropriate list to an appointing authority by the Director.

City. The City of Sacramento.

Comparable Classifications. Classifications requiring the same or similar knowledges, abilities and skills and other qualification standards.

Demotion. A reduction in grade or rank resulting from the movement of an employee from one (1) classification to another classification having a lower maximum rate of pay.

Department. An administrative unit of the City government, designated under the City budget as a “department”.

Director. The Director of Personnel/Secretary to the Board.

Eligible. A person who has passed all components within the examination process and is entitled to certification for employment, subject to successful completion of the pre-employment medical examination pursuant to Rule 6.9.

Eligible List. A list of persons who have passed all components within the examination process and are entitled to certification for employment. There are the following types of eligible lists:

- (a) Recall list: A list of those persons eligible for employment after layoff, pursuant to Rule 11.
- (b) Reinstatement list: A list of persons who have completed a leave of absence, have requested reinstatement, and are qualified for reinstatement under Rule 10.6.
- (c) Re-employment list: A list of persons who resigned in good standing and who have qualified for re-employment pursuant to Rule 10.9.
- (d) Reallocation list: A list of persons reallocated to a lower classification.
- (e) Transfer list: A list of persons who have requested to transfer between or within departments and/or classifications.
- (f) Promotional list: A list of persons holding permanent status who have successfully completed all components of a promotional examination.

- (g) City list: A list of persons employed by the City who have successfully completed all components of a City examination.
- (h) Open list: A list of persons qualifying for certification as a result of having successfully completed all components of an open examination.

Employee. A person currently employed by the City.

Entry-Level Classification: A classification in which the knowledges, skills and abilities may be learned on-the-job within a reasonable period of time.

Examination. The formal process of testing to determine either mere qualifications or rank order of merit and the establishment of an eligible list.

Extra-Board Work. Employment with non-career status in the classification of Sanitation Worker I, where it is necessary for the employee to appear for work daily, but who may work only when other employees are absent for any reason.

Flexible Staffing. The process by which an employee is reallocated without examination from a lower classification to a higher one in the same series, where provided for by the classification specifications.

Layoff. The separation of an employee with permanent status from the classified service because of a reduction in personnel, resulting in the placement of the employee's name on a recall list.

Military Replacement. A person appointed to a career position in the classified service to replace a permanent or probationary employee called into the military service, and subject to termination upon return of the employee from such military service.

Non-Career Employees. Employees in one (1) of the following categories who have neither probationary nor permanent status:

(+1,040): Employees who work, or are expected to work, within one (1) year of each date of appointment, in excess of 1,040 hours during a continuous period of employment of more than six (6) months.

(-1,040): Employees who do not fall under the above (+1,040) definition.

Permanent Status. The right to continued permanent employment, subject to provisions of these rules, of an employee who has completed the probationary period for the classification to which appointed.

Position. A combination of duties regularly assigned to be performed by one (1) person. The types of positions shall be as set forth in Rule 6.9.

Probationary Period. A working test period, deemed to be an integral portion of the examination process, during which an employee is required to demonstrate fitness by actual performance of the duties of the position to which the employee has been appointed. The time of the probationary period for the various classifications of positions is determined by the Board and set forth in classification specifications.

Promotion. The movement of an employee from one (1) classification to another which has a salary maximum exceeding five (5%) percent of the former classification.

Promotional Examination. An examination limited to career employees.

Public Notice. Announcements of examinations, meetings, hearings and other actions of the Board and Personnel Department on bulletin boards in the City Hall and other City buildings, to public newspapers and to recognized employee organizations.

Resignation. The voluntary separation of an employee from employment.

Status. The standing of an employee's present appointment. There are the following types of status:

- (a) Permanent: The status of an employee who has been lawfully retained in a position in the classified service after completion of the probationary period.
- (b) Probationary: The status of an employee who has been certified and appointed to a position in the classified service but who has not completed the probationary period.
- (c) Exempt: The status of an employee who has been appointed to a position (either permanent or temporary) in a classification not included in the classified service.
- (d) Temporary: The status of an employee who has been appointed to fill a position on a temporary basis.

Termination. The separation of an employee from the service of the City. Termination may be due to death, discharge, displacement of a temporary employee by a probationary appointment, layoff, resignation, retirement, or work completion.

Transition. The movement of an employee from non-career status to probationary status in a career position in the classified service pursuant to these rules.

Trial Period. The time served by an employee with permanent status who transfers within classification to a different department. The trial period equals one-half the length of the probationary period for the classification.

Vacancy or Vacant Position. Any unfilled position in the classified service.

Waiver. The voluntary relinquishment by an eligible of any right to consideration for appointment to a specific position.

Year. The calendar year, unless specifically designated otherwise.

Y-Rate. A pay rate which exceeds the maximum step of the salary range for the employee's classification.

Meanings of Words. Words used in these rules in the present tense include the future; the singular number includes the plural; the plural indicates the singular; and writing includes printing and typewriting.

## APPENDIX A – POLICIES AND STANDARDS FOR USE OF SICK LEAVE AND SPECIAL LEAVE

### A. Sick Leave

#### (1) Eligibility

Sick leave may be taken by employees who qualify under Rule 16.6.

#### (2) Medical, Dental or Eye Appointments

Time off for medical, dental or eye appointments may be taken as sick leave if the appointment is necessary for preventive or routine medical attention, or because of illness, injury, dental care, or eye examination or treatment. Typically two (2) hours per day of sick leave is authorized for each appointment.

Employees should be requested to, and should endeavor to schedule such appointments on their own time. Where this is not possible, appointments should be scheduled in such a manner that time away from the job is minimized.

#### (3) Sick Leave While on Vacation

Sick leave while on vacation is authorized only if the employee is confined to a hospital, or is bedridden, and is unable to continue vacation activity. A physician's certificate verifying the dates, location, and reasons for the hospitalization or being bedridden must be provided by the employee upon return to work.

#### (4) Holiday Occurring During Sick Leave

A holiday occurring while the employee is on sick leave shall be counted as a holiday and shall not be charged against accrued sick leave benefits.

### B. Special Leave

Special leave may be taken for the reasons specified in Rule 16.7. The following policies, procedures and interpretive definitions are designed to implement Rule 16.7 and provide guidance in its administration.

#### (1) Death of Member of Immediate Family

Death of a member of the immediate family is an authorized use of special leave. A maximum of five (5) days may be taken in each instance. The maximum allowance should be taken only where that length of time is actually necessary.

If a holiday or regular day off falls within the five (5) day period, those days are to be counted as part of the five (5) day maximum, but shall not be charged as special leave.

“Member of the immediate family” means the parent, spouse, children, stepchildren and siblings of the employee.

(2) Death of Close Relative Who is Not a Member of the Immediate Family

Special leave may be taken for the death of an aunt, uncle, grandparent, in-law or any person living in the employee’s immediate household. A housekeeper, servant, landlord, or a member of the household in which the employee rents a room or boards is not included for purposes of this section. A maximum of three (3) days of special leave may be taken for each such instance. The maximum allowance should be taken only where that length of time is actually necessary.

If a holiday or regular day off falls within the three (3) day period, those days are to be counted as part of the three (3) day maximum, but shall not be charged as special leave.

(3) Funeral Attendance

Special leave is authorized for the purpose of allowing an employee a maximum special leave allowance of four (4) hours to attend the funeral of a person who is not a member of the immediate family or a close relative, as defined in subsection (1) or (2) above.

(4) Care of Family Member

Special leave is authorized for the purpose of allowing the employee to provide medically-recommended care or attention to a member of the immediate family who is ill or injured. Not over ten (10) days of special leave may be taken in any calendar year for this reason.

The following standards govern the granting of special leave for care of a family member:

- (a) “Member of the immediate family” is defined as set forth above in subsection (1); and
- (b) The family member’s illness or injury must be serious, or there must be an actual need for the presence of a person to render care and attention; and

- (c) No one other than the employee is available to render the necessary care and attention. The following guidelines are to be used in determining whether the employee's presence is necessary:
- (i) The family member's illness or injury is serious. Common colds, headache, or intestinal upset are generally not serious illnesses.
  - (ii) The employee must give medication to or prepare meals for the injured or ill person, who is unable to do this.
  - (iii) The employee must make necessary observations of the ill or injured person to determine changes in symptoms, as requested by the physician, or communicate with the physician concerning the care and treatment of the person.
  - (iv) The presence of the employee is considered advisable by the physician during a critical illness or injury.
  - (v) Absence for the purpose of supervising well children or to care for or prepare meals for such children while another member of the family is ill, resting, or is away from home, is not authorized for special leave.
  - (vi) If the ill or injured member of the immediate family resides in a household other than that of the employee, and there is no other person residing with the ill person who is available and capable of providing the necessary care and attention, use of special leave is authorized, provided all other requirements are met.
  - (vii) Absence to accompany another member of the family, including children, to a routine medical or dental appointment is not an authorized reason for special leave.

The reasons for granting sick leave for personal injury or illness are not necessarily the same as for granting special leave for family care.

For example: Sick leave could properly be granted to an employee for the common cold to get proper bed rest, and diet. However, special leave could not be granted to this employee whose spouse has a cold, and who is capable of self-care at home.

(5) Hospitalization of Member of the Immediate Family

Hospitalization of a member of the immediate family, as defined above, is a valid reason for use of one (1) day of special leave under the following conditions:

- (a) On the date that the family member has surgery; or
- (b) On the date that the employee's spouse gives birth to a child; or
- (c) In the event of critical illness or injury of the hospitalized family member.

Use of more than one (1) day of special leave for these purposes may be authorized only if a physician provides a written statement that the employee's presence at the hospital is recommended.

(6) No Special Leave While on Vacation

If the employee is on vacation, and would otherwise qualify for special leave under Rule 16.7 and these guidelines, special leave is not authorized due to the employee's availability and lack of need to be away from the job.

## APPENDIX B – POLICY ON SUPPLEMENTARY EMPLOYMENT

This policy has been adopted by the Board for the information and guidance of appointing authorities in processing applications for supplementary employment by employees in the classified service.

A. Responsibility of Appointing Authority.

It is the responsibility of the appointing authority to administer the provisions of the supplementary employment rule, and to decide whether or not such supplementary employment shall be approved. Such supplementary employment shall not be approved where the work to be performed involves those activities outlined in Rule 13.2(b) and as provided in the City Charter. If it appears to the appointing authority, after a permit has been approved, that the supplementary employment is detrimental to the City employment, the supplementary work permit shall be cancelled forthwith, and the Board shall be notified of such cancellation.

B. Procedure for Clearance of Applications.

Applications for supplementary work permits shall be approved or denied in writing by the appointing authority or designee. Questionable or unusual requests may be submitted to the Personnel Department for further consideration and advice. Permits should not be approved for periods exceeding one (1) year. A copy of each permit, whether approved or denied, must be filed with the Personnel Department.

C. Disciplinary Action.

Subject to the provisions of Rule 12, the imposition of discipline for violation of Rule 13, this policy, or any condition or term of the work permit, is a matter within the discretion of the appointing authority.

D. Permissible Employment Exempt From Rule.

Employment or service for which the employee receives an honorarium or token payment shall be considered permissible employment exempt from the supplementary work permit rule. Examples of such employment are: church organist or soloist; fraternal or union secretary or treasurer; part-time school teaching of specialized subjects; officiating at games; flower judging; legitimate hobbies from which money may occasionally be realized; writing of books or articles for magazines; and related activities which would not be considered regular employment.

E. Limitation on Hours.

It shall be the responsibility of the appointing authority to determine the appropriate number of hours which may be worked, consistent with the provisions of Rule 13.2 and appealable to the Board.

F. Additional Limitations.

The employee whose supplementary employment application is approved should be advised that the City will not be liable for paid sick leave for injuries or illness incurred in such employment; the City will have the right to question use of sick leave for absence from duty on a day following supplementary work performed the preceding day or night; and supplementary work is not permitted on or in the same premises where the employee performs City employment, without the prior approval of the appointing authority.

G. Right of Appeal.

In the event an application for supplementary employment is denied by the appointing authority, the employee may appeal the denial to the Board.

## APPENDIX C – PRE-PLACEMENT MEDICAL EVALUATION PROCEDURES

1. As a precondition to employment, appointment at entry level, reinstatement, or reemployment, or appointment to a different classification series which is more physically demanding than an employee's current classification, any candidate may be required to take a physical examination to be conducted by a physician designated by the City.

This procedure shall apply to all positions.

2. Pre-Employment X-Rays

- A. Pre-employment x-rays; generally. Except as specified in subparagraph (b) below, pre-employment x-ray examination of candidates for employment shall be required only where the candidate exhibits symptoms or other evidence of a medical abnormality or other problem or condition<sup>1</sup> which, in the judgment of the examining physician, might limit the candidate's ability to safely and efficiently perform the essential functions of the job. A candidate is considered to exhibit symptoms or other evidence of a medical abnormality, or other problem or condition, upon the occurrence of either of the following:

- (1) A clinical finding by a licensed physician (including but not limited to the examining physician) demonstrates symptoms (for example, the candidate fails to successfully perform clinical tests); or
- (2) A candidate's medical history, both written and as orally ascertained in the medical examination, bears out a past or present abnormality or other problem or condition (for example where the history reveals past surgery or incidents of recurring pain).

In order to implement the provisions of this paragraph, the City is entitled to require a candidate who has been offered an appointment subject to successful completion of the medical examination, to fill out under oath an accurate and detailed medical history form containing job-related injuries. In the case of the City Police Department, where other testing and investigative procedures precede actual appointment, such history form may be required of persons on the eligibility list who have been selected for moving to the next step in the selection process leading to appointment.

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<sup>1</sup> The term "condition" shall not be construed to mean or be limited to the term "medical condition" as defined in Government Code Section 12926(f).

- B. Pre-employment x-rays; special cases. In the case of candidates for positions within the list of classifications contained in this subparagraph, the City's medical examiner shall have the right to refer the candidate to a radiologist for a pre-employment lumbo-sacral x-ray and radiological report. Said x-ray films and report shall be made available to the City's medical examiner prior to or on the date of the medical examination.

The x-ray films and radiological report shall not be utilized by the Personnel Department to make an employment decision or disqualify a candidate. The examination, reporting and review process shall proceed in accordance with paragraphs 3 and 4 of these procedures.

The list of classifications to which this subparagraph applies is as follows:

- Firefighter
- Sanitation Worker I
- Street Construction Laborer
- Community Center Attendant I
- Community Service Officer
- Machinist
- Machinist Helper
- Police Cadet
- Police Officer
- Water & Sewer Serviceworker
- Building Maintenance Worker
- Park Maintenance Worker I

- C. Where the candidate has had x-rays previously taken, the medical examiner shall obtain and utilize such x-rays whenever they are current, available and relevant.
3. The City's medical examiner shall be responsible for performing a medical examination of candidates. Where the candidate is found to have limitations on functional abilities, the medical examiner shall submit to the City a written report detailing all relevant clinical and other findings, and specifically and separately identifying each functional limitation. Each such finding and functional limitation shall be described in detail.

Prior to conducting the medical examination, the medical examiner shall be furnished with a copy of a physical requirements survey and the job specification for the classification in question. Where, pursuant to subparagraph 2(B) above, pre-employment x-rays have been performed, the films and the radiological report shall be furnished to the medical examiner prior to or at the time of the medical examination. Where pursuant to subparagraph 2(A) above, x-rays have been clinically required, the medical examiner's report shall not be issued until the medical examiner has received and reviewed the film and radiological report.

4. The Director of Personnel or designee, in consultation with the Affirmative Action Officer and with the appointing authority for the job in question, shall compare a candidate's limitations, as reported by the medical examiner, with the essential duties of the job and determine whether or not the individual can, subject to the limitations specified in paragraph 5 below, safely and efficiently perform those essential duties over a reasonable period of time.

As an integral part of such determination process, consideration shall be given to whether any reasonable accommodation can be made, and every effort shall be used to make such accommodation where it will not impose an undue hardship on respondent.

5. No candidate shall be disqualified who can safely and efficiently perform the essential functions of the job in question over a reasonable length of time in a manner which will not imminently endanger the candidate or others.

In considering whether the candidate will be able to safely and efficiently perform the essential functions of the job, the following is a nonexclusive list of factors which may be taken into consideration by the City:

- A. Present ability to perform the job in question;
  - B. Probable disability within an unacceptably short period of time, where such period of time fails to meet the City's legitimate and essential business purposes;
  - C. Probable excessive time loss where such time loss results in failure to meet the City's legitimate and essential business purposes;
  - D. Average length of service of employees in the particular class.
6. In the event that, pursuant to the above-specified procedures, a determination is made that the candidate cannot safely and efficiently perform the essential duties of the job, the candidate shall be immediately notified of such determination and provided with the information contained in this paragraph 6 regarding appeal rights.

Within fifteen (15) days of the date of receipt of the notice of adverse determination, the candidate may appeal such determination by filing with the Director of Personnel written notice that the candidate intends to appeal the determination. The candidate shall thereafter submit to the Director of Personnel, at the candidate's own expense, a second medical opinion (in the format prescribed in paragraph 3 above) which substantially contradicts the findings and limitations set out in the first opinion. Said second opinion shall be submitted to the Director of Personnel within sixty (60) days from the date of filing of the notice

of appeal.<sup>2</sup>

Upon receipt of such second medical opinion, which is to be accorded substantial weight, the Director of Personnel, together with the Affirmative Action Officer and the appointing authority, shall forthwith make a new determination pursuant to paragraphs 4 and 5 above. In the event that such new determination is adverse to the candidate, and the candidate so requests within ten (10) days after being notified of the new determination, the matter shall be referred to a third physician for the purpose of obtaining a third medical opinion (in the format prescribed in paragraph 3 above). Said third physician shall be selected from a current panel of medical examiners who are neutral in their posture, said panel to be prepared from time to time by the City. If the City and the candidate (or representative) cannot mutually agree on a physician from such panel, then the examiner shall be selected by the candidate from a current panel of "Independent Medical Examiners" utilized by the Workers Compensation Appeals Board in the medical field in question.

The opinion of the third physician as to the findings and functional limitations shall be final and binding. Upon receipt of said third medical report, the Director of Personnel, the Affirmative Action Officer and the appointing authority shall again determine the matter pursuant to paragraphs 4 and 5 above and shall forthwith notify the candidate of such final determination.

The cost of this third medical opinion shall be paid by the City.

7. Each physician who examines the candidate pursuant to this appeal procedure shall, prior to the examination, be furnished with copies of:
  - A. The job physical requirements survey and job specifications;
  - B. The medical history form, any x-ray films and associated radiological reports, any medical reports of prior examining physicians, and other medical information reviewed by prior examining physicians.
8. In the event that the candidate has given timely notice of intent to appeal as set out in paragraph 6 above, the position in question shall be held open for a period of thirty (30) days from the date of such notice of intent to appeal if the candidate would have been appointed but for the initial adverse determination by the Director of Personnel; provided, however, that in the case of police and fire, if the candidate prevails, he or she shall be placed in the next academy class.

In the event that the appeal process is not completed within said thirty (30) day time period, the Director of Personnel may seek approval from the appointing authority for a reasonable extension of such thirty (30) day period. If the appointing authority refuses the extension request, the position may be filled.

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<sup>2</sup> As provided in paragraph 8, with certain exceptions in the case of police and fire, the job in question shall be held open only for thirty (30) days from the date of the candidate's notice of intent of appeal.

However, in the event that the appeal process subsequently results in a determination favorable to the candidate, the candidate shall, subject to meeting other nonmedical job qualifications, be offered appointment to the next available position in the classification in question, and no further medical examination shall be required. Such appointment shall be offered irrespective of whether the eligible list from which the candidate was selected has expired. In the case of all police position candidates, however, it is understood that prior to appointment such candidates must still pass the background investigation and the psychological profile portions of the selection process.

## **APPENDIX D – PRE-PLACEMENT PSYCHOLOGICAL EXAMINATION PROCEDURES**

As a precondition to employment as a Police Cadet or Police Officer, any candidate may be required to take a psychological examination to be conducted by a psychologist designated by the City. This is in compliance with California Commission on Peace Officer Standards and Training Regulation 1002(a)(7), which requires that:

1. Peace officer applicants shall be judged to be free from job-relevant psychopathology, including personality disorders, as diagnosed by a qualified professional, described in Government Code Section 1031(f).
2. Psychological suitability shall be determined on the basis of objective psychological test score information which has been interpreted by a qualified professional. A minimum of two (2) psychological tests shall be used. One must be normed in such a manner as to identify patterns of abnormal behavior; the other must be oriented toward assessing relevant dimensions of normal behaviors.
3. All final decisions by the psychologist to recommend disqualification of candidates for psychological suitability shall be based, in part, on a clinical interview. An interview shall also be conducted when objective test data are inconclusive.

The appeal process from adverse determinations shall be:

1. The Director of Personnel or designee shall review recommendations by the City-designated psychologist to reject candidates, and shall remove from the eligible list those candidates who are not fit psychologically to be a Police Cadet or Police Officer.
2. Candidates who are rejected and wish to review their tests results will have the results explained by a psychologist designated by the City, at the City's expense.
3. Candidates who wish to appeal must notify the Personnel Department in writing within fifteen (15) calendar days of mailing of the notification of rejection. Candidates wishing to appeal must also sign a release so that the City-designated psychologist can transmit the test and interview results to subsequent practitioners.

4. Appellants who file a timely appeal will be given a list of qualified psychological screening practitioners to contact for a second opinion. The cost of the second opinion shall be borne by the appellant.
5. The second practitioner shall review the test information and conduct a clinical interview with the appellant. The second practitioner shall then forward a recommendation to the Personnel Director or designee. If the second practitioner recommends that the candidate be disqualified, that decision is final. If the second practitioner determines that the candidate is qualified, the City may accept that determination, or may seek the opinion of a third practitioner.
6. The third practitioner, if used, shall be chosen by the City, and the costs of the third opinion shall be borne by the City. The third practitioner shall review the previous test and clinical interviews and conduct an interview. The third practitioner shall then make a determination which shall be final and binding. No further administrative appeal shall exist, to the Board or otherwise.