

**CITY OF OAKLAND
AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 SEP 30 PM 2: 58

TO: Finance and Administrative Services Committee
ATTN: Chairperson, Danny Wan
FROM: John Russo, City Attorney
DATE: October 12, 2004
RE: **A Report Regarding Proposed Revisions to the Personnel Manual of the Civil Service Board**

SUMMARY

This report discusses preliminary recommendations for revisions to the Personnel Manual of the Civil Service Board (here referred to as the "Civil Service Rules"). In this report, we provide a conceptual matrix which details the proposed revisions to each of the fifteen Civil Service Rules and requests policy decisions for specific issues. Attached to this report is a conceptual matrix outlining the issues to be decided. For backup information we have also provided a Draft Revision of the Civil Service Rules, a copy of the 1971 Civil Service Rules, and a redlined version of the Rules showing changes made.

The policy issues to be determined involve issues regarding the scope of the Civil Service Board's duties and whether any of those duties may be more appropriately assumed by the Personnel Director. We have identified additional policy questions (as set forth in detail below) such as: whether the Port employees should be covered by the Rules and whether any exceptions should be made for the Port employees in the Rules; whether the City's rule regarding veterans' preference in application for classified positions should be made to conform with the state veterans' preference rule; whether the right of appeal of probationary employees should be eliminated; and whether to change the disciplinary appeal process to permit the Civil Service Board the option of having the appeal heard by a Hearing Officer instead of the Board.

FISCAL IMPACT

We are not aware of any fiscal impact of these proposed revisions to the Civil Service Rules.

BACKGROUND AND OBJECTIVES

The Civil Service Rules were last revised and approved in 1971. In 1996, the consulting firm of Shannon Davis was hired to review and update the Rules. Shannon Davis completed their revision and submitted a report dated August 13, 1996, but their recommendations were never approved. Most of the recommendations were related to language in the Rules that was in violation of current laws. A team of City employees also reviewed the Personnel Rules as part of the Moving Oakland Forward initiative, and also made recommendations for changes that have not been implemented. The Rules were also reviewed by the law firm of Kay & Stevens in 2002, in connection with labor negotiations, and some discrepancies noted between the Rules and the various MOUs, but no changes were made to the Rules.

Finance Committee, City of Oakland
Re: A Report Regarding Proposed Revisions to the
Personnel Manual of the Civil Service Board
October 12, 2004
Page 2

In July 2004, the City Attorney's Office retained the law firm of Meyers, Nave to prepare proposed revisions to the Civil Service Rules. Our objectives in revising the Rules are (a) to correct or delete any references which are not in compliance with current law; (b) update the various Rules to reflect current City policy and practice; (c) propose more efficient Rules to streamline personnel practices; (d) delete redundant and unnecessary provisions; and (e) reorganize the Rules to make them clearer, more readable and user-friendly.

The process we undertook in revising the Rules to date is as follows. We initially reviewed the notes and reports of the Moving Oakland Forward team, and the report prepared by Shannon Davis. We then created a first draft revision of the Rules which incorporated many of the suggestions from the Shannon Davis report and the Moving Oakland Forward team, corrected and deleted items in the Rules which were not legally correct, added provisions which we believed better reflected current City policy and practice and streamlined personnel practices. We have met with employees in the Personnel Office and obtained their input on suggested revisions to some of the Rules, and obtained the comments of the City Attorney's Office.

These meetings have left some policy questions unanswered. We are now seeking guidance on policy direction so that we can complete the draft of the Rules and submit it to the City Council for approval.

PROPOSED REVISIONS

A summary of major proposed revisions and a list of policy issues requiring resolution are contained in the attached Conceptual Matrix.

Respectfully submitted,



JOHN A. RUSSO
City Attorney

Prepared by the Law Offices of Meyers, Nave, Riback, Silver & Wilson
Assigned Attorneys: Kathy E. Mount and Terry Roemer

Civil Service Rules Revisions Project

Tab	Document
1	Civil Service Rules Revision Project Power Point Presentation
2	Conceptual Matrix
3	Detailed Matrix
4	Redline document comparison
5	New rules
6	Old rules

Civil Service Rules Revision Project

City of Oakland
Finance Committee
October 12, 2004

Goals

- Update Rules
- Streamline Procedures
- Comply with Legal Requirements
- Apply “Best Practices”
- Promote Administrative Efficiency
- Preserve Employee Due Process Rights

Sources of Requirements

- Charter
- City Ordinances, Codes and Resolutions
- State and Federal Law
- Civil Service Rules
- Administrative Instructions
- Memoranda of Understanding
- Current Practice

Major Changes

- Functions of the Civil Service Board and Personnel Director
- Discipline Issues
- Obligations To Probationary Employees
- Performance Appraisal Rules
- Selection Process Issues
- Port Employees
- Other Recommended Changes

Functions of the Civil Service Board and Personnel Director

At Present:

- Rules provide for Board approval of numerous routine Human Resources tasks.
- Current practice and best practice shift these functions to the Personnel Director or appointing authority

Recommendations:

- No Board approval required for preparation of class specifications
- No Board approval required of minimum qualifications for class specifications and changes to such qualifications
- No Board oversight required of administration and maintenance of the classification plan
- No Board approval required of reallocation of any position from one class to another
- No requirement that the Board provide notice to employees whose positions have been reallocated to a different classification
- No Board approval required of changes in class titles (so long as the change does not affect the duties or pay rate of the position)
- No Board approval required for changes in minimum qualifications for current classifications

Functions of the Civil Service Board and Personnel Director (cont.)

- No Board approval required for making exceptions regarding the standards for eligibility for promotional exams
- No Board approval required for determining the number of persons on eligibility lists
- No Board approval required for any extensions to the duration of an eligibility list or alternative eligibility list
- No Board approval required for certifying names from eligibility lists
- No Board approval required for requests from appointing authority to require special qualifications for a position
- No Board approval required for making provisional appointments (this shall be the Personnel Director's responsibility)

Functions of the Civil Service Board and Personnel Director (cont.)

- No Board approval required for extending the period of time between the separation date and re-employment date in the case of an employee who has resigned and wishes to be re-employed
- No Board authorization required to make rules regarding leaves (such as vacation, sick leave)
- No Board approval required for any transfers or demotions of people with disabilities – (Personnel Director approval required)
- No Board approval required for miscellaneous leaves of absence in excess of 30 days – (Personnel Director approval required)
- No Board approval required for requests for personal leave with or without pay – (appointing authority approval required)
- Eliminate requirement that the Board investigate the reasons for excessive resignations – no such investigations should be required
- Personnel Director be given responsibility for making changes to the Civil Service Rules (and allow the Civil Service Board to make recommendations to the Personnel Director for changes to the Rules)
- Eliminate the Board's hearing any appeals of probationary employees regarding their release from probation – no right of appeal should be given

Functions of the Civil Service Board and Personnel Director (cont.)

At Present:

- Rules require that Board receive certain routine personnel reports

Recommendations:

- Eliminate requirement that Board receive reports of employee injuries on the job, disability retirements, and excessive resignations
- Eliminate requirement that the Board be notified of the creation of temporary employment or that the Board classify such positions of temporary employment

Maintaining and Altering Certain Appellate Board Functions

At Present:

- Board appeals available for any classification or reallocation change; appeals of any discipline; rejection from probation (where employee claims discrimination or failure to provide quarterly performance appraisals); and appeals of examination results

Recommendations:

- The Board will retain the duty of hearing disciplinary appeals
- The Board will retain the duty of hearing appeals by employees regarding changes in the employee's classification or reallocation of the employee's position to another classification (so long as such changes involve a change in duties or pay rate)
- The Board will retain the duty of hearing appeals regarding examination results (on a limited basis)
- The Board will retain the duty of determining whether a new classification should be created

Discipline Issues

At Present:

- No list of grounds for discipline
 - More process provided than is legally required
 - Board directly hears appeals
 - MOUs do not address pre-disciplinary hearing for any discipline
- Recommendations:
 - Delineate specific grounds for discipline (without limitation)
 - State procedure for non-sworn employees' pre-disciplinary Skelly-type hearings and eliminate right to pre-disciplinary meetings for suspensions of 5 days or less
 - Provide a right to a post-disciplinary Skelly-type hearing for suspensions of five days or less but eliminate any right to a post-disciplinary evidentiary appeal hearing before the Civil Service Board for such minor suspensions
 - For disciplinary appeals, provide that Civil Service Board may opt to have the appeal hearing heard by a Hearing Officer; the procedure for selection of the Hearing Officer will be established by the Board; the Hearing Officer's hearing will be non-public and the decision will be advisory only; the Civil Service Board shall review the Hearing Officer's decision and make the final decision, which shall be appealable by writ of mandamus

Probationary Employees

At Present:

- Probationary employees can appeal release from probation to Board on grounds of discrimination, failure to provide quarterly performance appraisals, or any violation of Rules

Recommendations:

- Eliminate probationary employee's right to appeal release from probation
- Clarify that probationary employees are at will
- Probationary period may be extended up to 90 days by appointing authority with the approval of the Personnel Director
- Periods of paid leave of more than 10 days and unpaid leave of any length automatically extend the probationary period

Performance Appraisal Rules

At Present:

- If all appraisals not done for probationary employees, they pass probation
- Employees can appeal failure to conduct performance appraisals

Recommendations:

- Eliminate the requirement that performance appraisals for probationary employees be done on a quarterly basis before the probationary employees pass probation; require performance appraisal at “regular intervals” for probationary employees
- Eliminate a probationary employee’s right to appeal the failure to conduct performance appraisals to the Civil Service Board
- Eliminate any right to appeal the contents of a performance appraisal

Selection Process Issues

At Present:

- Definition of “veteran” in veteran’s preference is inconsistent with State’s definition – City currently awards points to only those veterans who have been released from active duty within five years
- Veterans receive 5% points credit on exam; disabled veterans receive 7.5% points
- Departments only get top four ranks of eligible candidates to interview

Recommendations:

- Change the definition of “veteran” in veteran’s preference so that it conforms to the State definition in Govt. Code § 18973 – i.e., preference given to all veterans regardless of time of service
- Retain same 5% / 7.5% point preference (although State gives veterans 10 points and disabled veterans 15 points)
- Personnel Department should give departments the top ten ranks of eligible candidates with an additional rank for each vacancy

Coverage of Port Employees

At Present:

- Port employees paid more and receive better benefits
- Crossover transfers and bumping rights permitted

Recommendations:

- Classify all Port employees separately as “Port employees” although they shall remain under the jurisdiction of the Civil Service Board
- Eliminate ability of Port employees and City Employees to place names on cross over transfer lists
- Eliminate crossover “bumping” rights in the event of layoffs

Other Recommended Changes

At Present:

- Nepotism policy limited to Mayor's or City Council's relatives (Charter Sec. 907)
- In MOUs, work week variously defined as 40 hours or 37.5 hours

Recommendations:

- Create a Nepotism Policy – Consistent with Charter, but indicates that the City will not discriminate based on marital status but may take reasonable steps to avoid inappropriate working relationships between relatives, and may refuse to place a relative under the direct supervision of another relative
- Create New Summary Process for Separating Employees Who Are Physically or Mentally Incapable of Doing Their Jobs (consistent with law)
- Create New Summary Process for Separating Employees Who are Absent Without Leave (consistent with law)
- Define the Work Week as 40 hours

CONCLUSION

- Meet and Confer
- Maintenance of Rules
 - Personnel Director maintains
 - Elimination of conflicting AIs
 - Future conformance by MOUs

**OAKLAND CIVIL SERVICE RULES REVISION PROJECT
CONCEPTUAL MATRIX**

All Rules have been edited or deleted to be consistent with law, City Ordinance, current practice and for clarity. Portions have been reordered.

Old Rules	Proposed New Rules	Policy Questions and Recommendations	Mentioned in MOU/AA/ Ordinances/Charter
No Separate Introduction	<u>New Introduction includes:</u> Coverage of rules; MMBA; Employer-Employee Relations Resolution	[UPPERCASE TEXT INDICATES POLICY QUESTIONS WITH NO RECOMMENDATION MADE] SHOULD PORT EMPLOYEES BE COVERED BY THE RULES? SHOULD THERE BE SPECIAL EXCEPTIONS TO BE MADE FOR PORT EMPLOYEES?	Employer Employee Relations Resolution
<u>Old Rule 1:</u> Definitions	<u>Old Rule 1 is now Rule 2.</u> Edited and modified Rule: Deleted: (e) Ascertained Merit Added: Confidential Position: Domestic partner	None	AI 567 – Medical Benefits for Domestic Partners AI 568 – Medical, Dental, Vision and Leave Benefits for Employees with Domestic Partners
<u>Old Rule 2:</u> Organization, Rules and Procedures of the Civil Service Board	<u>Old Rule 2 is now Rule 3</u> This Rule has been substantially revised to reflect Ordinance 8979. Section regarding Appeals to the Civil Service Board has been substantially revised and moved to Rule 13 (Disciplinary Appeals)	We recommend that the Personnel Manual, once adopted by the City Council, be amended updated and maintained by the Personnel Director rather than the Board	AI 50
<u>Old Rule 3:</u> Classification Plan	<u>Old Rule 3 is now Rule 4.</u> Some subparts of this Rule were deleted because they were either no longer valid or were unnecessary. Other parts of the Rules were edited and clarified to reflect current practice.	We recommend the Personnel Director rather than the Board have responsibility for and that no approval from the Board be required for (a) preparing and maintaining class specifications (b) approval of minimum qualifications for class specifications and changes to such qualifications: (c) oversight of administration and maintenance of the classification plan (d) approval of reallocation of any position from one class to another. (e) approval of changes in class titles.	<ul style="list-style-type: none"> • AI 530 – Position Authorizations for City Departments • AI 531 – Position Authorization Change Procedure • AI 532 – Creation of a New Job Classification • AI 533 – Deletion of an Existing Job Classification

		<p>(f) providing notice to employees whose positions have been reallocated.</p> <p>We recommend the Board have responsibility for</p> <p>(a) hearing appeals of employee disputes regarding changes in classifications;</p> <p>(b) making decisions regarding establishment of new classifications. SHOULD COUNCIL APPROVAL BE REQUIRED FOR THIS DECISION?</p>	<ul style="list-style-type: none"> • AI 534 – Change to Classification • AI 562 – Filling Open Positions in Non-Sworn Classifications and Applicable Benefits Local 790 MOU has reallocation provisions
<p>Old Rule 4: Application, Selection and Eligibility Lists</p>	<p>Old Rule 4 is now Rule 5. Some subparts were deleted because they were no longer valid, redundant or unnecessary, or contrary to law. Other subparts were edited and clarified to reflect current practice.</p>	<p>1 Veterans and Disabled Veterans' Preference for Job Applicants– There is no legal requirement for these preferences and the level of preference is a matter of local policy. The current Rules provide for a 5% add-on to an applicant's score for veterans and a 7.5% add-on to a disabled veterans score, but only within five years of the date of release from active duty. State procedure for State employees does not include a "within 5-year" requirement to establish veteran status, and the State procedure for disabled veterans get a 10% add-on instead of a 7.5% add-on. WHAT LEVEL OF PREFERENCE IF ANY DOES COUNCIL WANT TO ESTABLISH?</p> <p>2 We recommend that the Personnel Director rather than the Board be responsible for the following with no approval of the Board required:</p> <ul style="list-style-type: none"> a Making exceptions regarding the standards for eligibility for promotional exams b Approve eligibility lists, determine the number of persons on the eligibility lists and any extensions to the duration of the lists or any alternative lists 	<p>AI 535: recruitment and selection of employees</p> <p>Local 21 MOU: provisions related to announcement of examinations and scoring</p> <p>Local 790 MOU: provisions related to announcement of examinations, scoring, vacancies, listing of temporary and exempt employees performing bargaining unit work</p>
<p>Old Rule 5: Certification and Appointment</p>	<p>Old Rule 5 is now Rule 6. Rule changed to reflect current practices regarding appointments and categories of limited duration appointments. New provision allows for transfer of employees with disabilities to vacant positions (in compliance with the ADA or FEHA).</p>	<p>We recommend that the Personnel Director rather than the Board be given responsibility for without Board approval:</p> <ol style="list-style-type: none"> 1 Certifying names from eligibility lists. 2 Approve any statement or notice by an appointing authority asking for special qualifications for a position. 3 Make provisional appointments. 4 Extend the period of time between the separation date and re-employment date in the case of an employee who has resigned and wishes to be re-employed <p>We further recommend that</p> <ol style="list-style-type: none"> 1 The Personnel Dept give departments the top <u>ten</u> ranks of eligible candidates with an additional rank for each vacancy; 2 A new nepotism policy consistent with Section 907 of the City Charter but more extensive in coverage because prohibits discrimination based on marital status but provides guidelines for avoiding conflicts when employing family members 	<p>Charter sections 903, 907</p> <ul style="list-style-type: none"> • AI 562 – Filling Open Positions in Non-Sworn Classifications and Applicable Benefits • AI 553 Temporary Contract Service Employees • AI 526 Temporary Services <p>Local 21 MOU: provisions related to certification of eligibles, transfer list, listing of exempt limited duration and temporary contract service employees</p> <p>Local 790 MOU: provisions related to certification of eligibles, transfer lists and consideration of unit members for transfer</p>

<p><u>Old Rule 6:</u> Probationary Period</p>	<p><u>Old Rule 6 is now Rule 7.</u> New provisions state: Probationary period does not apply to at will employees; Employee not entitled to a reason for rejection from probation; Reinstating separated probationary employee is in discretion of appointing authority.</p>	<p>Old Rules provide a limited right to appeal separation by probationary employees to the Civil Service Board on the basis of discrimination and failure to comply with performance rating requirements. We recommend this right of appeal be eliminated.</p> <p>We further recommend:</p> <ol style="list-style-type: none"> 1. Elimination of a requirement for mandatory quarterly performance ratings during probation and substitute instead ratings at "regular intervals." 2. Appointing Authority with approval of Personnel Director may extend probationary periods. 3. Periods of paid or unpaid in excess of 10 days will automatically extend the probationary period. 	<p>Local 21 MOU: specifies duration of probationary periods, extension of probation for illness or injury of 30 days; notice to probationary employee of failure to meet standards before end of probation or employee becomes permanent; specified times of performance appraisals.</p> <p>Local 790 MOU: specifies duration of probationary periods, provides for extensions, including if employee ill or injured for 30 days; notice to probationary employee of failure to meet standards before end of probation or employee becomes permanent; specified times of performance appraisals.</p>
<p><u>Old Rule 7:</u> Employee Performance Appraisals</p>	<p><u>Old Rule 7 is now Rule 8.</u> This Rule has been substantially edited and streamlined to reflect current practice and to eliminate unnecessary verbiage. New rule allows employees to submit rebuttals to their performance appraisals and have them placed in their personnel files.</p>	<p>We recommend adding a provision confirming there is no right to appeal the contents of a performance appraisal.</p>	<ul style="list-style-type: none"> • AI 578 – Performance Management System Policy • AI 579 – Performance Planning and Appraisal Procedures for Unrepresented Employees <p>Local 21 MOU provides for annual appraisals with specified ratings.</p> <p>Local 790 MOU provides for annual appraisals, makes unacceptable performance appraisals grievable.</p>
<p><u>Old Rule 8:</u> Vacation and Leaves of Absence</p>	<p><u>Old Rule 8 is now Rule 9.</u> This entire section has been substantially revised because the Old Rules did not reflect current practice or law regarding leaves and also omitted several different types of leaves mandated by law. New Rule: Requires employees to account for their absences as specific leave types; Allows City to require fitness for duty exams and medical certifications to verify medical conditions; Added reference to FMLA, pregnancy disability, paid family leave, management and executive leave,</p>	<p>We recommend that the following provisions be eliminated:</p> <ol style="list-style-type: none"> 1. Board is authorized to make rules regarding leaves 2. Board must receive reports from the appointing authority whenever an employee is injured on duty 3. Board must receive reports of disability retirements 4. Board must approve miscellaneous leaves of absence in excess of 30 days 5. Board must approve requests for personal leave with or without pay <p>SHOULD THESE DUTIES BE ASSIGNED TO PERSONNEL DIRECTOR OR SOLELY TO APPOINTING AUTHORITY?</p>	<p>Detailed AIs regarding leaves</p> <p>Local 21 MOU: detailed provisions regarding vacation and leave issues</p> <p>Local 790 MOU: detailed provisions regarding vacation and leave issues, not necessarily consistent with other MOU.</p>

	<p>administrative leave with pay, Specified holidays, personal leave without pay, school leave, jury duty leave, voting time; Added section about accommodations for employees with disabilities.</p>		
	<p><u>New Rule 10.</u> <u>Wage and Hour Benefits/Overtime</u> The Old Rules made no reference to FLSA issues regarding exempt status or overtime. New Rule covers this issue and advises employees of overtime issues.</p>		<ul style="list-style-type: none"> • AI 524 Overtime Authorization and Reporting • AI 529 Minimum Overtime Guarantee <p>Local 21 MOU: covers overtime pay, overtime on holidays and compensatory leave</p> <p>Local 790 MOU: covers overtime, compensatory leave, , not necessarily consistent with other MOU.</p>
	<p><u>New Rule 11.</u> <u>Attendance/Meal Periods/Rest Periods</u> Old Rules did not mention workweeks and attendance requirements and break periods. New Rule covers these issues and apprises employees of attendance issues.</p>	<p>We recommend that a "work week" be defined as 40 hours</p>	<p>Local 21 MOU: defines hours of work as 7.5 per day, 37.5 per week, rest periods and lunch period</p> <p>Local 790 MOU: defines hours of work as either 8 per day or 37.5 per day, rest periods and shift changes</p>
<p><u>Old Rule 9:</u> Layoff, Resignations and Separations</p>	<p><u>Old Rule 9 is now Rule 12.</u> Layoffs are exclusively within Council's right; Laid off employees have no right to appeal the layoff decision; Additional tie-breaker rules have been proposed.</p>	<p>We recommend elimination of the following</p> <ol style="list-style-type: none"> 1 Requirement that Personnel Director report excessive resignations in a department to the appointing authority and the Board 2 Board investigation of reasons for excessive resignations: 3 Board approval for any transfers or demotions of people with disabilities <p>We further recommend new procedures for Medical Separations and Separations Due to Absence Without Leave consistent with due process and which are more summary procedures not involving appeals to the Board</p>	<ul style="list-style-type: none"> • AI 139 – Procedures for Complying with Employee Separation Procedures to Comply with American Disabilities Act (ADA) of 1990 <p>Local 21 MOU: contains provisions related to layoff, including notice requirements</p> <p>Local 790 MOU: contains provisions related to layoff, not necessarily consistent with other MOU</p>
<p><u>Old Rule 10:</u> Disciplinary Actions, Appeals and Hearings</p>	<p><u>Old Rule 10 is now Rule 13.</u> Includes 26 grounds for discipline. Sets forth types of disciplinary actions permitted; Modifies procedure for disciplinary action to comply with the law.</p>	<p>We recommend that:</p> <ol style="list-style-type: none"> 1 In disciplinary matters the Board be empowered to select a Hearing Officer to conduct a non-public appeal hearing and issue an advisory decision which will then be reviewed by the Board for the Board's final decision 2 The procedure for selection of the Hearing Officer be established by the Board 3 In cases of suspension of 5 days or less, only appeal is a post-disciplinary <i>Skelly</i>- 	<ul style="list-style-type: none"> • AI 521 – Employee Discipline Due Process Requirements • AI 523 Disciplinary Guidelines and Procedures • AI 519 Resolution of Concerns of Unrepresented Employees Local 21 MOU:

		type hearing and no right to appeal hearing before Board SHALL CITY COUNCIL REVIEW OF BOARD DECISIONS BE PERMITTED OR SHALL BOARD DECISIONS BE FINAL SUBJECT TO WRIT OF HABEAS CORPUS. THIS MAY REQUIRE A CHARTER AMENDMENT	provides appeal of most disciplinary actions can be appealed to binding arbitration or Board; lesser discipline can be grieved to step 2. Local 790 MOU: provides that all discipline is appealable to binding arbitration or to Board
<u>Old Rule 11:</u> Records, Reports and Notices	Old Rule relates to requirement of notice to Board of specified personnel actions, access of personnel files, records open to the public, disposition of Board records, and notice requirements.	We recommend that this Rule be deleted in its entirety because it is unnecessary and does not comport with current City practice. Laws relating to access to personnel files and the Public Records Act govern retention of and access to records	• AI 543 Release of Personnel Records Local 21 MOU: contains provisions regarding what can go in employee personnel files Local 790 MOU: similar provisions
<u>Old Rule 12:</u> Certification of Payrolls	Rule provides that the Board must certify to the "Auditor-Controller" all appointments and vacancies in the classified service, and that the Personnel Director must send reports and notices to the Auditor-Controller of all new positions or personnel actions regarding payment of salaries.	We recommend that the Rule be deleted because it appears unnecessary and may not comport with current practice	None
<u>Old Rule 13:</u> Prohibitions and Penalties	Old Rule relates to fraud in the application and selection process.	We propose that this Rule be deleted and contents revised and incorporated into New Rule 5.06	None
<u>Old Rule 14:</u> Employee-Management Relations	Rule created Employee-Management Committee whose function was to assist in review of policies and employment practices.	We recommend that this Rule be deleted because it does not reflect current practice and is superceded in part by the City's Employer-Employee Relations Resolution, which is referenced in the New Introduction at New Rule 1.03 and addressed in MOUs	Local 21 MOU: creates Joint Labor-Management committee Local 790: similar provision
	<u>New Rule 14:</u> Incompatible Activity of City Employees. New Rule incorporates portions of Old Rule 9, and is modified to be consistent with law and to provide notice to employees of the types of incompatible activities that are inconsistent with City employment.	We recommend this rule be adopted to provide notice to employees not to engage in incompatible employment or to use City work time for personal business (SHOULD DOLLAR LIMIT ON GIFTS AND GRATUITIES BE INCLUDED?)	AI 590 Political Activity Restriction AI 595 Employee Conflicts of Interest / Incompatible Employment
<u>Old Rule 15:</u> Miscellaneous	<u>Old Rule 15 is now Rule 15.</u> Provision added to permit delegation of Board and Personnel Director's duties to others within discretion of each.		None

City of Oakland
Civil Service Rules Revisions Project

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>Old Rules had no Introduction</p>	<p>New Rule 1 titled "Introduction"</p> <p>1.01 states that the Personnel Manual covers only classified employees and lists those employees who are exempted from classified service by Charter.</p> <p>1.02 states that Charter and MOU provisions which are inconsistent with the Rules prevail over the Rules.</p> <p>1.03 explains that the City recognizes certain unions and complies with its legal obligations to meet and confer with its unions, and references the City's Employer-Employee Relations Resolution.</p>	<p>No Introduction</p> <p>Article 1 addresses union recognition</p> <p>Article 4 addresses Union Rights</p>	<p>No Introduction</p> <p>Article 1 addresses union recognition</p> <p>Article 3 addresses Union Rights</p>	<p>No relevant AIs</p>
<p>RULE 1: DEFINITIONS</p> <p>Defines terms used in the Personnel Rules.</p> <p>1.01 Glossary of Terms</p> <p>(a) Allocation</p> <p>(b) Applicant</p> <p>(c) Appointing Authority</p> <p>(d) Appointment</p> <p>(e) Ascertained Merit</p> <p>(f) Board</p> <p>(g) Candidate</p> <p>(h) Charter</p> <p>(i) Class of Class of Positions</p>	<p>Old Rule 1 is now New Rule 2 titled "Definitions"</p> <p>Most of the old definitions have been retained but some were edited for clarity (some may be revised later) Proposed new definitions are as follows:</p> <p>2.01(o) Confidential Position</p> <p>2.01(q) Domestic Partner</p> <p>2.01(ss) Y-rated salary</p>	<p>No definitions</p>	<p>No definitions</p>	<ul style="list-style-type: none"> • 567 – Medical Benefits for Domestic Partners • 568 – Medical, Dental, Vision and Leave Benefits for Employees with Domestic Partners

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<ul style="list-style-type: none"> (j) Classification Plan (k) Classified Service (l) Class Title (m) Compensation (n) Compensation Plan (o) Competitive Examination (p) Demotion (q) Discharge or Removal (r) Eligible (s) Eligible List (t) Employee (u) Examination <ul style="list-style-type: none"> Assembled Examination Unassembled Examination (v) Final Earned Rating (w) Laid-off (Reinstatement List) (x) Layoff (y) New Position (yy) Part-time Employee <ul style="list-style-type: none"> (a) Classified (b) Exempt (z) Permanent Employee (aa) Position <ul style="list-style-type: none"> Limited Duration Exempt Permanent Temporary 				

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
(bb) Promotion (cc) Promotional List (dd) Reallocation or Reclassification (ee) Redesignation (ff) Re-employment (gg) Re-employment List (hh) Resignation (ii) Separation (jj) Series (kk) Shall and May (ll) Suspension (mm) Termination of Appointment (nn) Test (oo) Weight				

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>RULE 2: ORGANIZATION, RULES, AND PROCEDURES OF THE CIVIL SERVICE BOARD</p> <p>2.01 Creation of the Board.</p> <p>2.02 Appointment and Terms of Board Members</p> <p>2.03 Compensation of Board</p> <p>2.04 Election of President and VP</p> <p>2.05 Removal of Board Members</p> <p>2.06 Meetings of the Board</p> <p>2.07 Administrative Procedure</p> <p>2.08 Appointment and Duties of Personnel Director</p> <p>2.09 Appeals to CSB</p> <p>2.10 Procedures to be Used on Appeals and Hearings</p> <p>(A) Order of Procedure in Appeals</p> <p>(B) Information for Conduct of Hearings</p>	<p>Old Rule 2 is now Rule 3 titled "Organization Rules and Procedures of the Civil Service Board"</p> <p>This Rule was <u>completely</u> rewritten to conform to Ordinance 8979. The Appeal section (in Old Rule 2.09-2.10) was moved to Rule 13.</p> <p>3.01 Duties of City Administrator and Personnel Director</p> <p>3.02 Civil Service Board Duties</p> <p>3.03 Civil Service Board Composition</p> <p>3.04 Vacancy and Removal on CSB</p> <p>3.05 Officers, Meetings of CSB</p> <p>3.06 CSB Procedures</p> <p>3.07 Staffing for CSB</p>	<p>No corresponding MOU provision</p> <p>Note that the Disciplinary Appeals process in the Old Rule has been moved to New Rule 13.</p>	<p>No corresponding MOU provision</p>	

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>RULE 3: CLASSIFICATION PLAN</p> <p>3.01 Classified Service (NR 3.01)</p> <p>3.02 Definition of Classification Plan (NR 4.02)</p> <p>(a) Classification of Positions</p> <p>(b) Preparation and Content of Class Specifications</p> <p>(c) Interpretation of Class Specifications</p> <p>(1) Purpose and Effect of Class Spec</p> <p>(2) Performance of Higher Level Duties (deleted)</p> <p>(3) Application of Specs to Positions (deleted)</p> <p>(4) Statement of Minimum Qualifications</p> <p>3.03 Title of Positions (NR 4.03)</p> <p>3.04 Official Copy of Classification Plan - deleted</p> <p>3.05 Administration and Maintenance of Classification Plan (NR 4.04)</p> <p>(a) Responsibilities of Personnel Director and CSB (requires Board directs PD in administering classification plan)</p> <p>(b) Reclassification of Positions – addresses classifications studies, documentation requirements; establishment of new classes; reallocating positions to new classes</p> <p>(c) Employee Requests for Classification Review - included department head initial attempt to resolve classification issue</p> <p>(d) Classification of Temporary Employment – provided for Board classification of temporary employees (NR 4.06)</p> <p>(e) Changes Requiring Formal Approval of</p>	<p>Old Rule 3 is now Rule 4 titled "Classification of Positions"</p> <p>This Rule stayed largely the same; though it was edited and made more concise – some Board responsibilities were removed.</p> <p><u>The New Rules are as follows:</u></p> <p>4.01 Classified Service (edited OR 3.01)</p> <p>4.02 Definition of Classification Plan (edited OR 4.02)</p> <p>(a) Classification of positions (edited OR 3.02(a))</p> <p>(b) Preparation of Content of Class Specs – deleted approval of Civil Service Board; included purpose and effect of class specifications and statement of min. quals; deleted as unnecessary 3.02(c)(2) and (3)</p> <p>4.03 Title of Positions – edited OR 3.02 [deleted 3.04 – Official Copy of Classification Plan)</p> <p>4.04 Administration and Maintenance of Classification Plan – edited OR 3.05</p> <p>(a) Responsibilities of Personnel Director – deleted Board direction of administration of classification plan (gave it to PD). PD shall determine reallocation of positions to other classes.</p> <p>(b) Reclassification of Positions – edited and revised OR 3.05(b) – moved creation of new class to 4.04(d)</p> <p>(c) Employee Requests for New Classification Review – edited 3.05(c) – deleted department head's attempt to resolve classification issues; gave responsibility to Personnel Director</p> <p>(d) Creation of New Classification – moved from OR 3.05(b) and edited – requires the Personnel Director to submit issue of creation of new</p>	<p>No corresponding MOU provision</p>	<p>14.17 – Position Reallocation – In the event the City, as a result of a classification review, reallocates a position to a classification having a higher salary range, the appointing authority may, with the concurrence of the Personnel Director, grant permanent status to the incumbent without competitive exam or requiring the incumbent to serve a probationary period under certain circumstances.</p> <p>Article 14.12 – Reallocation to Vacant Position – Unit members in police dispatch communications classifications may request to be reallocated to a vacant position in a classification that has a lower maximum rate of pay.</p>	<ul style="list-style-type: none"> • 530 – Position Authorizations for City Departments • 531 – Position Authorization Change Procedure • 532 – Creation of a New Job Classification • 533 – Deletion of an Existing Job Classification • 534 – Change to Classification • 562 – Filing Open Positions in Non-Sworn Classifications and Applicable Benefits

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>Board (NR 4.04(e))</p> <p>3.06 Provisional Rule for Treatment of Incumbents as Result of Reclassification of Positions (NR 4.05)</p> <p>(a) Upgrading of Position</p> <p>(b) Downgrading of Position</p> <p>(c) Notification</p>	<p>classification to CSB – need to revise to explain the process for the CSB; does creation of new classification need Council approval?</p> <p>(e) Changes Requiring Formal Approval of Board – CSB approval required for establishment of new class and changes in class title (SHOULD THIS STAY?)</p> <p>(f) Appeal to Board re: changes in classification – new CSB appeal process provided here – NEEDS REVIEW</p> <p>4.05 Treatment of Incumbents as Result of Reclassification of Positions – edited OR 3.06</p> <p>(a) Upgrading of Position (substantially edited OR 3.06(a))</p> <p>(b) Downgrading of Position</p> <p>(c) Notification – deleted requirement that CSB provide notification to incumbent</p> <p>4.06 Classification of Temporary or other Non-permanent Employment – edited OR 3.05(d) – deleted CSB involvement in classifying temporary employees – gave responsibility to personnel Director</p> <p>4.07 Conditions for Accepting an Exempt Position into Competitive Service – this Rule was taken from OR 4.31 because it relates to classification issues; was edited but NEEDS REVIEW</p>			

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>RULE 4: APPLICATIONS, EXAMINATIONS, AND ELIGIBLE LISTS</p> <p>4.01 Applicants for Examination (NR 5.02)</p> <p>4.02 Names of Applicants Withheld (deleted)</p> <p>4.03 Eligibility to Compete in Examinations (NR 5.04)</p> <p>4.04 Entry Level Examination Scores for City of Oakland Residents (NR 5.11.1)</p> <p>4.04 Information to be furnished in application – deleted</p> <p>4.05 Age and Physical Requirements – deleted</p> <p>4.06 Proof of Age, Intent to Become Citizen, and Military Service – deleted</p> <p>4.07 Basis for Rejection of Applications – NR 5.05</p> <p>4.08 Announcement of Examination for Promotional and Original Employment (NR 5.07 and 5.01)</p> <p>4.09 Notice on Announcement of Examination (NR 5.07)</p> <p>4.10 Type and Scope of Competitive Tests (NR 5.08)</p> <p>4.11 Scheduling of Promotional Examinations (NR 5.13)</p> <p>4.12 Eligibility for Promotional Examinations (NR 5.12)</p> <p>4.13 Seniority in Promotional Exams (NR 5.11.4)</p> <p>4.13(a) Seniority on Promotional Exams – deleted</p> <p>4.13(b) Promotional Exam Scores for</p>	<p>Old Rule 4 is now Rule 5 titled "Application, Selection, and Eligible Lists"</p> <p>This Rule was significantly reorganized and edited. In accordance with Shannon Davis recommendations, certain Old Rules were deleted because they were no longer valid, redundant or unnecessary, or contrary to law. (e.g., 4.02, 4.03, 4.04, 4.05, 4.06, 4.11) Other parts of the Rules were edited and clarified to reflect current practice based on conversations with Personnel Office employees. Rules relating to layoff and redeployment were moved to Rule 14. New Rules 5.01, 5.03 were added for clarification of the City's current practice. Old Rule 13 regarding "Prohibitions and Penalties" was edited, revised and moved to New Rule 5.06</p> <p><u>The New Rules are as follows:</u></p> <p>5.01 Recruitment – new section added – any legitimate recruitment process okay</p> <p>5.02 Applicants for Selection Process – edited OR 4.01</p> <p>5.03 Background Checks – new – gives City flexibility in conducting background checks of applicants</p> <p>5.04 Eligibility to Compete in Selection Process – edited OR 4.03</p> <p>5.05 Basis for Rejection of Applications – edited OR 4.07 (deleted reference to many bases due to illegality)</p> <p>5.06 Frauds Prohibited – OR 13 was edited and moved here because it relates to fraud in the application/examination process – deleted reference to deeming person guilty of a misdemeanor</p> <p>5.07 Announcement of Selection Process to Fill</p>	<p>Article 14.4.1 Announcement of Examinations – City agrees to routinely make information regarding exams available for each month, in advance to represented employees.</p> <p>14.6 Promotional Exams – 14.6.1 Announcement - City agrees to announce promotional exam in manner required by the Civil Service Rules.</p> <p>14.6.2 Seniority points in promotional exams (consistent with NR 5.11.4)</p> <p>14.6.3 Residency – 5% added to score if Oakland resident (consistent with NR)</p>	<p>Article 14.7.1 Announcement of Examinations City agrees to routinely make information regarding exams available for each month, in advance to represented employees.</p> <p>14.7.2 Conduct – No City employee who is a member of the department in which the current vacancy exists will sit as a voting member of an oral board for promotional exams.</p> <p>14.7.3 Seniority points in promotional exams (consistent with NR 5.11.4)</p> <p>14.7.4 Residency – 5% added to score if Oakland resident (consistent with NR)</p> <p>14.8 Job Vacancies</p> <p>14.8.2 City agrees to post on CityNet a list of current job announcements and openings by classification name</p> <p>14.8.3 City will provide Union on a monthly basis a list of all temporary and exempt employees performing work that is also performed by employees covered by MOU.</p> <p>14.8.4 City agrees to send a copy of all open and promotional job announcements to the Union Business Agent.</p>	<p>• 535 – Recruitment and Selection of City Employees</p>

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>Oakland Residents (NR 5.11.1)</p> <p>4.14 Ascertained Merit on Promotional Exams (NR 5.12(c)) – provides that the Board may make exceptions regarding the standards for eligibility for promotional exams.</p> <p>4.15 Reordered Examinations (NR 5.14)</p> <p>4.16 Conduct of Examination (NR 5.09)</p> <p>4.17 Ratings of Results of Examinations (NR 5.10)</p> <p>4.18 Veterans' Preference in Examinations (NR 5.11.2)</p> <p>4.19 Disabled Veterans' Preference in Examination (NR 5.11.3)</p> <p>4.20 Notice and Review of Results of Examinations (NR 5.15)</p> <p>4.21 Appeal of Examination Results (NR 5.16) – provides a right of appeal of examination results to the Civil Service Board.</p> <p>4.22 Establishment of Eligible Lists (NR 5.17) – provides that the Board shall approve eligible lists, determine the number of persons on the eligibility lists and any extensions to the duration of the lists or any alternative lists.</p> <p>4.23 Kinds of Eligible Lists (NR 5.18)</p> <p>4.24 Names of Persons Which May be Placed on Eligible Lists – deleted</p> <p>4.25 Declaration of Alternative Eligible Lists (NR 5.17)</p> <p>4.26 Laid-off (Reinstatement) Lists (NR 5.19 and 12.05)</p> <p>4.27 Return of Laid-off Probationary Employees to List (NR 12.06)</p>	<p>Vacancies – edited and combined OR 4.08 and 4.09– deleted reference to specific posting of announcements for open and promotional exams – NEEDS REVIEW</p> <p>5.08 Type and Scope of Competitive Selection Processes – edited OR 4.10</p> <p>5.09 Conduct of Examination – substantially edited 5.09</p> <p>5.10 Ratings of Results of Examinations – substantially revised OR 4.17</p> <p>5.11 Preferences in Selection Processes</p> <p>5.11.1 Oakland Residents – edited OR 4.04</p> <p>5.11.2 and 3 – Veterans/disabled Vets Preference – The Old Rules 4.18 and 4.19 provide for a 5% add-on to an applicant's score for veterans and a 7.5% add-on to a disabled veterans score, but only within five years of the date of release from active duty. In June 2003, the Personnel Office recommended to the Civil Service Board that this be changed to bring the City in conformity with state procedure such that there is not a "within 5-year" requirement to establish veteran status, and disabled veterans get a 10% add-on instead of a 7.5% add-on</p> <p>5.12 Eligibility for Promotional Selection Processes – edited and combined OR 4.12 and 4.14 – deletes provision that the Board may make exceptions regarding the standards for eligibility for promotional exams;- gives duty to Personnel Director</p> <p>5.13 Scheduling of Promotional Exams – edited OR 4.11</p>			

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>4.28 Removal of Names from Eligible Lists (NR 5.20)</p> <p>4.29 Waiver of Appointment (NR 5.21)</p> <p>4.30 Restoration of Names to Eligible Lists (NR 5.22)</p> <p>4.31 Conditions for Accepting An Exempt Position Into Competitive Service (NR 4.07)</p>	<p>5.14 Reordered Selection Processes – edited OR 4.15</p> <p>5.15 Notice and Review of Results of Exam – edited OR 4.20</p> <p>5.16 Appeal of Exam Results – edited OR 4.21 – retains right of appeal of examination results to Board - NEEDS REVIEW</p> <p>5.17 Establishment of Eligible Lists – edited OR 4.22 – deletes Board involvement; gives authority to Personnel Director to approve eligible lists and determine the number of persons on the eligibility lists and any extensions to the duration of the lists or any alternative lists.</p> <p>5.18 Kinds of Eligible Lists – edited OR 4.23</p> <p>5.19 Reinstatement Lists – edited OR 4.26</p> <p>5.20 Removal of Names from Eligible Lists – edited OR 4.28</p> <p>5.21 Waiver of Appointment – edited OR 4.29</p> <p>5.22 Restoration of Names to Eligible Lists – edited OR 4.30</p>			
<p>RULE 5: CERTIFICATION AND APPOINTMENT</p> <p>5.02 Certification of Eligibles to Fill Vacancies – (NR 6.01)</p> <p>5.03 Procedure for Certification to Fill Vacancies (NR 6.02)</p> <p>5.04 Selective Certification (NR 6.03)</p> <p>5.05 Limit on Certifications – (deleted)</p> <p>5.06 Certification to Position in Lower Class – (NR 6.04)</p> <p>5.07 Provisional Appointments (NR 6.05)</p>	<p>Old Rule 5 is now Rule 6 titled “Certification and Appointment”</p> <p>In accordance with Shannon Davis recommendations, a number of the Rules were deleted because they were no longer valid, redundant or unnecessary, or contrary to law. (e.g. Old Rule 5.05, 5.11, parts of 5.10) Other parts of the Rules were edited and clarified to reflect current practice (based on consultation with Daryl Look, Principal HR Analyst and review of Administrative Instruction 562). Old Rules 5.02 and 5.03 (now Rules 6.01 and 6.02) were changed to reflect current practices regarding appointments as stated in Administrative Instruction (AI) 562.</p>	<p>Articles 14.4.2, 14.5 and 14.6.4 – Certification of Eligibles to Fill Vacancies – when an open or promotional position is to be filled and there is no reinstatement list, the appointing authority shall receive a list of 4 names (or 5 if promotional recruitment) and 2 additional names per each additional vacancy (4 additional names if promotional recruitment). Lesser number may be certified when there is not the required number on eligible list.</p>	<p>14.6.2 and 14.7.5 – Certification of Eligibles to Fill Vacancies - when an open or promotional position is to be filled and there is no reinstatement list, the appointing authority shall receive a list of 4 names and 2 additional names per each additional vacancy. Lesser number may be certified when there is not the required number on eligible list.</p> <p>14.9 Eligible Lists – In the event an exam fails to produce successful candidates from Union employees, City and Union will meet to discuss whether specific on-the-job or other training should be initiated.</p> <p>14.8.1 City agrees, when requested by</p>	<ul style="list-style-type: none"> • 562 – Filling Open Positions in Non-Sworn Classifications and Applicable Benefits • 553 Temporary Contract Service Employees • 526 Temporary Services

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>5.08 Limited Duration Appointments (NR 6.06)</p> <p>5.09 Transfer of Employees (NR 6.07)</p> <p>5.10 Re-employment of Former Employees (NR 6.09)</p> <p>5.11 Medical Examination Prior to Appointment, Reinstatement, or Re-employment – (deleted)</p>	<p>Old Rules 5.07 and 5.08 were changed to describe all the categories of limited duration appointments set forth in AI 562, and a provision was added that such appointments are “at will.” (See New Rule 6.06.) New Rule 6.07 adds a provision allowing for transfer of employees with disabilities to vacant positions (in compliance with the ADA or FEHA).6.01 Power of Appointment and types of Appointments</p> <p><u>The New Rules are as follows:</u></p> <p>6.01 Power of Appointment and Types of Appointments – new – taken from AI 562</p> <p>6.02 Procedure for Certification of Eligibles to Fill Vacancies – revised OR 5.03 to reflect current practices – In March 2003, the Moving Oakland Forward Team recommended that the City’s current practice of issuing to departments the top <u>four</u> ranks per vacancy be changed so that departments receive the top <u>ten</u> ranks, with an additional rank for each vacancy, and that prior to final candidate selection, the hiring manager must attempt to interview all candidates on the list – this change was incorporated here. Also the requirement of the Personnel Director getting CSB approval to certify names from an alternative eligibility list was deleted.</p> <p>6.03 Selective Certification – revised OR 5.04 – deleted requirement of CSB approval of any statement or notice by appointing authority asking for special qualifications for a position.</p> <p>6.04 Certification to Position in Lower Class – revised OR 5.06</p> <p>6.05 Provisional Appointments – revised OR 5.07 – deleted reference to CSB’s power to make provisional appointments – conformed this to AI 562</p>	<p>14.4.3 Transfer List – City must place employee name on transfer list for employees’ classification if requested and must consider employees on transfer list prior to filling vacancy.</p> <p>4.13 Exempt Limited Duration and Temporary Contract Service Employees – such employees are defined – it is recognized that the Union is not exclusive representative of such employees. City must provide Union with the names, hire dates, departments and work locations of such employees.</p>	<p>employee, to place unit members’ names on transfer lists for their classifications, and department shall consider all listed unit members prior to filling vacancy</p>	

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
	<p>6.06 Limited Duration Appointments – revised OR 5.08 – changed to conform to AI 562, added “at will” language, and listed and explained those types of appointments as follows:</p> <ul style="list-style-type: none"> (a) Provisional appointment (b) Temporary Contract Service Employee (c) Exempt Limited Duration Employees (d) Temporary Agency Assignments <p>6.07 Transfer of Employees – revised OR 5.09 – added provision allowing for transfer of employees with disabilities to vacant positions (in compliance with ADA/FEHA)</p> <p>6.08 Transfer List – revised part of OR 5.09</p> <p>6.09 Re-employment After Resignation – revised OR 5.10 – deleted reference to need for CSB approval for extension of the period of time between the separation date and re-employment date in the case of an employee who has resigned wishes to be re-employed.</p> <p>6.10 Nepotism Policy – new policy – incorporates Section 907 of the City Charter and adds other provisions</p>			
<p>RULE 6: PROBATIONARY PERIOD</p> <p>6.01 – Probationary Period (NR 7.01)</p> <p>6.02 – Duration Of Probationary Period (NR. 7.02)</p> <p>6.03 – Interruption Of Probationary Period (NR 7.04)</p> <p>6.04 – Performance Rating During Probationary Period (NR 7.05)</p> <p>6.05 – Removal Or Demotion Of Employee During The Probationary Period (NR 7.06)</p> <p>6.06 – Limited Right By Employees During</p>	<p>Old Rule 6 is now Rule 7 titled “Probationary Period”</p> <p>New Rule 7.01 adds provisions to Old Rule 6.01 re: at will employees not being subject to probationary periods and rejection from probation without giving reasons. We have proposed a New Rule 7.03 allowing for extensions of probationary periods. New Rule 7.04 proposes that periods of unpaid leaves and periods of leaves in excess of 10 days will automatically extend the probationary period. New Rule 7.05 proposes that the requirement of quarterly performance ratings during probation be eliminated and be replaced by ratings at “regular</p>	<p>Article 14.2</p> <p>14.2.1 Entry Probationary Period – Probationary period is 12 months but City, at its option, may extend it once by three months and another three months by agreement with the Union.</p> <p>14.2.2 Promotional Probationary Period</p> <p>Promotional probationary period is six months but City, at its option, may extend it once by three months and another three months by agreement with the Union.</p> <p>14.2.4 Probation may be extended if employee is</p>	<p>Article 14.4</p> <p>14.4.1. Entry Probationary Period - Probationary period is 9 months but City, at its option, may extend it once by three months and another three months by agreement with the Union.</p> <p>14.4.2 Promotional Probationary Period</p> <p>Promotional probationary period shall not exceed six months.</p> <p>14.5.1.1. An employee in a 9-month probationary period shall receive an appraisal</p>	

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>Probationary Period -- (deleted)</p> <p>6.07 -- Procedure To Be Used On Appeals And Hearing Under Section 6.06 -- (deleted)</p> <p>A. Order of Procedure in Appeals</p> <p>B. Burden of Proof</p> <p>C. Information for Conduct of Hearings</p>	<p>intervals." New Rule 7.06 modifies Old Rule 6.05 by making the decision to reinstate a separated probationary discretionary with appointing authority and removing the requirement of providing reinstatement later if no vacancy exists.</p> <p>The Old Rules (6.06 and 6.07) provide a limited right to appeal separation by probationary employees to the Civil Service Board on the basis of discrimination and failure to comply with performance rating requirements. We have deleted these rules.</p> <p><u>The New Rules are as follows:</u></p> <p>7.01 Probationary Period -- revised OR 6.01 -- added that probationary employee has no right of appeal and serves "at will."</p> <p>7.02 Duration of Probationary Period -- revised OR 6.02 -- made probationary period 1 year for new hires; added probationary provisions re: limited duration appointment employees</p> <p>7.03 Extension of Probationary Period -- new -- allowed appointing authority to extend probation up to 90 days with approval of Personnel Director</p> <p>7.04 Interruption of Probationary Period -- revised OR 7.04 -- added that periods of time during unpaid absences shall extend the probationary period, and paid leaves exceeding 10 days shall extend the probationary period.</p> <p>7.05 Performance Rating During Probationary Period -- revised OR 6.04 -- deleted requirement that performance appraisals be done during 3rd and 5th month of six-month probation, and during the 3rd, 5th, 8th and 11th month for 1-year probation; provided that performance appraisals be done at "regular intervals"</p>	<p>ill or injured for 30 days or more.</p> <p>14.2.5 If probationary employee is not meeting standards, City shall notify him/her before the end of the probationary period. If not notice, the employee becomes permanent.</p> <p>14.3 An employee in a 12-month entry level position shall receive a performance appraisal on or about the end of the 3rd, 5th, 8th, and 11th months of service. An employee in a six-month probationary period receives a report at the end of the third and fifth months of service.</p>	<p>within 14 days after the 2nd, 5th, and 8th months of service and annually thereafter</p> <p>14.5.1.2 An employee in a 6-month probationary period shall receive an appraisal within 14 days after the end of the 3rd and 5th months of service and annually thereafter.</p>	

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
	7.06 Removal of Demotion of Employee During the Probationary Period – revised OR 6.05 – deleted reference to employee’s right of appeal (in 6.05(a))			
<p>RULE 7: EMPLOYEE SERVICE RATINGS AND REPORTS</p> <p>7.01 – Establishment Of System Of Employee Service Ratings And Reports – NR 8.01</p> <p>7.02 – Official Copy Of Employee Service Rating Plan – (deleted)</p> <p>7.03 – Participants In Employee Service Rating Procedure – NR 8.02</p> <p>7.04 – Assistance By The Personnel Director (pp. 45-46 – NR 8.02</p> <p>7.05 – Open Records Of Employee Service Ratings – NR 8.03</p>	<p>Old Rule 7 is New Rule 8 titled “Employee Performance Appraisals”</p> <p>These Rules have been substantially edited and streamlined to reflect current practice and to eliminate unnecessary verbiage. A provision was added in New Rule 8.03 allowing employees to submit rebuttals to their performance appraisals and have them placed in their personnel files and stating there is no right to appeal the contents of a performance appraisal.</p> <p><u>The New Rules are as follows:</u></p> <p>8.01 Employee Performance Appraisals – explains purpose of performance appraisals – substantially revises OR 7.01</p> <p>8.02 Participants in the Performance Appraisal Process – edits and combines OR 7.03 and 7.04</p> <p>8.03 Placement in Personnel Files – revised OR 7.05, adds provision allowing employees to submit rebuttals to their performance appraisals within 20 working days and have them placed in their personnel files, states there is no right to appeal the contents of a performance appraisal.</p>	<p>Article 14.3 Performance Appraisals</p> <p>Explains purpose of employee service ratings and reports. Permanent employees are to receive annual performance appraisals outlining progress and performance. Each performance appraisal shall include one of the following Overall Ratings: exceeds expectation, fully effective, improvement needed, unacceptable.</p> <p>.</p>	<p>Article 14.5 Employee Service Ratings and Reports</p> <p>14.5.1 Explains purpose of employee service ratings and reports. Permanent employees are to receive annual performance appraisals outlining progress and performance</p> <p>14.5.1.4 Notice of Deficiencies – An employee having one or more areas of unacceptable performance may have these areas reviewed and dealt with between the regular annual performance appraisals by the use of oral and written descriptions of deficiencies. Such reviews shall be made through use of disciplinary proceedings and shall be subject to the grievance procedure</p> <p>14.5.2 Performance Appraisals - City will give Union notice and opportunity to negotiate any proposed changes to the Performance Appraisal forms.</p>	<ul style="list-style-type: none"> • 578 – Performance Management System Policy • 579 – Performance Planning and Appraisal Procedures for Unrepresented Employees

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>RULE 8: VACATIONS AND LEAVES OF ABSENCE</p> <p>8.01 – Vacation Leave. Authority For (NR 9.03)</p> <p>(a) Purpose – (deleted)</p> <p>(b) Exclusions – (deleted)</p> <p>(c) Specific Inclusions (deleted)</p> <p>(d) Times At Which Vacation Leave Shall Be Taken (deleted)</p> <p>(e) Rate At Which Vacation Leave Shall Accrue For Full-Time Employees (NR 9.03.1)</p> <p>(f) Deferred Vacation (deleted)</p> <p>(g) Effect Of Leaves Of Absence Without Pay Upon Vacation (deleted)</p> <p>(h) Computation Of Vacation Leave Upon Termination Or Extended Military Leave (NR 9.03.5)</p> <p>(i) Supplemental Vacation Benefits (deleted)</p> <p>8.02 – Sick Leave – General (NR 9.04)</p> <p>(a) Purpose Of Sick Leave (NR 9.04.2)</p> <p>(b) Rate At Which Employees Shall Earn Sick Leave (NR 9.04.1)</p> <p>(c) Accumulation Of Sick Leave Credits (NR 9.04.6)</p> <p>(d) Disposition Of Sick Leave Credits Of Terminated Employees (NR 9.04.7)</p> <p>(e) Family Illness – Immediate Family Defined (NR 9.04.5)</p> <p>Meyers, Nave, Riback, Silver & Wilson 9/24/2004, 2:12 PM</p>	<p>Old Rule 8 is New Rule 9 titled “Vacations and Leaves of Absence”</p> <p>This entire section has been substantially revised because the Old Rules did not reflect current practice or law regarding leaves and also omitted several different types of leaves mandated by law. We have proposed a new Rule 9.01, “General Provisions regarding leaves,” which requires employees to account for their absences as specific leave types and allows the City to require fitness for duty exams and medical certifications to verify medical conditions. We have modified the vacation and sick leave sections of the Old Rules to reflect current practice. We have added reference to FMLA, pregnancy disability, paid family leave, management and executive leave, administrative leave with pay, specified holidays, personal leave without pay, school leave, jury duty leave, voting time and a section about accommodations for employees with disabilities.</p> <p>We deleted the following:</p> <ul style="list-style-type: none"> - provision in Old Rule 8.01 that the Civil Service Board is authorized to make rules regarding leaves. - provision in Old Rule 8.04 that states the Board must receive reports from the appointing authority whenever an employee is injured on duty. - provision in Old Rule 8.05 that states that the Board must receive reports of disability retirements. - provision in Old Rule 8.07 and 8.09 that state Board approval is required for miscellaneous leaves of absence in excess of 30 days. - Board approval of requests for personal leave with pay or personal leave without pay (OR 8.07) 	<p>Article 12 Permanent Part-Time Benefits – Provides that a permanent part-time employee who works 50% of the normal workweek for the full-time class equivalent accrues vacation on a pro-rata basis.</p> <p>Article 10 addresses Vacation as follows:</p> <p>Vacation Leave (10.1) – Entitlement – same accrual rate as in New Rule 9.03</p> <p>(10.3) limitation on accrued unused vacation is 2X the annual vacation rate (compare New Rule 9.03.5);</p> <p>(10.5) Minimum Usage – addresses holiday falling during vacation</p> <p>(10.6) paychecks duration vacation – employee may receive paycheck in advance in certain circumstances)</p> <p>(10.7) Vacation Sell-back – certain employees may sell back to City up to 15 days of accrued vacation each calendar year as long as employee has taken at least 10 vacation days during preceding year (NOTE: compare New Rule 9.03.6 – which allows sell-back of 5 days in a calendar year</p> <p>(10.8) Personal Business Leave – 2 ½ days per year of accrued vacation for personal business (not provided in New Rules)</p> <p>Article 9 addresses leaves of absence:</p> <p>9.1.1 Sick leave earned at same rate as in New Rule 9.04.1</p> <p>9.1.2 Accumulated Sick Leave (consistent with NR 9.1.3)</p> <p>9.1.3 Use of Sick Leave</p>	<p>Article 9 – Permanent Part-Time Employee Benefits - Provides that a permanent part-time employee who works 50% of the normal workweek for the full-time class equivalent accrues vacation on a pro-rata basis. They are also eligible for Family Death Leave on a pro rata basis</p> <p>Article 10 addresses Vacation as follows:</p> <p>Vacation Leave (10.1) – Entitlement – same accrual rate as in New Rule 9.03 except does not allow for the extra day on the anniversaries of the 5th, 10th, etc. years (unlike Local 21)</p> <p>(10.3) limitation on accrued unused vacation is 2X the annual vacation rate (compare New Rule 9.03.5);</p> <p>(10.4) Vacation Sell-back – employees may sell back to City up to 10 days of accrued vacation each calendar year as long as employee has taken at least 10 vacation days during preceding year (NOTE: compare New Rule 9.03.6 – which allows sell-back of 5 days in a calendar year</p> <p>(10.5) Minimum Usage – addresses holiday falling during vacation</p> <p>10.6 Personal Business Leave – 2 ½ days of accrued vacation can be used for personal business (not provided in New Rules)</p> <p>(10.8) paychecks duration vacation – employee may receive paycheck in advance in certain circumstances)</p> <p>Article 8 addresses leaves of absence:</p> <p>8.1.2 Sick leave earned at same rate as in New Rule 9.04.1</p>	<ul style="list-style-type: none"> • 113 – Leave of Absence – Notification of City Manager’s Office • 505 – Vacation Policy • 507 – Year-End Four-Hour Holiday • 516 – Management Leave • 520 – Floating Holiday • 537 – Donation of Vacation Pay to Seriously Ill and Needy City Employee • 545 – Vacation Buy-Back Policy • 1020 – Leave Without Pay in Excess of 30 Calendar Day – Reporting Procedures • 1025 – Negative Leave Balances • 547 Unrepresented City Employees (Sick Leave Buy Back/Conversion Program)

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
(f) Limitations On Sick Leave (deleted)	<p><u>The New Rules are as follows:</u></p> <p>9.01 General Provisions regarding Leave – sets forth general conditions of employee accountability re: leaves; City’s right to employ reasonable measures to prevent abuse of leave privileges. (See OR 8.02(h) and (i))</p> <p>9.01.3 explains that temporary, etc. employees are not entitled to leave benefits, but permanent part-time employees may receive benefits on a pro rata basis</p> <p>9.02 Available Leave Categories – lists available leaves</p> <p>9.03 Vacation (revised OR 8.01)</p> <p>9.03.1 Accrual</p> <p>9.03.4 Notice</p> <p>9.03.5 Payment for Unused Vacation at Separation or Upon Commencement of Extended Military Leave</p> <p>9.03.6 Vacation Sell Back</p> <p>9.04 Sick Leave (revised OR 8.02)</p> <p>9.04.1 Sick Leave with Pay (revised OR 8.02(a))</p> <p>9.04.2 Sick Leave Usage is not a “right.”</p> <p>9.04.5 Sick Leave Usage for Family Illness (revised OR 8.02(e))</p> <p>9.04.6 Accumulation of Sick Leave Credits (revised OR 8.02(c))</p> <p>9.04.7 Disposition of Sick Leave Credits of Terminated Employees (revised OR 8.02(d))</p> <p>9.04.8 Sick Leave Without Pay (revised OR 8.02(g))</p> <p>9.04.9 Return to Duty from Extended Sick Leave (revised 8.02 (k))</p>	9.1.3.2 Family Illness – allows employees 12 working days family sick leave in any calendar year (consistent with NR 9.04.5); allows for leave in excess of 12 days/year	8.1.3 Accumulated Sick Leave (consistent with NR 9.1.3)	<ul style="list-style-type: none"> • 560 Workers’ Compensation Procedures • 561 Fringe Benefits and Accruals for Industrially Injured City Employees • 512 Procedure for Deferral of Vacation • 525 Employee Benefits Applicable to Part-Time Employees
(g) Leave Without Pay: Effect Upon Sick Leave Credits		9.1.3.3 Verification of Leave – requires medical verification of leave for excessive absences	8.1.4 Use of Sick Leave	
(h) Verification Of Illness - Abuse of Sick Leave (NR 9.01.2)		9.1.4 Sick Leave Buy-Back – Leaving City – City agrees to compensate in cash employees leaving City service after ten years of service for 331/3% of accrued sick leave. (Not in New Rules)	8.1.4.2 Family Illness – allows employees 12 working days family sick leave in any calendar year (consistent with NR 9.04.5); allows for leave in excess of 12 days/year	
(i) Required Method Of Reporting Illness (9.04.2)		9.1.5 Annual Sick Leave Sell-Back /Conversion – employees may sell back a portion of their unused sick leave or convert it to additional days of vacation under certain circumstances (Not in New Rules)	8.1.5 Sick Leave Buy-Back – Leaving City – City agrees to compensate in cash employees leaving City service after ten years of service for 331/3% of accrued sick leave. (Not in New Rules)	
(j) Compulsory Sick Leave (NR 9.04.10)		9.1.6 Return to Work – If requested by City, employee shall not return to work until he/she submits medical certification authorizing return to work.	8.1.6 Annual Sick Leave Sell-Back /Conversion – employees may sell back a portion of their unused sick leave or convert it to additional days of vacation under certain circumstances (Not in New Rules)	
(k) Return To Duty From Extended Sick Leave (NR 9.04.10)		9.7 FMLA/CFRA and Pregnancy Disability (consistent with NR 9.05 and 9.06)	8.1.7 Performance Appraisal – Where it is clear that employee took sick leave for a valid reason, said absence shall not be taken into account in employee’s performance evaluation.	
(l) Personal Leave for Port Employees – deleted		9.4 On the Job Injury Leave and Compensation	8.6 FMLA/CFRA and Pregnancy Disability (consistent with NR 9.05 and 9.06)	
8.03 – Maternity Leave – (NR 9.06)		9.4.1 City-Paid Entitlement – provides no City-paid leave for probationary employees; permanent employees entitled to 60 days paid leave; long term permanent employees entitled to 90 days paid	8.3 On the Job Injury Leave and Compensation	
8.04 – Injury On Duty (NR 9.07)		9.4.1.6 Workers Compensation Benefits – discusses integration of benefits with paid sick leave and vacation (compare NR 9.07.3)	8.3.1 City-Paid Entitlement – provides no City-paid leave for probationary employees; permanent employees entitled to 60 days paid leave; long term permanent employees entitled to 90 days paid	
(a) Combining Benefits Of Workmen’s Compensation Act And Sick Leave (NR 9.07)		9.3 Family Death Leave – (consistent with NR 9.09 except requires that employee must have worked 6 months to be eligible)	8.3.1.5 Workers Compensation Benefits – discusses integration of benefits with paid sick leave and vacation (compare NR 9.07.3)	
(b) Reports To Board – deleted		9.5 Military Leave (consistent with NR 9.10)	8.2 Family Death Leave – (consistent with NR	
8.05 – Leave Of Absence On Disability Retirement (NR 9.08)		9.12 Management Leave (NR 9.11 to be filled in)		
8.06 – Family Death Leave (NR 9.09)				
(a) Eligibility For Family Death Leave				
(b) Schedule Of Allowances				
(c) Exceptional Cases				
(d) Procedure For Requesting Leave				
8.07 – Miscellaneous Leaves Of Absence (NR 9.15)				
8.08 – Return To Duty Following Leave (NR 12.09)				
8.09 – Authorization to Approve Leaves				

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>8.10 – Military Leave Of Absence (NR 9.10)</p>	<p>9.04.10 Accommodation for Employees with Disabilities – NEW provision discussing ADA requirements</p> <p>9.05 Family and Medical Leave/Paid Family Leave – NEW</p> <p>9.06 Pregnancy Disability Leave/Parental Leave – NEW</p> <p>9.07 On-the-Job Injury Leave (revised OR 8.04)</p> <p>9.07.3 Combining Workers' Compensation Benefits and Sick Leave (revised OR 8.04(a))</p> <p>9.07.4 Fitness for Duty</p> <p>9.08 Return from Disability Retirement (see OR 8.05)</p> <p>9.09 Family Death Leave (deletes requirement that employee must work more than 3 months to be eligible for leave) – revised OR 8.06</p> <p>9.10 Military Leave (revised OR 8.10)</p> <p>9.11 Management Leave - NEW</p> <p>9.12 Executive Leave – NEW</p> <p>9.13 Jury Duty – revised OR 8.07(d)</p> <p>9.14 Administrative Leave with Pay - NEW</p> <p>9.15 Personal Leave Without Pay – revised OR 8.07(b) and (c)</p> <p>9.16 Holidays – NEW</p> <p>9.17 School Activities Leave – NEW</p> <p>9.18 Voting Time – NEW</p> <p>9.19 Other Authorized Leaves With Pay – revised OR 8.07)</p>	<p>9.8 Leave of Absence without Pay – up to one year leave allowed (consistent with NR 9.15 but provides more elaborate process)</p> <p>9.6 Jury Duty (consistent with NR 9.13)</p> <p>Article 11 Holidays (consistent with NR 9.16)</p> <p>9.2 School Activities Leave (consistent with NR 9.17)</p> <p>9.11 Limited/Modified Duty (not provided in New Rules)</p> <p>9.10 Integration of Disability Insurance Coverage and Paid Leaves (not provided in New Rules)</p> <p>9.9 Disability Insurance (not provided in New Rules)</p>	<p>9.09 except requires that employee must have worked 6 months to be eligible</p> <p>8.4 Military Leave (consistent with NR 9.10)</p> <p>8.7 Leave of Absence without Pay – up to one year leave allowed (consistent with NR 9.15)</p> <p>8.5 Jury Duty (consistent with NR 9.13)</p> <p>Article 11 Holidays (consistent with NR 9.16)</p> <p>8.3.1.6 Limited/Modified Duty (not provided in New Rules)</p> <p>8.8 Integration of Disability Insurance Coverage and Paid Leaves (not provided in New Rules)</p> <p>8.9 Correctional Officer's Disability</p>	

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
No Old Rule re: Wage and Hour Benefits/Overtime	<p>New Rule 10 titled "Wage and Hour Benefits/Overtime"</p> <p>10.1 City's commitment to complying with FLSA</p> <p>10.2 City's designation of FLSA Exempt employees. Provides that non-exempt employees shall be paid overtime compensation, but must have work authorized by a supervisor, and must report overtime work within 24 hours. Violation of rule may result in discipline.</p>	<p>Article 5.5.1. discusses overtime pay</p> <p>5.5.2 discusses compensatory leave (not addressed in New Rules)</p> <p>5.5.3 discusses overtime on holidays</p>	<p>Article 5.6.1 discusses overtime</p> <p>5.6.1.1 Minimum Overtime</p> <p>5.6.1.2 Minimum Overtime Court Appearances</p> <p>5.6.1.3 Compensatory Leave</p>	<ul style="list-style-type: none"> • 524 Overtime Authorization and Reporting • 529 Minimum Overtime Guarantee
No Old Rule	<p>New Rule 11 titled "Attendance/Meal Periods/Rest Periods"</p> <p>11.01 Workweek – defines workweek as 40 hours per week, starting at 12:01 a.m. every Sunday</p> <p>11.02 City may modify work hours of its employees and may require overtime and standby responsibilities' employees responsible for reporting to work on time.</p> <p>11.03 Meal Periods – employees receive 30-60 minute meal period relieved of duties</p> <p>11.04 Rest Periods – employees receive 15 minute rest periods for each half shift</p>	<p>Article 13.1 Hours of Work – 7 ½ hours per day; 37 ½ hours per week (excluding meal periods)</p> <p>13.1.1 Rest period (consistent with NR 11.04)</p> <p>13.1.2 Lunch period (consistent with NR 11.03)</p>	<p>Article 12.1 Hours of Work – For Unit SB1 or SC1, the regular daily work schedule is 8 hours; regular weekly work schedule is 40 hours</p> <p>For Unit SD1, the regular daily work schedule is 7 ½ hours per day; 37 ½ hours per week</p> <p>13.1.1 Rest period (consistent with NR 11.04)</p> <p>13.1.2 Lunch period (consistent with NR 11.03)</p> <p>12.2 Shifts and Schedules</p> <p>12.2.1 Changes in work schedules and start times shall be posted at least 10 working days in advance</p>	
<p>RULE 9: SENIORITY, LAYOFF, CHANGE IN STATUS, RESIGNATIONS</p> <p>9.01 – Layoffs – NR 12.01</p> <p>9.02 – Layoff Procedure – NR 12.02</p> <p>9.03 – Resignations – NR 12.07</p> <p>9.04 – Retirement – NR 12.08</p> <p>9.05 – Demotion On Account Of Physical Incapacity – deleted – see NR 6.07</p> <p>9.06 – Incompatible Activity of City Employees –</p>	<p>Old Rule 9 is New Rule 12 titled "Layoffs, Resignations, Separations"</p> <p>We propose changes as follows: (1) new Rule 12.01 to state that layoffs are exclusively within Council's right, laid off employees have no right to appeal the layoff decision; (2) Additional tie-breaker rules have been proposed (based on suggestions from Ian Appleyard) (see new Rule 12.02(c)); (3) Provisions re: reinstatement lists were moved from Rule 4.26 and 4.27 to new Rule 12.05 and 12.06. The old layoff rules were edited and streamlined for clarity. Old Rule 9.03 re: resignations has been substantially modified (See</p>	<p>Article 14.8 Reduction in Force/Layoff</p> <p>The City agrees to keep the Union advised of financial planning that contemplates reduction of personnel as soon as feasible. A reduction in force shall be carried out in accordance with the Personnel Manual and the following principles: (1) it shall be effected on a City-wide basis; (2) employees not subject to layoffs may volunteer to be laid off; (3) a reinstatement list shall remain in effect for three years; and (4) City will provide 60 days in advance a unit listing by classification of employees hire dates and job class service date.</p>	<p>Article 14.2 Reduction in Force</p> <p>The City agrees to attempt to accomplish any reduction in force by attrition rather than layoff. The City agrees to keep the Union advised of financial planning that contemplates reduction of unit members at least 6 months in advance. City will provide a listing of classifications that may potentially be reduced at a future date. RIF shall be carried out in accordance with the Personnel Manual and the following principles: (1) it shall be effected on a City-wide basis; (2) employees not subject to layoffs may volunteer to be laid off; (3) seniority shall be a</p>	<ul style="list-style-type: none"> • 139 – Procedures for Complying with Employee Separation Procedures to Comply with American Disabilities Act (ADA) of 1990

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
<p>NR 14</p> <p>9.07 – Investigations by the Board – deleted as unnecessary and redundant</p>	<p>New Rule 12.06) deleting the investigation requirement. Old Rule 9.04 re: disability retirement has been moved to New Rule 9.08. Old Rule 9.05 re: demotion due to physical incapacity has been modified and moved to New Rule 6.07. Old Rule 9.07 re: investigations by the Board has been deleted because it is redundant of New Rule 3.02(2).</p> <p>Old Rule 9.06 (incompatible activity of employees) has been modified and moved to New Rule 14.</p> <p>New Rules 12.08 and 12.09 relating to Medical Separations and Separations Due to Absence Without Leave have been proposed to provide a process that complies with the law for the City's separation of employees for medical reasons and employees who are AWOL.</p> <p><u>The New Rules are as follows:</u></p> <p>12.01 Layoffs – revised OR 9.01 – added that employees have no right to appeal a layoff.</p> <p>12.02 Layoff Procedure – revised OR 9.02</p> <p>12.03 Reversion to Former Classification – revised OR 9.02(d)</p> <p>12.04 Reinstatement List – moved and revised OR 4.26 here</p> <p>12.05 Return of Laid-off Probationary Employees to Eligible Lists – moved and revised OR 4.27 here</p> <p>12.06 Resignation – substantially revises OR 9.03 – provides employees should give 2-week notice of resignation, resignation is effective upon receipt or City's notice of acceptance, and once accepted is irrevocable; Exit interviews may be required. – deletes requirement of Personnel Director to report to the Board excessive resignations in a department and provision re: Board investigating the reasons for the resignation</p>	<p>See also Special Agreement re: Layoffs (expires June 2005)</p>	<p>primary factor; (4) at least 2 weeks notice of RIF shall be given; (5) in recall from layoff, the last person laid off shall be the first person recalled; (6) layoff (reinstatement) list shall remain in effect for a period of 3 years; (7) no unit member will be required to take accrued vacation prior to layoff (8) City will not use participants in any welfare-to-work program to replace current unit members; (9) City will provide quarterly reports to Union regarding the City's participation in welfare-to-work programs; (10) further impacts on Union represented positions that may occur as a result of the City's participation in welfare-to-work programs shall be subject to meet and confer</p>	<ul style="list-style-type: none"> • 522 – Employee Separation Procedures to Comply with State Unemployment Insurance Reporting Requirements • 570 Termination of Employment

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
	<p>12.07 Service Retirement – revises OR 9.04</p> <p>12.08 Medical Separation – NEW – sets forth streamlined process for separating employees who are physically incapable of doing their jobs, consistent with ADA</p> <p>12.08.1 Proof of Disability</p> <p>12.08.2 Notice of Intent to Medically Separate</p> <p>12.08.3 Reemployment</p> <p>12.09 Separation Due to Absence Without Leave – NEW – sets forth streamlined process for separating employees who are absent without leave</p> <p>12.09.1 Notice of Intent to Separate Due to Absence Without Leave</p>			
<p>RULE 10: DISCIPLINARY ACTIONS, APPEALS, AND HEARINGS</p> <p>10.01 Disciplinary Action – NR 13.01-13.04, 13.05</p> <p>10.02 Procedure in Disciplinary Actions – NR 13.05.2</p>	<p>Old Rule 10 is New Rule 13 titled “Disciplinary Actions, Appeals and Hearings”</p> <p>The current Rules and MOUs do not state all potential grounds for discipline. We propose a full delineation of grounds for discipline in New Rule 13.03. New Rule 13.02 sets forth types of disciplinary actions. The disciplinary action of “fine” (as stated in Old Rule 10.01) has been deleted. Old Rule 10.02 sets forth a procedure for disciplinary action, and references appeal rights before the Board as set forth in Old Rule 2.09 and 2.10. We have substantially changed these provisions to bring them into compliance with the law (including pre-disciplinary hearing rights in accordance with the <i>Skelly</i> case and its progeny) (see New Rule 13.05.1). We propose limiting the right of a post-disciplinary appeal hearing to discipline more severe than a 5-day suspension, in accordance with case law.</p> <p>We also propose having the Board have the option of hearing the appeal itself or delegating it to a</p>	<p>Article 14.11 Discipline/Just Cause</p> <p>Provides that no employee will be subject to disciplinary action except for just cause. The City will provide a copy of the <i>Skelly</i> notice to the Union.</p> <p>14.12 Sexual Harassment and Violence in the Workplace – employees who violate these policies are subject to discipline</p> <p>Article 15 Grievance and Dispute Resolution Procedure</p> <p>Provides that disciplinary actions (all suspensions, demotions, fines and termination are appealable to arbitration or to the Civil Service Board (which may delegate the hearing to a hearing officer). Lesser discipline (oral warning, written warning, written reprimand) are only appealable up to Step 2 of the grievance procedure. If the Civil Service Board elects to use a hearing officer, it must follow the procedures set forth in Appendix F of the MOU. If arbitration is selected, the decision of the arbitrator is final.</p>	<p>Article 14.19 Discipline</p> <p>14.19.1 Provides that the good cause provisions of the Civil Service Rules shall not be deleted in the absence of meeting and conferring with the Union</p> <p>14.19.2 The City will provide a copy of the <i>Skelly</i> notice to the designated representative of the employee</p> <p>14.19.3 Public safety are entitled to rights under Govt. Code sec. 3508.1</p> <p>14.21 Sexual Harassment and Violence in the Workplace – employees who violate these policies are subject to discipline</p> <p>Article 15 Grievance Procedure</p> <p>Provides that disciplinary actions (apparently any kind) are appealable to arbitration or to the Civil Service Board (which may delegate the hearing to a hearing officer). If the Civil Service Board elects to use a hearing officer, it</p>	<ul style="list-style-type: none"> • 521 – Employee Discipline Due Process Requirements • 523 Disciplinary Guidelines and Procedures • 519 Resolution of Concerns of Unrepresented Employees

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
	<p>Hearing Officer for findings, subject to final review and decision by the Board.</p> <p><u>The New Rules are as follows:</u></p> <p>13.01 General Rules of Conduct – NEW</p> <p>13.02 Disciplinary Actions – NEW</p> <p>13.03 Grounds for Discipline – NEW</p> <p>13.04 Authority to Discipline – NEW</p> <p>13.05 Procedures for Disciplinary Actions – NEW</p> <p>13.05.1 Written Notice/Pre-Discipline Meeting/Final Action – NEW – based on <i>Skelly</i> case and its progeny – provides that minor disciplinary actions (suspensions of 5 days or less or less serious actions) are not entitled to pre-disciplinary <i>Skelly</i> hearings (but minor suspensions are entitled to post-disciplinary action hearings which are similar to <i>Skelly</i> hearings)</p> <p>13.05.2 Appeal of Disciplinary Action – NEW</p> <p>13.05.2.1 Procedures for Hearings by the Board – these procedures were adapted from Ordinance 8979 (Appendix) and Local 21's and Local 790's procedures</p> <p>13.05.2.2 Procedures for Hearing by a Hearing Officer – these procedures were taken from Local 21's and Local 790's procedures</p>		<p>must follow the procedures set forth in Appendix A of the MOU (which is consistent with Local 21's Appendix F procedure)</p>	
<p>RULE 11 - RECORDS, REPORTS AND NOTICES</p> <p>11.01 Notice to Board of Appointments, etc.</p> <p>11.02 Official Roster</p> <p>11.03 Access of Department Records</p> <p>11.04 Records Open to the Public</p> <p>11.05 Disposition of Records</p>	<p>We recommended that this Rule be deleted because it is unnecessary and does not comport with current City practice. Laws relating to access to personnel files and the Public Records Act govern retention of records. Old Rule 11.01 required that immediate notice of all appointments, transfers, disciplinary action, resignations, transfers and vacancies be given by the appointing authority to the Board and records re: same be kept by the Board. This is not current practice and appears</p>	<p>Article 14.1 Personnel File</p> <p>Provides that employees will be given copies of entries of a derogatory nature when they are placed in their official personnel files and will be given an opportunity to comment, that disciplinary letters shall not be used as a basis for disciplinary action imposed more than 4 years after the date of the disciplinary letter.</p>	<p>Article 14.1 Personnel File</p> <p>Provides that employees will be given copies of entries of a derogatory nature when they are placed in their official personnel files. Documents of a derogatory nature may only be used in disciplinary action if the employee has received a copy of them and they were placed in the employee's personnel file.</p>	<ul style="list-style-type: none"> • 543 Release of Personnel Records

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
11.06 Official Written Notice by Board	unnecessary. Provisions re: official written notice of the Board (Old Rule 11.06) have been moved to New Rule 13.05.	Employees may review the official personnel files twice a year and make copies.	Employees may review the official personnel files twice a year and make copies.	
RULE 12 CERTIFICATION OF PAYROLLS 12.01 – Certification to Auditor-Controller 12.02 – Effect of Classification and Allocation on Payment	We recommend that this Rule be deleted because it appears unnecessary and may not comport with current practice.	No corresponding MOU provision	No corresponding MOU provision.	<ul style="list-style-type: none"> • 555 – Payroll Adjustment Policies
RULE 13 PROHIBITIONS AND PENALTIES 13.01 – Frauds Prohibited 13.02 – Penalty	We recommend that this Rule be revised and incorporated into New Rule 5 since it relates to fraud in the application and selection process. (See New Rule 5.06.)	No corresponding MOU provision	No corresponding MOU provision	
RULE 14 – EMPLOYEE-MANAGEMENT RELATIONS 14.01 – Objectives of Employee-Management Relations 14.02 – Establishment of Employee-Management Committee 14.03 – Functions of Employee-Management Committee	We recommend that this Rule be deleted because it does not reflect current practice and is superceded, in part, by the City's Employer – Employee Relations Resolution, which is referenced in the New Introduction at New Rule 1.03. Also, this is covered in the MOUs.	Article 4.14 Joint Labor-Management Committee	Article 16 – Joint Labor-Management Relations Article 3.5.4 Joint Labor/Management Training	
No Old Rule	New Rule 14 titled "Incompatible Activity of City Employees" Recommended that this be Rule be added – it was formally addressed in Old Rule 9.06 and is modified here. 14.01 City employee shall not engage in employment which is inconsistent or in conflict with duties as City officer or employee 14.02 Employees are expected to devote their work time to City-related activities; outside personal business not to be done on City time 14.03 Employees shall not perform work for compensation outside of City employment where any part of his/her efforts will be subject to	No corresponding MOU provision	No corresponding MOU provision	<ul style="list-style-type: none"> • 590 Political Activity Restriction • 595 Employee Conflicts of Interest / Incompatible Employment

OLD RULE	NEW RULE	LOCAL 21 MOU	LOCAL 790 MOU	AI
	<p>approval by any officer, employee of the City unless the employee obtains approval of the Department Head</p> <p>14.04 No officer, employee shall solicit or accept gifts or gratuities which may appear to be influencing the performance of his City duties</p> <p>14.05 Violations of this rule are subject to discipline and possibly criminal charges</p>			
<p>RULE 15: SAVINGS CLAUSE If any section of the rules is invalid, the validity of the remaining portions will not be affected.</p>	<p>Old Rule 15 is New Rule 15 titled "Miscellaneous"</p> <p>15.01 Word Usage – addresses Personnel Director's and Board's delegation of duties</p> <p>15.02 Savings Clause</p>	No corresponding MOU provision	No corresponding MOU provision	

714685

Document comparison done by DeltaView on Thursday, September 23, 2004 1:59:01 PM

Input:	
Document 1	iManageDeskSite://ebimanager/EBMAIN/714686/1
Document 2	iManageDeskSite://ebimanager/EBMAIN/714622/1
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Minor changes	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	874
Deletions	994
Moved from	57
Moved to	57
Style change	0
Format changed	0
Total changes	1982

**PERSONNEL MANUAL
CIVIL SERVICE BOARD
City of Oakland, California**

Recommended Revisions for Review
Finance Committee Meeting – October 12, 2004

Revised as of September 197124, 2004

TABLE OF CONTENTS

	<u>PAGE</u>
<u>RULE 1. INTRODUCTION</u>	<u>1</u>
<u>RULE 2. DEFINITIONS</u>	<u>2</u>
<u>RULE 3. ORGANIZATION, RULES AND PROCEDURES OF THE CIVIL SERVICE BOARD</u>	<u>5</u>
<u>RULE 4. CLASSIFICATION PLAN</u>	<u>7</u>
<u>RULE 5. APPLICATION, SELECTION, AND ELIGIBLE LISTS</u>	<u>10</u>
<u>RULE 6. CERTIFICATION AND APPOINTMENT</u>	<u>16</u>
<u>RULE 7. PROBATIONARY PERIOD</u>	<u>19</u>
<u>RULE 8. EMPLOYEE PERFORMANCE APPRAISALS</u>	<u>20</u>
<u>RULE 9. VACATIONS AND LEAVES OF ABSENCE</u>	<u>21</u>
<u>RULE 10. WAGE AND HOUR BENEFITS / OVERTIME</u>	<u>28</u>
<u>RULE 11. ATTENDANCE / MEAL PERIODS / REST PERIODS</u>	<u>29</u>
<u>RULE 12. LAYOFF, RESIGNATIONS, SEPARATIONS</u>	<u>29</u>
<u>RULE 13. DISCIPLINARY ACTIONS, APPEALS AND HEARINGS</u>	<u>32</u>
<u>RULE 14. INCOMPATIBLE ACTIVITY OF CITY EMPLOYEES</u>	<u>37</u>
<u>RULE 15. MISCELLANEOUS</u>	<u>38</u>

NEW RULE 1
INTRODUCTION

Section 1.01. This Personnel Manual sets forth Personnel Rules of the Civil Service Board (hereafter "Rules") which generally describe the employment relationship between the City of Oakland and its employees. These Rules apply to all City employees, except where otherwise indicated in these Rules or where an applicable Memorandum of Understanding ("MOU") specifically conflicts with a Rule, in which case the MOU provision shall govern. As specified herein, some Rules apply only to employees in the "Classified Service." The "Classified Service" consists of all employees who are not in positions exempted by action of the Civil Service Board or exempted by Section 902 of the City Charter. Positions exempted from classified service by Section 902 of the City Charter include the following:

(a) Offices required by this Charter to be filled by election or to be appointed by the Mayor and City Council.

(b) One secretary and all professional and administrative assistants in the office of the City Administrator; the Mayor's secretary and an assistant and such other staff as authorized by Council; one secretary and one assistant to the City Attorney and the Auditor respectively; and the heads of such other departments and an assistant to each as may be provided for by ordinance. The City Administrator, the Mayor, the City Attorney, and the Auditor shall respectively appoint such exempt personnel.

(c) Department heads, one secretary to the executive director, the secretary of the board, commercial representatives and freight and cargo handlers and checkers employed by the Port Department; also such others engaged in the handling of ships and shipping as are found by both the Board of Port Commissioners and the action of the Civil Service Board to hold positions peculiar to the operations of the Port as a commercial enterprise.

(d) Part-time employees who are regularly employed for less than one-half the established working hours throughout the year; or those who are employed in any seasonal employment for not more than 120 days in any consecutive 12 months.

(e) Individuals engaged by contract.

Section 1.02. These Rules were established to conform and be complementary to the City Charter. In cases where there is deemed to be a conflict between a Rule and the City Charter, the Charter shall prevail.

Section 1.03. The City's labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq. The City has in place an Employer-Employee Relations Resolution which specifies the City's local rules, rights and obligations regarding labor relations. Under the City's Employer-Employee Relations Resolution and the MMBA, the City recognizes certain employee organizations as the exclusive representative for purposes of labor negotiations. For represented employees, the City meets and confers with employee labor representatives regarding wages, hours and others terms and conditions of employment, and provides advance notice of certain matters as specified by the Employer-Employee Relations Resolution. Whenever any amendments to these Rules affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as established by the MMBA and the Employer-Employee Relations Resolution.

RULE 2

DEFINITIONS

~~Section 1.01~~—2.01. Glossary of Terms. The words and terms described in this section, to the extent that they are used in ~~the~~these Rules and elsewhere in documents, relating to Civil Service processes shall have, unless the context otherwise requires, the following meanings:

(a) Allocation - the official determination of the class in which a position in the classified service shall be deemed to exist and the assignment of such position to the appropriate class in the classified service.

(b) Applicant - a person who has filed an application for examination.

~~(c)~~ ~~(e)~~—Appointing Authority - any official or group of officials having authority to make appointments to or cause a removal from any position in a specified department, division or office of the City government.

~~(d)~~ ~~(d)~~—Appointment - the designation of a person, by due authority, to become an employee in a position, and his/her induction into employment in such position.

~~Regular Appointment~~—appointment to a position made from an eligible list.

~~Provisional Appointment~~—appointment for not more than one hundred twenty days to a position in the absence of an eligible list as provided for in Charter Section 803. (C.S. Res. 40885—9/30/69).

~~Limited Duration Appointment~~—appointment from an eligible list to a position created for a specific purpose and in which the appointment will be terminated after a definitely described period of time.

~~(e)~~—Ascertained Merit—maintaining an acceptable degree of efficiency on the job in order to participate in promotional examinations.

~~(e)~~ (f)—Board - the Civil Service Board of the City of Oakland,₂

~~(f)~~ ~~(g)~~—Candidate - a person participating in an examination.

~~(hg)~~ Charter - the Charter of the City of Oakland.

~~(ih)~~ Class or Class of Positions - a definitely recognized kind of employment in the City service designated to embrace all positions sufficiently similar with respect to the duties, authority and responsibilities, and in which (a) similar requirements as to position or group of positions for which a common descriptive job title may be used, and which are defined by similar education, experience, knowledge, ability or other qualifications are required of incumbents; (b) similar tests of fitness may be used in choosing qualified appointees; and (c) a similar and compensation schedule may be made to apply with equity and uniformity.

(ji) Classification Plan - an orderly arrangement of titles and descriptions of positions under separate and distinct classes in the classified service.

~~(k)~~(j) Classified (or Competitive) Service - all positions now existing or hereafter

created in or under any of the City departments, boards or commissions enumerated by the City Charter, but not including those positions specifically ~~excepted~~exempted from the operation of the Civil Competitive Service Rules by Sections 30, 80, 87.5, and 219by Section 902 of the City Charter, or otherwise ~~excepted from~~by the Rules of Civil Service Board.

(k) Class Title - the designation given to a class, to each position allocated to such class and to the incumbent of any such position. Its meaning is set forth in the corresponding general duties statements in the class specifications, ~~and it is always to be used and understood in that sense, even though it may previously have had a broader, narrower or different significance.~~

(m) Compensation - the salary and wages earned by or paid to any employee in ~~remuneration~~remuneration for services in any position, but does not include allowances for expenses authorized and incurred as incident to employment.

(am) Compensation Plan - a series of schedules of salaries and wages established for the several classes of positions in the classification plan, and the method of administration.

(en) Competitive Examination - an examination, either assembled or unassembled, in which one or more candidates are in competition, either with each other or against a standard established by the Board as the minimum acceptable which candidates must possess in order to competently perform the duties of a position.

(o) Confidential Position -- Confidential positions are those positions which are privy to management decision-making discussions and memoranda affecting employer-employee relations.

(p) Demotion - a change of an employee in the ~~City~~city service from a position of one class to a position of another class for which a lower schedule of pay is prescribed.

(q) Domestic Partner - a person who has registered for a Certificate of Domestic Partnership and who is in a committed relationship with a City employee, in which two cohabiting, unrelated people who are over the age of 18, share common responsibility for the necessities of life and have resided together for at least six months prior to registering for a Certificate of Domestic Partnership.

(r) Discharge or Removal - the separation of an employee from his or her position ~~in~~ accordance with the provisions of the Charter.

(fs) Eligible - a person whose name is recorded on an eligible list or laid-off list.

(st) Eligible List - any of the lists of names of persons who have been found qualified through suitable examination for employment in a specific class of position in the classified service ~~arranged in the order of their relative percentages.~~

(tu) Employee - a person ~~legally~~formally occupying a position in the ~~City~~city service in accordance with applicable rules and procedures of the city, and shall include the designation "Officer." ~~officer~~.

(uv) Examination - all the tests of fitness, taken together, that are applied to determine the eligibility of applicants for positions of any class in the classified service.

~~Assembled Examination~~ - an examination in which applicants are called together in one or more designated places to compete in tests according to procedures established and controlled by the Civil Service staff.

~~Unassembled Examination~~ - an examination in which applicants are subject only to general controls as to the manner in which required material is submitted to the examining staff for review and rating, and usually not involving the calling of applicants together.

(vw) Final Earned Rating - the final percentage attained by a candidate in an examination as computed from the percentage earned in each part of such examination.

(wx) Laid-off (Reinstatement) List - an eligible list of names of persons, arranged in the order as provided by these ~~rules~~ Rules, who have occupied positions in the classified service, who have been separated from the classified service as a result of a layoff and who are entitled to have their names certified to appointing authorities under the provisions of these ~~rules~~ Rules.

(xy) Layoff - the separation of a non-probationary employee from the classified service without fault or ~~delinquencies on his/her~~ part and by reason of lack of work or funds, resulting in the placement of his name on a laid off list or reorganization.

(yz) New Position - a position created through the authorized addition of a position not previously existing.

(yaa) Part-time Employee Employment - a person occupying a position in the City service under ~~one of the following conditions~~:

(a)i. Classified - employee working in a classified position on a permanent basis, working less than the normal hours of the normal work week for that department.

(b)ii Exempt - employee working in an ~~exempt~~ position ~~on a part~~ that is exempt from the classified service on a less than full-time basis.

(zbb) Permanent Employee - an employee who has satisfactorily completed a probation period and whose regular appointment has been approved by the appointing authority.

(aac) Position - an individual place of employment in a particular class.

i. Limited Duration - a position created for a specific purpose ~~or due to an urgent need contemplating a~~ of limited duration.

ii. Exempt - a position not included in the classified service by reason of Charter exception or exception by the Board resolution.

iii. Permanent - a position in the classified service which has required or which is intended to require, the services of an incumbent without interruption for a period of more than 120 calendar days.

iv. Temporary - a position in the classified service which has required, or which ~~will~~ is intended to require, the services of an incumbent for a period not to exceed 120 calendar days.

(bbdd) Promotion - the change of an employee in the classified service from a position of one class to a position of another class in the same or similar series, for which a higher maximum rate of pay is provided in the compensation plan and which involves increased or more complex duties.

(eee) Promotional List - a list of names of persons arranged in order of relative percentages, as provided by these ~~rules~~ Rules, who have been found qualified for promotion to a higher position or positions.

(dfff) Reallocation or Reclassification - the reassignment or change in allocation of an individual position by raising it to a higher, reducing it to a lower, or moving it to another class of the same level on the basis' of significant changes in the kind or difficulty of duties and responsibilities in such position.

(eegg) Redesignation - the designation of the incumbent in a position without affecting his/her status in the position in the event of a title change.

(fhh) Re-employment - the re-employment of a permanent employee who has resigned in good standing to a position in the same or similar class from which he resigned, within an allowable ~~two-year~~ time period as provided by these Rules.

(ggii) Re-employment List - a ~~record~~ list of the names of former employees who had obtained permanent status in the City service and who have requested the privilege of re-employment.

(hhjj) Resignation - the voluntary separation of an employee from employment ~~in a particular class of position, voluntary and complete on his part.~~

(hhhkk) Restricted Entrance - an examination limited to specific full-time ~~exempt~~ City employees of the City service who meet the minimum qualifications of the class to be examined. ~~(C.S. Res. 41714 - 8/29/72)~~

(ii(l) Separation - the ~~leaving~~ voluntary or involuntary termination of an employee ~~from~~ a's position in the from City service for any reason without regard to cause.

(jjmm) Series - a subdivision of a group in the classification plan, being a collection of classes in one occupational group having similar duties but usually at different pay schedules.

(kknn) Shall and May - "shall" is mandatory and "may" is permissive.

(lloo) Suspension - the temporary separation of an employee from his/her position with loss of pay as a disciplinary measure.

(mmpp) Termination of Appointment - the involuntary separation of an employee for cause from a permanent position in the classified service, which separation as distinguished from a discharge or resignation, shall not affect the rights which the employee then has under the Charter or the Civil Service Rules.

(nnaqq) Test - one part of an examination.

(oort) Weight - the fixed numerical value given to each part of an examination designating the relative worth and used in computing a general average. ~~(C.S. Res. 38851 - 6/30/64)~~

(ss) Y-rated salary – when an employee is placed in a different position of a different salary range, the salary of an employee is fixed at the rate the employee was earning at the time of the change in placement until the salary rate for the position to which the employee is placed reaches or exceeds the level of salary which the employee is receiving.

RULE 23

ORGANIZATION, RULES AND PROCEDURES OF THE CIVIL SERVICE BOARD

Section 2.01 – Creation of the Board. The Civil Service Board heretofore established by the Charter shall be continued in effect; provided, however that from after July 1, 1953, the said

Section 3.01. Duties of City Administrator and Personnel Director. The City Administrator shall be responsible for the administration of the personnel system in accordance with the Charter. The City Administrator shall appoint a Personnel Director who shall have the following duties, subject to the direction of the City Administrator:

- (1) Be responsible for the efficient operation of the Personnel Department of the City;
- (2) Prepare, maintain AND AMEND the Personnel Manual
- (3) Prepare and maintain the position classification plan, including detailed position description
- (4) Administer the selection process for positions in the classified service and maintain eligible lists of qualified candidates
- (5) Perform other duties as the City Administrator may assign.

Section 3.02. Civil Service Board Duties. The functions and duties of the Civil Service Board are as follows:

- (1) To enforce, through general supervision of the personnel system, the provisions of the Charter and Ordinance 8979, as amended;
- (2) To study, investigate and research into such areas and matters as the City Administrator, or the Council through the City Administrator, or the Board of Port Commissioners, may request, or as it may deem advisable;
- (3) To make reports and recommendations in writing thereon and to formulate policy recommendations or recommended changes to the Personnel Manual for the better realization of the objectives of the personnel system as set forth in the Charter,
- (4) To approve exemption of positions from the classified service;
- (5) To perform the appellate duties and functions set forth in the Personnel Manual excepting those which are administrative in nature, proposed by the City Administrator, provided that changes in which the Board does not concur may be made with the approval of Council; and

- (6) To perform such other duties and functions as the City Administrator may from time to time request.

Section 3.03. Civil Service Board Composition. The Board shall consist of seven members. ~~The two new who will be appointed pursuant to Section 601 of the Charter, and who shall serve without compensation.~~ Two members shall be appointed as in this section provided, except that one shall be appointed for a term expiring June 30, 1956, and one for a term expiring June 30, 1958. (Char. Sec. 70 - Amen. 1953) See ORD 8979CMS, pg 2.

~~Section 2.02 - Appointment and Terms of Board Members.~~ At the expiration of the terms of any of the members of the said Board, one member shall be appointed by the Council, upon nomination by the Mayor, for a term of four years, to take the place of the member whose term shall have expired. If a vacancy occurs in the Board, it shall be filled by appointment by the Council, upon nomination by the Mayor, for the unexpired term. (Char. Sec. 70 - Amen. 1953) See ORD 8979 composition and vacancy.

~~Section 2.04 - Election of President and Vice President.~~ At the first meeting in July, the Civil Service Board shall elect one of its members as president, who shall be its executive officer, and one of its members as vice president, each to serve for a period of one year. Should the president be unable to fulfill his term for any reason, the vice president shall assume the unexpired term until the following July. If both the president and vice president are absent, the Board shall select a president, pro tem, who shall perform all the duties of the president. (C.S. Res. 41375 - 7/20/74)

See ORD 8979 - #3 Officers and Meetings.

~~Section 2.05 - Removal of Board Members.~~ In cases of misconduct, inability or willful neglect in the performance of the duties of the office by any member of the Board, such member may be removed from office by the Council by an affirmative vote of six members; but such member of the Civil Service Board shall be given an opportunity to be heard by the Council in defense and shall have the right to appear by counsel and to have process issued to compel the attendance of witnesses who shall be required to give testimony if such member of the Civil Service Board so requests. In such cases the hearing shall be public and a full and complete statement of the reasons for such removal, if such member be removed, together with the findings of fact as made by the Council, shall be filed by the Council with the City Clerk, and shall be and become a matter of public record. (Char. Sec. 71 - Amen. 1931)

See ORD 8979 - #2 Vacancy.

~~Section 2.06 - Meetings of the Board.~~ Regular meetings shall be held every Tuesday at 4:00 p.m., or at such other times as the Board may fix. Special meetings may be held at any time when all members of the Board are present, with reasonable notice, or upon twenty four hours previous written notice by the Personnel Director and Secretary to the Board, upon request of any member of the Board. The Director shall also inform interested parties when regular sessions of the Board are not to be held. All regular and special meetings of the Board shall be open to the public, except that, upon a unanimous vote, the Board may meet in executive session. (See ORD 8979 - #3 Officers and Meetings.)

~~Section 2.07 - Administrative Procedure.~~ The Board shall make rules to carry out the purposes of this Article, and for examinations, appointments and promotions. All rules and all changes therein shall be forthwith printed by the Board for distribution. (Char. Sec. 73) See ORD 8979 - #4 Procedures.

~~The Board may by resolution from time to time prescribe the procedure for the administration of these rules and for carrying on of the work of the department. Three members of the Board shall constitute a quorum, and such quorum may exercise all the powers and authority conferred upon the Board and may, by unanimous vote of those members present, suspend these rules, provided that in no event shall any exemption be passed nor shall any rules be adopted, amended, or recinded except by a unanimous vote of the entire membership of the Board after 7 days notice of such change.~~

~~The Council, whenever requested by the Board, may by ordinance confer upon the Board such rights, duties and privileges other than those mentioned in the Charter, as may be necessary adequately to enforce and carry out the principles of Civil Service. (Char. Sec. 72 - Amen. 1931)~~

~~In the event that a rule change is promulgated by either the Civil Service Board or the City Manager and is not acted upon by the other party within a period of thirty calendar days after receipt, the rule will automatically become effective at the end of that period, unless a written request for an extension of time is submitted by either party. (C.S. Res. 42349 - 12/17/74)~~

~~Section 2.08 - Appointment and Duties of Personnel Director. The person appointed to fill the position of Clerk, provided for by Section 71 of the Charter, shall be the Ex-officio Personnel Director, and he shall also act as Secretary to the Board. In addition to the duties prescribed by the Charter, he shall, subject to the approval of the Board, direct and be responsible for the performance of the functions and activities of the Civil Service Department, as prescribed by the Board. The Board shall fix the compensation of the Personnel Director. (Char. Sec. 71 - Amen. 1931)~~

~~Section 2.09 - Appeals to the Civil Service Board. Any person suspended, fined, or discharged (and any person whose order of suspension has been revoked) may within ten days of the making by the appointing authority of the order suspending, fining or discharging him, or affirming or revoking an order of suspension, as the case may be, appeal therefrom to the Civil Service Board, which shall fully hear and determine the matter. The accused shall be entitled to appear personally, and to have counsel and a public hearing. The finding and decision of the Civil Service Board shall be certified to the appointing authority from whose order the appeal is taken, and shall forthwith be enforced and followed by said appointing authority. (Char. Sec. 82)~~

~~(a) Any chief official, any subordinate officer and any superintendent or foreman in charge of municipal work may temporarily suspend any subordinate then under his direction for incompetency, neglect of duty or disobedience of orders, but shall within twenty four hours thereafter report the facts in writing to the City Manager, Auditor or Board, as the case may be, and furnish a copy of the report to the subordinate suspended, upon his request therefor. The City Manager, Auditor or Board shall thereupon, if demanded by the subordinate suspended, hear evidence for and against him, and shall thereupon affirm or revoke such suspension according as he or it finds the facts to warrant. (Char. Sec. 81) In the case of a temporary suspension made in accordance with Section 81, paragraph 2 of the Charter, a copy of the report of the facts as therein required shall be transmitted to the Board forthwith.~~

~~(b) When an employee has been suspended, fined or discharged from his position for any cause from which he has a right to appeal to the Civil Service Board, the appointing authority shall forthwith, upon the serving of the order of suspension, fine, discharge or~~

removal upon the affected employee, transmit to the Board, upon forms approved by the Board.

- (1) ~~A report of the suspension, fine or discharge, giving the date when the same takes effect;~~
- (2) ~~A report setting forth the date, hours, and method of service of the notice of suspension, fine, or discharge;~~
- (3) ~~Copies in triplicate of the full and complete specifications of the charges alleged to constitute the cause for suspension, fine, or discharge.~~

Section 2.10 – Procedures to be Used on Appeals and Hearings. Whenever a person who has been suspended, fined, or discharged desires appeal therefrom to the Board, the following order of procedure shall govern:

(A) ~~Order of Procedure in Appeals:~~

- (1) ~~The appeal must be filed in the office of the Board within ten (10) days from the date that notice of suspension, fine, or discharge was served upon the affected employee. Service of the notice of suspension, fine, or discharge shall be made in the manner provided by Section 11.06 of these rules. The effective date of service of the notice of suspension, fine, or discharge shall likewise be governed by the provisions of Section 11.06 of these rules.~~
- (2) ~~The appeal must be submitted in writing, in triplicate, and if the appellant desires to waive a public hearing, such waiver must be in writing.~~
- (3) ~~Upon the filing of an appeal, the appellant or his attorney shall be provided with copies of the specifications of charges, as provided in Section 2.09 (b)(3) of the rules.~~
- (4) ~~Within seven days from the filing of this appeal, the appellant shall submit to the Board in writing his answer, in triplicate, to the specifications of the charges preferred against him, which answer shall state in full the reasons upon which the same is based. The time for filing an answer to the specifications of charges may be extended for a period not to exceed thirty days with written approval of the Personnel Director, the Civil Service Board, or the City Attorney.~~

~~(C.S. Res. 41926 – 4/10/73)~~

- (5) ~~At the first meeting of the Board, after the filing of the appeal and the filing of the answer to the specifications of charges, the appeal shall be received and a date for the hearing shall be set, which shall be not less than seven days from the date such appeal was received by the Board.~~
- (6) ~~Not less than five days before the date the appeal is scheduled for hearing, the Board shall send:~~

~~(a) — A written notice giving the time and place of such hearing to the appointing authority, to the appellant or his attorney and to the City Attorney;~~

~~(b) — A copy of the appeal and the appellant's answer to the specifications of charges to the appointing authority concerned.~~

~~(7) — After the hearing the Board shall render its decision, which may be (a) to sustain the action of the appointing authority concerned; (b) to sustain the appeal; or (c) to modify or amend the penalty imposed.~~

~~(B) — Information for Conduct of Hearings:~~

~~(1) — All requests for appeal shall be directed to the President of the Civil Service Board and addressed to the department offices of the Board.~~

~~(2) — Hearings on appeals may be open to the public. However, upon motion of a directly interested party, the President of the Board may exclude from the hearing room any witnesses not at the time under examination, except that a party to the proceeding and/or his counsel, or other persons conducting his case cannot be excluded.~~

~~(3) — The Board shall determine the evidence upon the charges and specifications as set forth by the appointing authority, the appellant's answer, and shall consider any relevant evidence.~~

~~(4) — The technical rules of evidence shall not apply. However, all testimony and exhibits offered must be relevant and bear upon the act of discharge or suspension, or other matter in contention. Any testimony or exhibits considered by the Board not to meet this criteria shall be excluded. The Board shall also consider the objection of either side to the introduction of evidence either oral testimony or exhibit. Competence and relevance shall be the primary test in ruling on such objections.~~

~~(5) — The Board will make no assumptions of innocence or guilt, but will be guided in its decision by the weight of the evidence as it appears to it at the hearing. for a term of one year, two for two years, and three for four years, said terms to commence upon the date of appointment. Thereafter, each appointment shall be for a term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only.~~

Section 3.04. Vacancy and Removal on Civil Service Board. A vacancy on the Board will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within ten days of appointment. A member may be removed pursuant to Section 601 of the Charter. Cause for removal shall include: conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, and unexcused absence from meetings.

Section 3.05. Officers, Meetings of Civil Service Board. Each year at its first regular meeting in July, the Board shall elect a chairman and vice-chairman from among its members. The Board shall meet at least once each month in the City Hall, at an established time suitable

for its purpose. Such meetings shall be designated regular meetings. Meetings called by the Mayor or City Administrator, and meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of special meetings shall be given to the Board members, the Council, the City Administrator, the Board of Port Commissioners, and the press at least twenty-four (24) hours before the meeting is scheduled to convene.

Section 3.06. Civil Service Board Procedures. The Board shall, in consultation with the City Administrator and with the approval of the Council, establish procedures for the conduct of its meetings. Assuming at least a quorum of the Board is present, a majority vote of those members present is required for the adoption of any procedural or appellate motion. A quorum shall consist of four (4) members of the Board. The Board shall make its reports, findings and recommendations in writing unless otherwise requested. All reports, findings and recommendations shall be submitted to the City Administrator who shall forward these matters within the province of the Council, or the Board of Port Commissioners, as the jurisdiction may be.

Section 3.07. Staffing for Civil Service Board. The City Administrator shall provide the Board with assistance from City employees under his or her jurisdiction.

- (6) ~~Good reason appearing therefore, hearings may be continued beyond the period originally scheduled or recessed until a future date agreeable to the Board and the parties (provided, however, that if such request is made by the appellant or his attorney of record and the Board shall sustain the appeal, the Board may rule that the appellant shall receive no pay for the period of time during which such continuance was granted).~~

RULE 34

CLASSIFICATION PLAN OF POSITIONS

~~Section 3.01—Classified Service. The Board shall classify all places of employment now existing or hereafter created under the jurisdiction of the City Manager, in the office of the Auditor-Controller, in or under the Library, Museum, Park and Recreation Commissions, in and under the Board of Port Commissioners, under the jurisdiction of the Civil Service Board, in and under the jurisdiction of the City Attorney, excepting the place and officers specified in the Charter or otherwise excepted from the rules of Civil Service.~~
Section 4.01. Classified Service. All positions in the City shall be in the classified service except those positions designated in section 902 of the City Charter or otherwise exempted by the Civil Service Board shall constitute the Classified Civil Service of the City, and no appointment to any such place shall be made without the approval of the Board. All positions in the classified service shall be under the jurisdiction of the Board. No appointment to positions within the classified service shall be made, except according to the rules herein mentioned. (Char. Sec. 72—Amen. 1931) (Also Sec. 54; Sec. 58; Sec. 65; Sec. 72a-72b; Sec. 88-88a; Sec. 89; Sec. 97c-97d-97e; Sec. 98; Sec. 99; Sec. 122.5; Sec. 219-219a.) in accordance with these Rules.

Section 3.02—4.02. Definition of Classification Plan.

(a) Classification of Positions: All positions in the classified service shall be grouped into classes, and each class shall include those positions sufficiently similar in respect to their duties, functions, and responsibilities so that similar positions may be assigned

similar titles and embraced within the same class specifications, so that similar requirements as to training, experience, knowledge, skill, ~~personal qualifications~~ and ability and same rates of pay are applicable. The purpose of such classification is to provide uniform standards, uniform pay scales and an orderly means of ~~controlling and regulating~~ the status of incumbents. It contemplates fixing titles of positions to their proper classes so that all positions with the same titles may be in the same class, and ~~allocation of~~ allocating the classes or ~~of~~ positions to their respective salary grades or schedules according to a ~~devised or designed~~ designated pay plan.

(b) Preparation and Content of Class Specifications: Class specifications defining the duties of all positions and the minimum qualifications for successful performance of such duties shall be prepared and maintained by the Personnel Director, subject to the approval of the Board. In addition to the qualifications as set forth in the class specifications, it shall be understood that all positions require ability to read, write, speak and understand the English language and to follow written and oral instructions, that all candidates possess sufficient physical and mental capabilities established by the Personnel Director, and that they must meet such medical standards as established by the City Physician; must have declared their intention to become United States Citizens; must be of a suitable age, and must possess loyalty and good moral character. (C.S. Res. 40661 - 11/19/68).

(c) Interpretation of Class Specifications:

(1) i. Purpose and Effect of Class Specifications: Each class specification describes the main characteristics and qualification requirements of positions in the class and gives examples of specific duties which employees holding such positions may properly be required to perform. The class specification is descriptive and explanatory, but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks of related kind or character or skills.

(2) Performance of Higher Level Duties: When an employee is assigned to perform duties of a higher class for training purposes, the Personnel Director must be informed and such training is subject to his approval as to the individual working out of classification. The basis for approval shall be that benefit accrues to both the employee and the City as a result of this training. Such training shall not be of more than six months duration. (C.S. Res. 38851 - 6/30/64)

(3) Application of Specifications to Positions: In determining the class to which a position should be allocated, the specification of each class shall be considered in its entirety and in relation to the specification of other classes in the classification plan; and the position shall be related to other positions of its kind in the City service.

(4) Statementsii. Statement of Minimum Qualifications: The statement of minimum qualifications in a class specification is intended to be used in determining the admissibility of applicants to competitive examinations, and as an aid in the preparation of such examinations, and for use in determining the relative value of positions in one class with positions in other classes. The Personnel Director, after consultation with the appointing authorities, shall ~~recommend to the Board~~ determine desired combinations of training and experience as minimum qualifications for the respective classes; and these ~~recommendations, upon approval of the Board,~~ minimum qualifications shall become part of the class specification.

~~Section 3.03~~ Titles 4.03. Title of Positions. The class title of a position shall be used to designate such position in all budgets, payrolls, and other official records, documents, vouchers and communications in connection with all personnel transactions.

~~Section 3.04~~ Official Copy of Classification Plan. The Personnel Director shall maintain a master set of all approved class specifications. Such class specifications as approved by the Board shall constitute the official class specifications of the classification plan.

The Personnel Director shall provide each appointing authority with a set of the class specifications. Such class specifications in the office of the Personnel Director or the department shall be open for inspection by the appointing authorities, the employees or the public under reasonable conditions during business hours. Section 3.05 ~~4.04.~~ Administration and Maintenance of the Classification Plan.

(a) Responsibilities of the Personnel Director and the Board: The Board shall direct and the Personnel Director shall be responsible for the work of administering and maintaining the classification plan. The Personnel Director shall ~~recommend to the Board~~ determine whether the reallocation of any position from one class to another class is warranted whenever a change in duties and responsibilities of such position makes the class to which the position is allocated no longer applicable. Any reallocation to be made shall be made with the ~~knowledge of~~ notice to the employee concerned, and his/her appointing authority, and the approval of the Board.

(b) Reclassification of Positions: The Personnel Director shall have the right to ~~may~~ initiate and conduct investigations ~~classification studies~~ of any and all positions in the classified service when he/she deems such investigation ~~review is~~ necessary, and shall ~~may~~ recommend a change in classification where the facts are considered to warrant such action. ~~In this connection the~~ The Personnel Director may at any time secure from ~~require~~ any appointing authority or employees involved new statements to prepare a statement of the current duties and responsibilities of positions under consideration. The appointing authority and employees concerned shall have reasonable notice and an opportunity to be heard by the Board before a change in classification becomes effective. Whenever any appointing authority proposes that a new position or new class shall be created, or that a significant change has been made in the duties, authority and responsibilities of an existing position, such appointing authority shall An appointing authority may also submit requests for changes in classification of positions to the Personnel Director. The appointing authority may be required to submit to the Personnel Director, the following information:

- ~~(1)~~ i. A full description of the duties and responsibilities of the position.
- ~~ii.~~ (2)—Suggestions as to the qualification requirements.
- ~~(3)~~ iii. A suggested title.
- ~~(4)~~ iv. A suggested salary schedule.
- ~~(5)~~ v. A statement regarding any changes in the duties and responsibilities of all positions in the department which may be affected by the creation of the new position.

(c) Employee Requests for Classification Review. Any employee shall have the right to request consideration by the Personnel Director regarding a change in the classification of his/her position. The employee shall make the request initially to the department head who shall submit the request to the Personnel Director for review and such further action as he/she may deem appropriate.

(d) Creation of New Classifications. An appointing authority may submit a request to the Personnel Director for the creation of a new classification. In recommending the establishment of a new classclassification, the Personnel Director shall submit to the appointing authority and to the Board, for its approval, a class title and specification for such classification. Upon the final adoption of the ordinance or resolution creating the position under the new classification, the Board shall thereupon classify the position by making the proper allocation. (EXPLAIN PROCESS –Does Board take final action in approving new class or does Council?)

(e) Changes Requiring Formal Approval of the Board The approval of the Board shall be obtained for the establishment of any new class and changes in class titles.

(f) Appeal to Board regarding Changes in Classification In the event a decision is made to change an employee's classification, the appointing authority and employee concerned shall have reasonable notice and an opportunity to be heard by the Board before a change in classification becomes effective. Hearings regarding disputes about classification changes shall be scheduled by the Board. At the hearing, the appointing authority and/or employee shall have an opportunity to present their positions, either orally or in writing, regarding the proposed d classification change. The Personnel Director or his/her designee shall also have an opportunity to be heard by the Board regarding the issue, either orally in writing. After consideration of the positions of the individuals concerned, within a reasonable period of time, the Board shall issue a final and binding decision regarding the classification change.

Section 4.05. Treatment of Incumbents as Result of Reclassification of Positions. In the event of a classification study, the following treatment of incumbents of reclassified positions may take place:

If a(a) Upgrading of Position: When a position is reallocated to a class of higher grade, the incumbent may be re-designated to the class of higher grade without examination providing he/she has performed the duties of the class for one year prior to the inception of the classification study. The Department Head must attest to the fact that the employee has performed these duties for a period of one year. If the incumbent has served less than one year in the position is that has been reallocated to another class by reason of changed duties and responsibilities, the incumbent may, upon approval by the Board, continue in the position if the maximum rate of pay for the class of position to which the position is reallocated is not higher than the maximum rate of pay for the class of position to which it was formerly allocated. Any person whose position is so reallocated shall be, that person shall be laid off and placed upon the reinstatement list for positions of the same class as that from which he/she was so separated. In case If a position, on account of additional duties and responsibilities, is reallocated to a class of position for which the maximum rate of pay is higher, it and the incumbent has held the position for less than one year, the position shall be filled by appointment from the reinstatement or eligible list for of the class to which the position is reallocated. In the absence of such reinstatement or eligible list, the incumbent shall continue in the position until such time as a reinstatement or an eligible list shall have been created, from which the position can be filled.

(c) Employee Requests for Classification Review: Any employee shall have the right to consideration by the Personnel Director of pertinent requests made by the employee, with respect to a change in the classification of his position. The employee shall make his request initially to the department head, who shall promptly seek to arrive at a solution consistent with the classification plan. Where the department head is unable to resolve such a request in a manner that the employee is willing to accept in writing, the matter

shall then be submitted to the Personnel Director for review and such further action as he may deem appropriate.

(d) ~~Classification for Temporary Employment~~ : Whenever temporary employment is provided for by the Council under Section 28-3 of the City Charter or by any board or commission, a copy of the resolution authorizing such temporary employment, and a statement of the duties and responsibilities and the salary schedule of the position shall be filed with the Board; and if immediate employment is urgent, a statement of the reasons therefor shall also be filed, whereupon the Board may immediately classify such position of employment irrespective of the provisions of Section 3.05 of these rules.

(e) ~~Changes Requiring Formal Approval of the Board~~: The approval of the Board shall be obtained for the establishment of any new class, changes in class titles, and changes in minimum qualifications for current classes. Such changes shall take the form of amendments to the classification plan as provided under these rules.

(C.S. Res. 38851 - 6/30/64)

~~Section 3.06 - Provisional Rule for Treatment of Incumbents as Result of of Reclassification of Positions~~: In the event of a City wide or department wide classification study, the following treatment of incumbents of re-classified positions may take place:

(a) ~~Upgrading of Position~~: When a position is reallocated to a class of higher grade, the incumbent may be redesignated to the class of higher grade without examination providing he has performed the duties of the class for one year prior to the inception of the classification study. That he has performed these duties for a period of one year must be attested to by the Department Head and concurred in by the Personnel Director.

(b) ~~Downgrading of Position~~: When a position ~~is~~ reallocated to a class of lower grade, the ~~incumbent~~ incumbent may be ~~re-designated~~ redesignated to the position of a lower grade at no loss in benefits, including his salary at the time of the downgrading. The Within the discretion of the Personnel Director, the salary is may be "Y-rated" until such time as it becomes equivalent to the salary paid the class of work classification. The employee shall be placed on the laid-off list of his/her former class and shall have priority re-employment rights to the class of work classification from which he/she was downgraded for a period of two years from the date of the Board's action changing the classification.

(c) ~~Notification~~: When a position is reallocated to a class of class of a lower or higher grade, the ~~incumbent~~ incumbent shall be notified in writing at least two calendar weeks in advance of any action by the Civil Service Board. ~~(C.S. Res. 41201 - 12/15/70)~~

RULE 4

APPLICATIONS, EXAMINATIONS, AND ELIGIBLE LISTS

~~Section 4.01 - Applicants For Examinations~~. All applicants for places in the Classified Civil Service shall be subjected to examination, which shall be public, competitive and free. All applications for admission

to entrance, restricted entrance or promotional examinations shall be made on blanks furnished by the Board. Applications or accompanying vouchers executed or dated more than thirty days before being offered for filing shall not be accepted. Application blanks of those who have received regular appointments shall be retained as permanent records. Application blanks of these whose names appear on an eligible list shall be retained during the life of the list.

~~(C.S. Res. 41714 - 8/29/72.) of
the reallocation.~~

Section 4.02 - Names of Applicants Withheld. Names of applicants shall not be made public prior to examination, except by permission of the Board.
4.06. Classification of Temporary or other Non-Permanent Employment. Whenever temporary or other non-permanent positions are authorized, such positions shall be classified by the Personnel Director upon receipt of a statement of the duties and responsibilities and the salary schedule of the position irrespective of Rule 4.04.

Section 4.03 - Eligibility To Compete In Examinations. The open competitive examinations shall, after public notice, be open to all applicants who meet the standards or requirements fixed by the Board, with regard to experience, age, education, physical condition, and such other factors as may relate to the ability of the candidates to perform with efficiency the duties of the position.

Standards of retirements shall be determined by the Board, upon recommendation of the Personnel Director, after conferences with the appointing authorities, with reference to education, experience, or physical condition which relate directly to the duties of the position to be filled. Candidates may be required, in filing their applications, to submit such certificates of general or special qualifications, conditions or attainment as the good of the service requires, consistent with the approved examination announcement.

Section 4.04 - Entry Level Examination Scores For City Of Oakland Residents. A City of Oakland resident competing in the Open and Entry Level examinations in the competitive service, except that of Police Officer, shall be given an additional five (5) percent on his/her score, provided he/she initially scores a passing grade on the examination. Residency shall be determined as of the date of certification of the Civil Service Eligible List for that examination, except where more stringent residency requirements are delineated by criteria for special programs funded by other than City funds.

~~(C.S. Res. 42896 - 8/24/77)~~

Section 4.04 - Information To Be Furnished On Application. The applicant for original appointment shall answer and certify to the following on a form furnished by the Personnel Director: Full name, residence address, date of birth, history of health and physical capacity for the public service, education, and a complete employment history, and such other information as required on forms prescribed by the Personnel Director.

Section 4.05 - Age And Physical Requirements. The Board may establish minimum and maximum age requirements for any examination, except as provided in Section 88 and 99 of the City Charter, which in the opinion of the City Physician and the Personnel Director must be met by all applicants for any examination, exclusive of promotional examinations.

Section 4.06 - Proof Of Age, Intent To Become Citizen, And Military Service.

- (a) — Persons admitted to examinations may be required to submit satisfactory proof of age, residence, declaration of intent to become a citizen, military service, and such other proof of employability as the Personnel Director may request.

Section 4.07. Conditions for Accepting an Exempt Position into the Competitive Service. In the event that positions, which were previously exempted from the classified service, are to be included in the classified service, the following procedure shall be followed:

The Personnel Director shall review the position to determine that its organizational structure, job design, and compensation meet the standards established for other City positions. If these standards are met and the position is vacant, the position shall be placed in the classified service in the same manner as any new position or classification.

(a) — In the event the position has an incumbent, the Personnel Director shall review the position in the manner described above. If the incumbent meets the minimum requirements for the position, has served for at least one year in the position performing the same or similar duties, and has standard or above performance ratings, the Department Head in concurrence with the Personnel Director may recommend to the appointing authority that the incumbent be granted permanent status in the classified service.

(b) — Should the incumbent not meet the requirements as established in Section (a) above, but has more than one year service in the position, such employee shall be placed in a probationary status for one year. Failure to meet these requirements, based on performance appraisals, shall be cause for termination from the position occupied. If in a promotional position, the incumbent may be returned to the previously occupied position upon recommendation of the Department Head, assuming he/she is qualified for the lower position.

(c) — If an employee has performed satisfactorily in a position for less than one year but more than eight months, and possesses the minimum qualifications, upon recommendation of the Department Head and the Personnel Director, the employee shall be placed in a probationary status for a period not to exceed 120 days. The employee shall be evaluated, and upon a period of satisfactory performance not to exceed 120 days, the Department Head with concurrence of the Personnel Director shall recommend to the appointing authority that the employee be granted permanent status in the competitive service.

(d) — If an incumbent has occupied a position for a period of at least 120 days but less than eight months and possesses the minimum qualifications, such employee shall be treated in the same manner as described above except that the probationary status and period of evaluation shall extend from the 120-day period to the end of one year of satisfactory service. Should the employee not perform in a satisfactory manner, based on performance appraisal, such employee shall be terminated.

(e) — Should a position be occupied by an incumbent whose service is less than 120 days and/or does not possess the minimum qualifications, such employee shall be declared a provisional employee and may continue in that status for a period not to exceed 120 day from date of such declaration. The position shall then be treated as being vacant and open to competitive examination. Upon appointment of a candidate from an eligible list, the position shall be deemed classified and the incumbent placed in a probationary status for a period of one year. Should the position be promotional by nature, the probationary period shall be for six months.

Any such action relating to position review, allocation and assignment of any individual to a position and/or classification shall be the determination of the appointing authority based on a recommendation of the Department Head and the Personnel Director.

RULE 5

APPLICATION, SELECTION, AND ELIGIBLE LISTS

Section 5.01. Recruitment: The City may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be "open" or may be restricted to City employees, depending on the City's needs. The City will give reasonable notice to all of its employees concerning the City's employment opportunities. Announcements of selection processes for restricted entrance and promotion shall be supplied to each appointing authority, who may post such notices on the departmental bulletin boards.

Section 5.02. Applicants for Selection Process. All applicants for classified positions will be required to participate in a competitive selection process. The City will make City of Oakland application forms available to all prospective applicants. Once submitted to the City, applications shall not be returned. Applicants must submit applications on or before the filing deadline stated in the job announcement. However, the Personnel Director may, at his or her discretion, permit a letter, resume or other indication of interest to be accepted, pending receipt of a properly completed application. An applicant's failure to provide complete and accurate information on all application materials may be grounds for immediate disqualification in the application process, and may result in dismissal from employment.

Section 5.03. Background Checks. As part of the pre-employment procedure, applicants may be required to supply references, and a waiver, to enable a thorough background check by the City. The City shall have the right to conduct a complete an exhaustive background investigation on any applicant seeking employment in the City.

Section 5.04. Eligibility to Compete in a Selection Process. Open competitive selection processes shall be open to all applicants who meet the standards or requirements established by the City's classification system, with regard to experience, education, license or other professional, specific or special certifications or standards that generally determine the ability of candidates to efficiently perform the duties of the position.

Section 4.07—Section 5.05. Basis Forfor Rejection Ofof Applications. The Personnel Director may refuse to examine an applicant, or after examination may refuse toand/or certify an eligibleapplicant who is found to lack any of the requirements as herein established for the position orof employment for which he applies; or application is made, or for any legitimate reason including, but not limited to, the following:

- (a) — Who does not come up to the physical standards required for the proper performance of the duties of the position to which he seeks appointment;
- (b) — Who is addicted to habit-forming drugs, or to the habitual use of intoxicating beverages;
- (c) — Who has been found guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct;
- (a) (d) — WhoseThe applicant's past employment record is of such a nature that would indicate an unsuitability for public employment;(e) — Who has resigned or been dismissed from public service for delinquency, including incompetency, misconduct, or unsatisfactory service;

(f) — Who directly or indirectly shall give, render or pay, or promise to give, render or pay, any money, service, or other valuable thing to any person for, or in connection with his test, appointment or proposed appointment;

(b) (g) — ~~Who~~ The applicant has practiced, or attempted to practice, any deception or fraud in his/her application, in his certificate, in his physical or mental examination, or in securing his eligibility or appointment;

(h) — Who has been certified for permanent appointment from an eligible list four times for the same or similar positions;

(c) (i) — For such other reasons The applicant has been convicted of an offense which excludes the applicant from eligibility for the position based on applicable law or which, in the judgment of the Personnel Director may deem severe enough to render, renders the applicant unsuitable for further public employment; the position.

(j) — Whose personal and work performance as a City employee is below standard as indicated by formal City records. Upon one year of standard performance and upon recommendation of the appointing authority, the Civil Service Board may restore the employee's name to the eligible list for the remaining life of the list.
(C.S. Res. 42463 – 7/15/75)

(k) — The Civil Service Board upon receiving recommendations from the Personnel Director shall have the right to accept or reject applicants for City of Oakland positions who have been convicted of felonious criminal activity. The Personnel Director may accept or reject applicants convicted of misdemeanors. In accepting or rejecting an applicant for a position with the City, the Civil Service Board and the Personnel Director shall take into consideration the following:

- (1) — Whether or not the conviction is job related to the position the applicant is seeking;
- (2) — The nature of level of the job he/she is applying for and the seriousness of the crime committed; and
- (3) — Whether or not the applicant has demonstrated that he/she has changed their behavioral pattern for the better.

(C.S. Res. 42622 – 6/8/76)

(d) The applicant has made a false statement or has omitted material facts on the application.

Any false statement made by an applicant is cause for disqualification from the examination, or cause for discharge if employed. If such false statement does not come to the knowledge of the Personnel Director until the name of If the applicant has been's name is placed upon the eligible list, it shall at once before the Personnel Director becomes aware of any false statements made on the application, the applicant's name shall be stricken therefrom. from the eligible list. If, after he the applicant has been appointed to a position, such false statement shall be brought to the attention of is discovered, the Personnel Director, he shall notify the appointing authority in whose department such person is employed, who shall, if said misstatement be on a if the false statement is of material fact, summarily discharge the said person.

(C.S. Res. 38851 - 6/30/64).

Section 4.08 - Announcement of Examination For Promotional and Original Employment. Notice of examinations for promotion and original employment shall be given at least ten working days in advance of the last date for filing applications. Public notice of entrance examinations shall be posted in the office of the newspaper. Announcements of examinations for restricted entrance and promotion shall be supplied to each appointing authority, and he shall post such notices on the departmental bulletin boards. Dates for any examinations may be posted or canceled by order of the Board, if found desirable.

(C.S. Res. 41714 - 8/29/72)

Section 5.06. Frauds Prohibited. The City prohibits the following conduct:

(a) Willfully and falsely marking, grading, estimating, or reporting upon the examination or proper standing of any person examined or certified pursuant to these Rules, or the service ratings of any employee, or aiding in so doing, or willfully making any false representation concerning the same, or concerning any person examined;

(b) Impersonating any other person, or permitting or aiding in any manner any other person to impersonate him/her in connection with any examination, appointment, or application or request for examination;

(c) Deceiving or obstructing any person in respect to his or her rights in relation to any examination or appointment in the classified service;

(d) Directly or indirectly giving, rendering, paying, offering, soliciting or accepting money, service, or other valuable considerations for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

Any employee determined to have committed any of the above acts shall be subject to disciplinary action up to and including termination and may also be subject to criminal charges. Any applicant or non-employee determined to have committed any of the above acts may be subject to criminal charges.

Section 4.09 - Notice On Announcement Of Examination Parts 5.07. Announcement of Selection Process to Fill Vacancy. The announcement for examination shall list the separate parts of the examination, including written and/or oral, the competitive parts of the selection process to fill a vacancy shall list a description of the position, its duties, the minimum education and, experience required and license requirements for application, and any other such information as is necessary to adequately inform prospective applicants. In any part of an examination, the about the selection process. The minimum rating for which eligibility for the position may be achieved will be established by the Personnel Director, in keeping with the provisions of Section 4.17 of these rules. All candidates shall be put on notice and may be required to attain at least the minimum rating in any such part in order to be placed on the appropriate eligible list.

Section 4.10 - 5.08. Type and Scope of Competitive Tests Selection Processes. Original, restricted entrance, and promotional tests may be assembled or unassembled, in part or in their entirety. (C.S. Res. 41714 - 8/29/72) Such examinations shall be selection processes shall be designed for the purpose of determining the qualifications of applicants for positions, and shall be practical and shall fairly test the fitness of the persons examined to discharge the duties of the positions to which they seek to be appointed. (Char. Sec. 74) Such tests shall take into consideration elements or requirements of education, experience, knowledge and skill, aptitude, character, personality, physical fitness, and any other element or requirements pertinent to the job and the

specifications, as determined by the Personnel Director. A personal interview may be given as part of any examination, for both entrance and promotional positions, to verify the evidence of the qualification requirement regarding the nature, duration, location, responsibility and compensation or any other information regarding past employment; and also as a basis for judgment of personal qualities, appearance, bearing, general adaptability, and any other such qualities or characteristics. The City may use any legitimate method to determine the qualifications of applicants, including without limitation, supplemental questionnaires, written tests, physical agility tests, oral examinations, panel interviews, assessment centers and oral interviews.

Section 4.11 – Scheduling of Promotional Examinations. The Board shall provide for promotion in the classified service on the basis of ascertained merit, seniority in the service, and standing upon competitive examination, and shall provide, in all cases where practicable, that vacancies shall be filled by promotion from among such members of the next lower rank established by the Board as submit themselves for such examination for promotion. The Board shall certify to the appointing power the names of not more than three applicants having the highest rating for each promotion. (Char. Sec. 77) Upon giving two days notice to his immediate superior and obtaining the consent thereof, any City employee otherwise qualified may be permitted to take any City Civil Service examination during working hours, if the examination is scheduled during such period, or to attend a meeting of the Board at which there is to be consideration of a matter specifically affecting his position, without deduction of pay or other penalty.

Section 4.12 – Eligibility for Promotional Examinations. In the case of a promotional examination, employees with permanent status who meet the requirements as set forth in the specification of the class for which examination is to be held, or who are employed in an appropriate class or classes of positions designated by the Board shall be considered eligible to compete in such examination; provided that any permanent employee whose position has been reallocated shall be eligible to compete in any promotional examination held to fill the allocated position. Applicants shall meet the following requirements:

- (a) — They shall be employed in the classes of positions at the time of examination, or shall be upon the reinstatement list therefore, or shall be on leave of absence therefrom.
- (b) — They shall have maintained a record clear of any disciplinary action for a period of one year prior to the date of examination; provided, however, the Board may declare that such disciplinary action may not bar the applicant from taking an examination.
- (c) — Eligibility for promotion for members of the Police and Fire Departments shall be as follows:

RULE 4

Section 4.13 (a) – Seniority on Promotional Examinations

Credit for seniority shall be given candidates for promotional examinations, exclusive of sworn members of the Police and Fire Departments, as follows:

Electrical Employees

Credit shall be based upon the total time served in the City service based on the following:

Credit given for seniority shall be established on a minimum of 75 percent, to which shall be added the following percentages for years of service up to the maximum number of years as set forth:

- For each year of the first 3 years of service 3.0
- For each year of the next 6 years of service 1.5
- For each year of the next 14 years of service 0.5

Other Non-Sworn City Employees

- (a) — An employee who has completed ten (10) or more full years of City service and who successfully competes in a promotional examination shall receive an additional five (5) points maximum added to his/her final examination score.
- (b) — An employee who has completed fewer than ten (10) years of City service shall receive an additional number of points, less than the five (5) point maximum cited in sub-section (a) above and prorated in accordance with his/her number of months of City service, added to his/her final score.

Section 4.13 (b) – Promotional Examination Scores for City of Oakland Residents

A City of Oakland resident, exclusive of sworn members of the Police and Fire Departments and electrical employees, who competes in a promotional examination in the classified service shall be given an additional five percent (5%) on his/her final examination score, provided that he/she initially scores a passing grade on the examination and has been a City resident for a minimum period of one (1) year as of the date of establishment of the Civil Service Eligible List for that examination.

- (1) — Members of the Police and Fire Departments, holding appointments by assignment, shall be eligible for promotion from the position so held; provided that before or during their assignment tenure, (a) they have qualified within the range of certification, (b) they are on an eligible list for the position so held, and (c) they have, by continuity of appointment, completed the service period requirement provided for by these rules.
- (2) — In computing the service period required for promotion in the Police and Fire Departments, both regular service and service on assignment, in the class of position from which promotion is to be made, shall be included if such service is continuous.
- (3) — Promotional lines and periods of service for Police and Fire Department examinations are as follows:

LINES OF PROMOTION:

- Law Enforcement (Police) Service
- 3 years as Patrolman to Sergeant of Police
- 4 years as Patrolman or
- 4 years of any combination of service
- as Patrolman or Sergeant to Inspector of Police

2 years as Inspector of Police,
 2 years as Sergeant of Police, or
 2 years of any combination of service
 —as Inspector or Sergeantto Lieutenant of Police
 2 years as Lieutenant of Policeto Captain of Police

Firefighting Service

1 year as Hosemanto Inspector, Fire Prevention
 Bureau

Combination of:

2 years as Hoseman, Chief's Operator and/or
 —Inspector, Fire Prevention Bureauto Engineer
 2 years as Hoseman, Engineer, and/or
 —Inspector, Fire Prevention Bureauto Chief's Operator
 3 years as Hoseman, Engineer, Chief's Operator,
 —and/or Inspector, Fire Prevention Bureauto Lieutenant
 2 years as Lieutenant.....to Captain
 3 years as Captain.....to Battalion Chief
 3 years as Battalion Chiefto First Assistant Chief
 and/or Second Assistant Chief.

(C.S. Res. 40761 — 4/8/69)

Section 4.13 — Seniority on Promotional Examinations. Credit for seniority shall be given candidates for promotional examination, which credit shall be based upon the total time served in the City service based on the following formula:

Credit given for seniority shall be established on a minimum of 75 percent, (70 percent for Police and Fire (uniform)), to which shall be added the following percentages for years of service up to the maximum number of years as set forth:

Civilian:

For each year of the first 3 years of service3.0%
 For each year of the next 6 years of service1.5%
 For each year of the next 14 years of service. . . .0.5%

For Police and Fire (uniform):

For each year of the first 5 years of service. . . 1.0%
 For each year of the next 10 years of service. . . . 2.0%
 For each year of the next 5 years of service1.0%

(C.S. Res. 38909 — 7/28/64)

Section 4.14 — Ascertained Merit on Promotional Examinations. All persons filing to compete in a promotional examination must have maintained an overall service rating of standard or above for a period of at least one year prior to the date of the examination. Such evaluation shall be performed as provided for in Rule 7.

The Board may make exceptions in such cases where the efficiency of an employee has been rated below standard and who has improved his performance within the year to the standards desired by the Department head. Such approval by the Board shall follow only upon the written recommendation of the department head.

Section 4.15 – Reordered Examinations. In the event all candidates in a promotional examination shall fail, the Board may order a re-examination, or it may order an entrance examination in place thereof, except for positions in the uniformed divisions of the Police and Fire Departments. Should less than three applicants file for any promotional examination, the Board may order an entrance examination in addition thereto.

Section 4.16 – Section 5.09. Conduct of Examination. Each examination shall be conducted by the Personnel Director or by persons he may designate. Due diligence shall be used to secure his/her designee. Appropriate safeguards will be put in place to ensure fairness and to prevent all collusion and fraud. No person whose application has been accepted for any examination shall be entitled to take such examination at any date, time or place other than those stated in the announcement, except as the Personnel Director may otherwise authorize. The candidate shall mark all his written examination sheets with a number given him, which number shall remain unidentified in a sealed envelope until all written tests pertaining to said examination have been corrected and the envelope directed to be opened by the Personnel Director. collusion and/or fraud in the examination process, and comply with testing provisions.

Section 4.17–5.10. Ratings of Results of Examinations Examination. The Personnel Director shall utilize appropriate modern techniques and procedures in rating the results of examinations and in determining the relative standings of the candidates. The Personnel Director shall schedule the examinations so that the papers and other submitted materials of candidates are rated as soon as practicable after tests are held on the basis of a score or rating of 100 for the maximum possible attainment, and a score or rating of 70 as the passing score. Candidates shall be required to attain a score of not less than 70 on each part of the examination. In all examinations, the 70-percent% used, representing the minimum passing score, need not be the arithmetic 70-percent% of the total possible score, but will may be an adjusted score based on a consideration of the difficulty of the test, the quality of the competition, and the needs of the City service. Any such adjusted score shall be established before the identification identification of the candidates' examination papers. The final earned rating of each person competing in any examination shall be determined by the weighted average of the earned ratings on all parts of the examination, according to the weights for each part established by the Personnel Director, in advance of the conduct of the examination and published as a part of the announcement. On entrance examinations, the Personnel Director may set minimum qualifying ratings for each phase of an examination, and may provide that candidates failing to achieve such ratings in any phase shall be disqualified from any further participation in the examination.

Section 4.18–5.11 Preferences in Selection Processes.

Section 5.11.1. Oakland Residents Preference. A City of Oakland resident who competes in an open or promotional selection process for a position in the classified service shall be given an additional five percent (5%) on his/her final examination score, provided that he/she initially scores a passing grade on the examination and has been a City resident for a minimum of one (1) year as of the date of the establishment of the eligible list for that examination. This preference shall not apply to recruitments for sworn members of the Police and Fire Departments. The applicants must submit satisfactory written proof of residency as determined by the Personnel Director.

Section 5.11.2. Veterans' Preference in Examinations. "Veteran" A qualifying veteran

who competes in an examination for a position in the classified service shall be given an additional five percent (5%) on his/her final examination score, provided that he/she initially scores a passing grade on the examinations. For purposes of this Rule and Rule 5.11.3, a "veteran" means any person who has served full time for 30 days or more in the armed forces in time of war; or in time of peace in a campaign or expedition or service in which a medal has been authorized by the government of the United States; or during the period September 16, 1940, to, or after January 31, 1955, 1955 for at least 181 consecutive days of active duty, who has been discharged or released under conditions other than dishonorable; but does not include any person who served only in auxiliary or reserve components of the armed forces, whose service did not exempt him from the operation of the Selective Training and Service Act of 1940, 1940, nor those who have retired from the military service.

Section 5.11.3. Disabled Veterans' Preference in Examination. A qualifying disabled veteran who competes in an examination for a position in the classified service shall be given an additional 10% on his/her final examination score, provided that he/she initially scores a passing grade on the examinations. For purposes of this Rule, "disabled veteran" means a veteran who was disabled as a result of such service as referenced in the preceding Rule. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration. In order to qualify for this credit, the veteran must be capable of performing the essential functions of the position with or without reasonable accommodation.

Section 5.11.4. Seniority Credit. Credit for seniority shall be given for current employees who compete in promotional examinations. An employee with ten (10) or more years of active City service who successfully completes a promotional examination shall have five (5) points added to the final score. An employee with fewer than ten (10) years of active City service shall have up to a maximum of five (5) points, prorated based on the number of years of active City service, added to the employee's final score. Seniority points shall be calculated as of the date of the job announcement.

Section 5.12. Eligibility for Promotional Selection Processes. Promotions in the classified service shall be made on the basis of competitive selection process. Employees with post-probationary status who meet the requirements as set forth in the specification of the class for which the promotional examination is to be held, or who are employed in an appropriate class or classes of positions, shall be considered eligible to compete in such examination; provided that any permanent employee whose position has been reallocated shall be eligible to compete in any promotional examination held to fill the allocated position. Applicants shall meet the following requirements:

(a) They shall be employed in the classes of positions at the time of examination, or shall be upon the reinstatement list therefore, or shall be on leave of absence therefrom.

(b) They shall have maintained a record clear of any disciplinary action for a period of one year prior to the date of examination. However, the Personnel Director may declare, for legitimate reason, that such disciplinary action may not bar the applicant from taking an examination.

(c) They shall have maintained an overall service rating of standard or above for a period of at least one year prior to the date of examination. However, the Personnel Director may make exceptions in such cases where the efficiency of an employee has been rated below standard and who has improved his/her performance within the year to the standards desired by the department head.

Section 5.13. Scheduling of Promotional Examinations. Upon giving three days' notice to the immediate supervisor, and with the consent of the immediate supervisor, any City

employee otherwise qualified may be permitted to take any City Civil Service examination during working hours, if the examination is scheduled during such period.

Section 5.14. Reordered Selection Processes. The Personnel Director may order an additional selection process in the event that all candidates in an open or promotional selection process fail, or in the event that there is an insufficient number of candidates on an eligible list which prevents the full certification of that list.

Such a veteran; Section 5.15. Notice and Review of Results of Examinations. All persons competing in an open-competitive examination, who attains the passing mark established for the examination without reference to credit granted herein, shall be awarded additional credits amounting to five (5) percent of grade attained in such examinations; provided that such credits shall be awarded only during a period within five (5) years from the date of release from active duty.

(C.S. Res. 41374 - 7/20/71)

RULE 4

Section 4.22

~~In the event a promotional or entrance eligible list, exclusive of such lists for sworn Police and Fire classifications and Electrical classifications, has fewer than four (4) names to be certified to the appointing authority for one vacancy, the appointing authority may request that the list be cancelled and a new examination be held. Upon receipt of such request, the Director of Personnel and Employee Relations; subject to Board approval, shall proceed with the examination process and compile an eligible list with sufficient persons on the list in order to certify four names for one vacancy plus two names for each additional vacancy.~~

~~Section 4.19 – Disabled Veterans' Preference In Examination.~~ "Disabled Veteran" means a veteran who was disabled as a result of such service. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration. (Char. Sec. 74a – added 1947). Such veterans who become eligible for certification from eligible lists by attaining the passing mark established for the examination shall be allowed additional credits amounting to 7 1/2 percent on entrance examinations. Dates of military service shall be defined as those established in Section 4.18 of these rules.

~~Section 4.20 – Notice And Review Of Results Of Examinations.~~ All persons competing in any examination shall be given notice of their final score or rating, or their failure to attain a place upon the eligible list. Such records of ratings attained by candidates in any examination may be destroyed at the expiration of five years from the posting of an eligible list, at the discretion of the Personnel Director. any examination shall be given notice of their final score or rating, or their failure to attain a place upon the eligible list. A promotional candidate may inspect his ~~own~~/her own examination papers and the grading thereof within a period of not to exceed 30 days after the Board, or its designated representative, has posted the eligible list. Personnel Director or his/her designee has certified the eligible list. Candidates for open examinations do not have a right to inspect their examination papers. Information concerning the results of an examination shall not be made public until after the eligible list has been posted. (C.S. Res. 42132 – 1/15/74) certified.

~~Section 4.21 – Appeal Of 5.16.~~ Appeal of Examination Results. An appeal to the Board from the results of an examination or any of its parts may be ~~based only #on the following issues and only if~~ the party bringing the appeal demonstrates by clear and convincing evidence that:

(1a) A mechanical, ~~non-judgmental error or error not involving judgment or discretion~~ was made in grading, scoring, or computing, or

(2b) An examination grade or rating was the result of fraud or bias on the part of an examiner or rater.

Test content is not subject to appeal. By "clear and convincing evidence" is meant proof that is so clear, explicit and unequivocal as to leave no substantial doubt in a reasonable mind.

Any appeal hereunder must be filed with the Board no later than thirty ~~~~~days after the posting of the eligible list resulting from the examination in question. No person previously appointed shall be displaced by reason of such correction. The decision of the Board shall be final.

(C.S. Res. 42132 – 1/15/74)

~~Section 4.22 – The Establishment Of Eligible Lists.~~ The Board shall provide for an eligible list, from which vacancies shall be filled, for a period of probation before employment is permanent, and for promotion on the basis of merit, experience and record. (Char. Sec. 72) 5.17. The Establishment of Eligible Lists. From the reports of the scoring and rating of examination papers, the Personnel Director shall prepare or cause to be prepared an eligible list showing the names of the selection process, the Personnel Director shall prepare or cause to be prepared an eligible list showing the names of candidates who have obtained ratings equal to or greater than the minimum required in any test ~~or tests~~ stage of the selection process, whose final earned rating is 70 or more, and who have been accepted as meeting all other requirements for eligibility, arranged in ~~order of~~ order of their relative percentages; ~~provided, however, that the Board,~~ The Personnel Director may determine the total number of persons who shall constitute the list of eligibles. ~~When two or more candidates have the same final earned rating, the tie shall be broken on the basis of ratings earned on the part of the~~

examination given the greatest weight; and any remaining ties shall be broken on the basis of parts of the examination given progressively lesser weights.

In event of an emergency, the Personnel Director, subject to final approval of the Board, may post such eligible lists as needed.

~~Section 4.23—Kinds of Eligible Lists.~~ Eligible lists shall be of three kinds": (1) Laid-off (reinstatement) lists, consisting of employees who have been laid off; (2) Promotional lists, from which promotions shall be made; and (3) Employment lists, from which original entrance appointments shall be made.

~~Section 4.24—Names of Persons Which May be Placed on Eligible Lists.~~ Each original entrance and promotional list shall consist of the names of all persons who have shown by examination that they possess the qualifications which entitle them to be considered for appointment or promotion to any position in the class for which such list is established.

The name of any employee with permanent status in the public service who is laid off shall be placed upon the Laid-off (reinstatement) list for the class of position in which the employee was serving at the time of layoff, in the reverse order of layoff, as prescribed in Section 9.02 of these rules. The name of an employee who is serving his probationary period and who is laid off or who resigns in good standing may be returned, upon request, to the appropriate list in the order of his original general average.

~~Section 4.25—Declaration of Alternative Eligible Lists.~~ Appointments shall be made from the appropriate eligible list, But if no such list exists, then the Board may designate other lists which they deem appropriate, from which the appointment shall be made.
~~Section 4.26—Laid-off (Reinstatement) Lists.~~ Laid-off lists shall consist of the names of persons who have occupied positions in the class beyond their probationary period and who have been laid off in accordance with Section 9.01 of these rules. Names shall be arranged on these lists in the reverse order of layoff as provided. The name of any permanent employee, which has been placed on a laid-off (reinstatement) list and has continuously, remained thereon for a period of two years, shall be removed at the expiration of such period, and the person shall cease to retain any Civil Service standing. Employees whose names appear on these lists' shall be given precedence for employment over persons whose names appear on regular eligible lists for the same class of position.

~~Section 4.27—Return of Laid-off Probationary Employees to List.~~ Probationary employees who Have been laid off may have their names restored to the eligible list from which they secured appointment, in the order of their original general average on such list; provided, however,

- (1) If the eligible lists from which such persons received appointment have expired or been canceled, such privileges of restoration shall also be canceled;
- (2) Such persons whose names have been restored to an eligible list may have their names transferred to an appropriate list, from such date and in such order as the Personnel Director may determine.

Eligible lists shall become effective upon approval by the Personnel Director. Open and restricted entrance eligibility lists shall expire one year from that date; and promotional lists shall

expire two years from that date; unless extended or cancelled prior to the expiration of said time period by the Personnel Director. However, no list shall be extended for a period exceeding four years from date of original posting. When there is more than one eligible list for a particular class of position, the two lists may be combined and the names of eligibles may be entered on the combined list at the discretion of the Personnel Director. Any names occurring on combined lists shall be cancelled at the date on which the original list from which they came would expire.

In the event a promotional or restricted entrance eligible list has fewer than four names to be certified to the appointing authority, the appointing authority may request that the list be cancelled and a new selection process be held. Upon receipt of such request, the Personnel Director may proceed with the selection process and compile an eligibility list with sufficient persons on the list in order to certify a minimum of four names for the position vacancy. In the alternative, the appointing authority may request to review alternative lists including a transfer list or an eligibility list for comparable classes.

Section 4.28—Removal Of 5.18. Kinds of Eligible Lists. There are four kinds of eligible lists:

(1) Reinstatement list, consisting of employees who have been laid-off; (2) Promotional lists, from which promotions shall be made; (3) Employment lists, from which original entrance appointments shall be made, and (4) Transfer List, consisting of names of employees eligible of transfers.

Section 5.19. Reinstatement Lists. Permanent employees who are laid off shall be placed on a reinstatement list in reverse order of layoff in accordance with the provisions of Rule 12.04.

Section 5.20. Removal of Names From Eligible Lists. Names of eligibles will be removed from any eligible list for any causes as set forth in Section 4.07, 5.06, and may be removed for any of the following:

(a) has been appointed through certification from any such list to fill a vacancy in any department;

(b) has refused certification without giving any satisfactory reason; (c) has failed to report to the appointing power to whom he was certified within the time limit specified from the date of, failed to respond to timelines for certification; (d) has or refused to accept an appointment offered him/her, without giving a satisfactory reason;

(e) has failed to complete the required medical examination; (f) has waived certification three times to a permanent position in any given class;

(g) has failed to respond to correspondence regarding availability for employment.

Section 4.29—5.21. Waiver Of Appointment. Eligibles After being offered an appointment, eligibles on any of the eligible lists may waive appointment under the following conditions: (a) —, without losing their eligibility for future appointment, by filing of a written waiver by the eligible stating that he is they are not willing to accept appointment from the eligible list; provided, however, that

(1a) such waivers shall be filed within three working days of notification of certification, and satisfactory reason therefor for the waiver shall be submitted;

(2b) such waivers may be withdrawn upon the written request therefor therefor;

(3c) such waivers of certification appointment from a promotional eligible list shall not be permitted where the vacancy occurs within the department in which the eligible is then employed;

(4d) such waivers of certification appointment from promotional eligible lists may be accepted when an employee is upon more than one eligible list and he/she has accepted appointment from one or the other of such lists.

Eligibles who are notified that they are being offered an appointment are required to respond to the Office of Personnel within five (5) working days of the date of notification. The Personnel Director may extend the time response period. Failure of an employee to respond within the time limits shall be considered a refusal of the offer of appointment. Eligibles who fail to possess and maintain the qualifications required by law and the terms of the position announcement shall forfeit their right to appointment.

Section 4.30-5.22. Restoration Of Names To Eligible Lists. Names removed from any eligible lists may be restored thereto, for just cause, upon a request made in writing to, and with the approval of, the Civil Service Board the Personnel Director.

Section 4.31- Conditions For Accepting An Exempt Position Into The Competitive Service.

In the event that positions, which previously were exempted or part of an enterprise not under the jurisdiction of the Competitive Service, are to be included in the Service, the following provisions shall apply:

The Director of Personnel shall review the position or classification to determine that the organizational structure, Job design, and compensation meet the standards established for other City positions. If these standards are met and the position is vacant, the position shall be placed in the competitive service in the same manner as is any new position or classification.

A. In the event the position has an Incumbent, the Director of Personnel shall review the position in the manner described above. If the Incumbent meets the minimum requirements for the position, has served for at least one year in the position performing the same or similar duties, and has standard or above performance ratings, the Department Head in concurrence with the Director of Personnel may recommend to the appointing authority that the incumbent be granted permanent status in the Competitive Service.

B. Should the incumbent not meet the minimum requirements as established in Section A above but has more than one year service in the position, such employee shall be placed in a probationary status for one year, during which time the employee's deficiencies in relation to the minimum requirements and/or job performance shall be corrected. Failure to meet these requirements, based on a quarterly performance review, shall be cause for termination from the position occupied. If in a promotional position, the incumbent may be returned to the previously occupied position upon recommendation of the Department Head, assuming he is qualified for the lower position.

C. If an employee has performed satisfactorily in a position for less than one year, and more than eight months, and possesses the minimum qualifications, upon recommendation of the

~~Department Head and the Director of Personnel, the employee shall be placed in a probationary status for a period not to exceed 120 days. The employee shall be evaluated monthly and upon a period of satisfactory performance not to exceed 120 days, the Department Head with concurrence of the Director of Personnel shall recommend to the appointing authority that the employee be granted permanent status in the Competitive Service.~~

- ~~D. If an incumbent has occupied a position for a period of at least 120 days and less than eight months and possesses the minimum qualifications, such employee shall be treated in the same manner as described above except that the probationary status and period of evaluation shall extend from the 120 day period to the end of one year of satisfactory service. Should the employee not perform in a satisfactory manner, based on a monthly evaluation program, such employee shall be terminated.~~
- ~~E. Should a position be occupied by an incumbent whose service is less than 120 days and/or does not possess the minimum qualifications, such employee shall be declared a provisional employee and may continue in that status for a period not to exceed 120 days from date of such declaration. The position shall then be treated as being vacant and open to competitive examination. Upon appointment of a candidate from an eligible list, the position shall be deemed classified and the Incumbent placed in a probationary status for a period of one year. Should the position be promotional by nature, the probationary period shall be for six months.~~

~~Any such action relating to position review, allocation and assignment of any individual to a position and/or classification shall be the determination of the appointing authority based on a recommendation of the Department Head and the Director of Personnel.~~

~~{C.S. Res. 42779 - 1/1/77}~~

RULE 56

CERTIFICATION AND APPOINTMENT

Section 5.01—6.01. Power of Appointment and Types of Appointments. All appointments to positions in the classified service shall be made by the respective appointing authorities of the City government, under and ~~in~~ conformity with the provisions of the City Charter and these ~~rules~~, Rules by original appointment, provisional appointment, limited duration appointment, reinstatement, re-employment, transfer or promotion.

Section 5.02—Certification of Eligibles to Fill Vacancies. Whenever a position in the classified Civil Service is to be filled, and no Laid-off (reinstatement) list exists therefor, the Board shall, as soon as possible, certify to the appointing powers three times the number of persons necessary to fill such position; provided that said Board shall always certify the persons having the highest standing on the eligible list for the position to be filled; and provided further, that a less number may be certified when there is not the required number on the eligible list. All list. (Char. Sec. 76). In case of combined open and promotional examinations, the Board may certify the names of those candidates having the highest general average on the original entrance examination, provided that there are insufficient names on the promotional list to afford the appointing authority a choice of three. Section 5.03—Procedure for Certification to Fill Vacancies.

There are three types of vacancies in the City service to be filled by appointments: permanent vacancies, temporary vacancies, and absences. Permanent vacancies shall be filled by regular appointments, when an individual is certified from an eligibility, reinstatement, re-employment or transfer list. Temporary vacancies and absences may be filled by (a) limited duration appointments, (b) provisional appointments, (c) temporary contract service employees, (d) exempt limited duration employees, or (e) temporary agency assignments.

Section 6.02. Procedure for Certification of Eligibles to Fill Vacancies. In order to fill any classified position, the following two prerequisites must be met: 1) an authorized budgeted position must exist; and 2) the position must be vacant.

Whenever a vacancy is to be filled other than by transfer, demotion or re-employment, the appointing authority shall ~~make a written requisition on the Board's prescribed form formay request~~ certification of the names of the persons eligible for reinstatement or appointment to the class of position for which the vacancy exists. Upon receipt of ~~each~~ this request for certification for appointment from an appointing authority, the Personnel Director shall make certification from the list for the appropriate class in the following order: (1) Laid-off (reinstatement) list; (2) promotional list; (3) restricted entrance list; (4) original entrance list. Appointment shall be made from the If no appropriate eligible list, but if no such list exists, then the Personnel Director may, with approval of the Board, certify from such other list as (s) as he/she deems most appropriate.

————— In case of certification from a Laid-off (reinstatement) list, the Personnel Director shall certify the name of the person which is first on the list.

————— In the case of certification from open or promotional lists, the Personnel Director shall certify a number of names equal to the number of vacancies to be filled, and two names in addition; provided, however, that a less number may be certified when there is not the required number on the eligible list. No person shall be certified from a promotional eligible list who has been permanently restricted entrance

eligible lists, and are terminated due to lack of funding for their positions, may retain their place on the eligible list for the duration of the life of the list.

(C.S. Res. 42010-7/17/73)

RULE 5
CERTIFICATION AND APPOINTMENT

Section 5.02 - Certification of Eligibles to Fill Vacancies. Whenever a position in the classified Civil Service is to be filled, and no laid-off (reinstatement) list exists therefore, the Director of Personnel and Employee Relations shall, as soon as possible, certify persons to the appointing power so that the position(s) may be filled; provided that said Director of Personnel and Employee Relations shall always certify the persons having the highest standing on the eligible list for the position to be filled. All persons not appointed shall be restored to their relative positions on the eligible list. In case of combined open and promotional examinations, the Director of Personnel and Employee Relations may certify the names of those candidates having the highest general average on the promotional list to afford the appointing authority a choice of full appointment range as defined in Rule 5.03 below.

Section 5.03 - Procedure for Certification to Fill Vacancies. Whenever a vacancy is to be filled other than by transfer, demotion or re-employment, the appointing authority shall make a written requisition for certification of the names of the persons eligible for reinstatement of or appointment to the class of position for which the vacancy exists.

Upon receipt of each certification for appointment from an appointing authority, the Director of Personnel and Employee Relations shall make certification from the list for the appropriate class in the following order: (1) Laid-Off (reinstatement) list; (2) promotional list; (3) restricted entrance list; (4) original entrance list.

Appointment shall be made from the appropriate eligible list, but if no such list exists, then the Director of Personnel and Employee Relations may, with approval of the Board, certify from such other list as he deems most appropriate.

In case of certification from a Laid-Off (reinstatement) list, the Director of Personnel and Employee Relations shall certify the name of the person which is the first on the list.

In the case of certification from open, restricted or promotional lists, exclusive of such lists for sworn Police and Fire classifications and Electrical classifications, the Director of Personnel and Employee Relations shall certify to the appointing authority four (4) names for any single vacancy to be filled. In the case of multiple vacancies, the appointing authority shall receive a list of four (4) names plus two (2) names for each additional vacancy to be filled; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

In the case of entrance and promotional lists for Electrical employees, all names on the list shall be certified, irrespective of the number of vacancies to be filled;

In the case of sworn Police Department classifications, five (5) names shall be certified for one vacancy. For multiple vacancies, the number needed to fill the vacancies plus four (4) additional names

shall be certified; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

In the case of sworn Fire Department classifications, three (3) names shall be certified for one vacancy. For multiple vacancies, the number needed to fill the vacancies plus two (2) additional names shall be certified; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

No person shall be certified from a promotional eligible list who has been permanently separated from the City. Employees, in good standing, who are on restricted entrance eligible lists and are terminated due to lack of funding for their positions, may retain their places on the eligible list for the duration of the list.

In case of certification from a reinstatement list, the Personnel Director shall certify the names in rank order on the list. If no reinstatement list exists, the Personnel Director shall certify, whenever possible, the top ten ranks on the eligibility list for the vacancy, with an additional rank for each additional vacancy. However, fewer persons may be certified if there are less than ten ranks on the eligibility list.

Section 5.04 – 6.03. Selective Certification. The eligibles certified shall be the highest ranking ~~eligibles~~ eligibles willing to accept employment; provided, however, that, However, the appointing authority may ~~require~~ require additional and special qualifications and experience or the nature of special assignments for the position, in specific departments. The reasons for such qualifications shall be stated, together with the notice for the position. In that event, notice shall be provided to the eligibles that the appointing authority desires to pass over for appointment any eligibles who do not possess such qualifications. Such statement and notice must be approved by the Board and will be considered only when the reasons are sufficiently valid, and when other methods of certification would not be in the best interests of the City, including a brief statement of the reason for the need for such qualifications.

Section 5.05 – Limit on Certifications. No person shall be certified from an eligible list more than four times for the same or a similar position, except at the request of an appointing authority, provided that certification for temporary services shall not be counted as one of such certifications.

Section 5.06 – 6.04. Certification to Position in Lower Class. An eligible on an entrance or ~~Laid-off~~ (reinstatement) list may, with the approval of the Personnel Director, be certified to a class of position lower than that for which he/she was examined, provided such position is one having similar duties and responsibilities and provided further, that no eligible list exists for the lower class; ~~but acceptance.~~ Acceptance of such position shall not defeat ~~his~~ the eligible's rights to be certified to the class of position for which he/she was originally examined.

Section 5.07 – 6.05 Provisional Appointments. ~~The Civil Service Board~~ Personnel Director shall have the power to ~~provide for~~ make provisional employment, ~~without examination, 11 appointments, in~~ the absence of an eligible list, for any position in which a vacancy may occur; ~~but no.~~ No such provisional employment shall continue after the establishment of an eligible list, nor for more than ~~one hundred and twenty days in any event.~~ 120 calendar days in any event. Provisional appointees are required to participate in an examination and achieve a reachable rank on the eligibility list in order to be permanently appointed to fill the vacancy.

(Char. Sec. 803 – 1968) (C.S. Res. 40885
9/3G/69).

Upon receipt of a request for certification of eligibles to fill a position, and where no eligible or Laid-off (reinstatement) list has been established, upon the approval by the Personnel Director, the appointing authority may provisionally appoint any person whose qualifications comply with the specifications for the class. Such appointment shall otherwise be in compliance with pertinent sections of these rules.

In cases where the appointing authority desires to fill a vacancy by provisional appointment of a regular City employee having permanent status, such employee may be so appointed, provided that he/she is eligible to compete in the examination for that vacancy.

Section 5.08–6.06. Limited Duration Appointments. Whenever a department requires emergency assistance because of a special project, employees' absence due to sick or other leave or vacation relief, or a temporary increase in the workload, appointments of a limited duration may be made from an appropriate eligible list for the duration of such unusual work. If a permanent employee is off duty without pay and needs to be replaced, a limited duration appointment may be made during the time of the leave of absence. The acceptance or rejection by an eligible of this type of appointment shall not affect his standing on the eligible list as follows.

(a) Provisional appointment A provisional appointment may be made in accordance with Rule 6.06.

(b) Temporary Contract Service Employee An employee may be appointed in a temporary contract service employee classification and may serve for a maximum of 960 hours per fiscal year and may be one of two types of assignments. Employees may be assigned to a division or a project on a regular basis up to the maximum of 960 hours in a fiscal year; or, assignments may be on an occasional or short-term (less than 30 days) basis. These assignments usually require specialized skills. This classification may not be used for on-going or repetitive use. Temporary Contract Service Employees may not be placed in permanent employment without successfully competing in an examination process.

(c) Exempt Limited Duration Employees This classification is intended to meet the City's need to fill positions with: (a) limited funding cycles of one year or less; (b) special projects that are longer than 6 months in duration, yet still short-term; or (c) positions where the duties and responsibilities have not been fully defined. Exempt Limited Duration appointments may not exceed one year. Exempt Limited Duration employees may not be placed in permanent employment without successfully competing in an examination process.

(d) Temporary Agency Assignments. The Office of Personnel may contract with temporary agencies to provide temporary services in the event of an emergency, a special project or under unusual circumstances when help is needed immediately and for short duration. If temporary personnel are required for more than 30 days, it is preferable to make a provisional or limited duration appointment. Temporary agency assignments may not exceed 120 days. Temporary agency employees are not City employees.

Such limited duration appointments delineated above shall not attain permanent status. Such positions shall be deemed "at will." At will positions are not subject to the job protections described in these Rules, including process and rules for recruitment, discipline, termination, probationary periods, testing and appointment from eligible lists. The employment of at will personnel may be terminated at any time, for any legal reasons, and without any requirement of demonstrating "good cause." At will employees and temporary agency personnel have no right to appeal any discipline or termination. A person serving in a limited duration appointment shall serve the City only for such time-limited period as is determined by the City. However, if a person serving in such appointment works more time or is retained in excess of this time period, the person does not acquire permanent status as a civil service employee of the City.

The request and certification shall specifically state the date beyond which such appointment shall not extend, insofar as is known; and on such date, the employment of the person shall cease, unless sooner terminated. Appointments of over a year are construed as being of a permanent nature, and as such, the rules affecting permanent appointments will apply.

~~Section 5.09 Transfer of Employees.~~ An appointing authority may at any time ~~Section 6.07. Transfer of Employees.~~ An appointing authority may at any time re-assign any employee under his/her jurisdiction from one position to another position in the same class. The appointing authority may also, with the approval of the Personnel Director, transfer an employee to a position of a similar class for which the maximum rate of pay is the same.

The transfer of a classified employee from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority may be made with the consent of the employee and the approval of the Personnel Director and the consent of the appointing authorities concerned, provided the positions are in the same or similar class.

Any transfer of an employee from a position in a lower class to a position in a class carrying a higher maximum salary shall be deemed a promotional appointment, and shall be accomplished only in the manner provided in these ~~rules~~ Rules for making promotional appointments.

Any transfer of an employee from a position ~~in~~ a higher class to a position in a class carrying a lower maximum salary shall be deemed a demotion, and may be effected only in the manner provided ~~in~~ these ~~rules~~ Rules for making demotions.

An appointing authority, with the approval of the Personnel Director, may at any time reassign an employee who has a disability to a vacant position for which the employee is qualified as a reasonable accommodation to the employee, in accordance with the City's policies and applicable law. Such reassignments shall have priority over any individuals on existing eligible lists.

~~Section 6.08. Transfer List.~~ Any permanent classified employee may initiate his ~~own~~ request a transfer from one department to another, provided the ~~conditions listed in the second paragraph of this section are followed.~~

The transfer of an employee from Extra Positions to various other divisions or departments for temporary performance of services, and the transfer of a member of the Police or Fire Department to a temporary vacancy in a higher rank as provided for a Charter Section 94 and 97 shall be called an "Assignment"; and each such assignment shall be reported to the Personnel Director in writing. employee meets the qualifications for the position. A transfer list may be maintained and employees may, upon written application to the Personnel Director, have their names made available to department heads for consideration of appointment to vacancies for which they would be eligible as defined by these ~~rules~~ Rules. Names of employees may also be placed on the transfer list with the knowledge of the employee, upon request of the department head concerned. (with the notice of the employee). Vacancies may, with the consent of the department head, be filled from the transfer list.

~~Section 5.10 — 6.09. Re-employment Of Former Employee After Resignation.~~ Any permanent employee who has resigned from service in good standing shall, upon his/her written request, be considered for re-employment to a position ~~in~~ the same or similar class in

the classified service, within two years of the date of such separation. A longer period of time from separation date to re-employment may be approved by ~~Civil Service Board~~the Personnel Director and appointing authority, for highly qualified former employees and for positions ~~wherein~~where recruitment ~~is~~is difficult. (C.S. Res. 40272-8/15/67)

Such re-employment ~~shall~~may be made without benefit of additional examination, and must have the approval of the appointing authority and the Personnel Director. Re-employment as herein defined, may take precedence over eligible lists; but ~~in~~in no way shall it be made mandatory for any appointing authority to re-employ former employees ~~should he desire not to do so~~. Appointment shall otherwise be made in the manner as for original employment as defined in other sections of these ~~rules~~Rules.

Former employees of the City who are currently non-residents, but who otherwise would be eligible for re-employment under the "two-year rule," may be eligible for re-employment, subject to relocation of permanent residence within the City within 90 days of date of re-employment. Failure to become permanent residents within the stipulated time and to remain so, shall be cause for termination of employment. "Residence" as used here in defined in Section 4.03. (C.S. Res. 42141-1/22/74)

Employees who have served satisfactorily in Season employment after appointment from an eligible list may be eligible for re-employment without further examination ~~in~~in the class of position in which they have served.

If a season eligible fails to work for two consecutive seasons, his name shall automatically be removed from the list.

Section 5.11 – Medical Examination Prior To Appointment, Reinstatement. Or Re-employment.

Prior to any appointment, reinstatement or re-employment, with the exception of promotional appointments, or unless otherwise provided for in other sections of these rules, every person shall be examined by the City Physician, who shall submit a medical report certifying that such person is medically eligible for appointment to the City service.

Section 6.10. Nepotism Policy. No employee, prospective employee, or applicant shall be improperly denied employment or benefits of employment on the basis of marital status with another employee or official of the City (except as provided in the section 907 of City Charter).

Notwithstanding the above, the City retains the right to take appropriate steps to avoid inappropriate working relationships among relatives, including married persons. For administrative purposes, a relative shall be defined as a spouse, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law, sister-in-law or any other individual related by blood or marriage. The City retains its rights to:

(a) Refuse to place one party to a relationship under the direct or indirect supervision of the other party of a relationship.

(b) Refuse to place both parties to a relationship in the same department, division, or facility when such action has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.

(c) Disqualify one party to a relationship for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.

(d) Effect a transfer in the event the City learns of circumstances described above.

RULE 67

PROBATIONARY PERIOD

Section 6.01—7.01. Probationary Period. Every person appointed or promoted to a permanent position in the classified service, ~~after certification from an eligible list,~~ shall serve a period of probation while occupying such position, which shall be considered as part of the test of fitness. ~~Former employees who are re-employed under the provisions of these rules shall be required to serve a period of probation of six months from the date of re-employment.~~

~~In all cases the appointing power shall notify the Board of each separate position to be filled, and shall fill such place by the appointment of one of the persons certified by the Board therefor. Such appointment shall be on probation of a character and for a period to be fixed by the rules of the Board, but not to exceed one year. The probationary period shall be an essential part of the examination process, and shall be utilized for the most effective adjustment of a new employee and for the elimination or demotion of any to observe the employee's work. During the probationary period, an employee whose may be rejected if his/her performance does not meet the required standard of performance. The employee is not entitled to be provided with a reason for such rejection from probation. A probationary employee shall have no rights of tenure and may be terminated without cause and without any right of appeal. Probationary periods do not apply for any position which is designated as "at will;" such positions are terminable at any time with or without cause.~~

Section 6.02—7.02. Duration Of Probationary Period. For entrance appointments, the duration of such probationary period appointments shall be for a period of ~~nineteen~~ twelve consecutive months of active service, with the exception of the rank of Police Officer whose probationary period shall be for eighteen months. actual service.

The probationary period for persons appointed on a promotional basis shall be six months. of actual service.

Former employees who are re-employed under the provision of these Rules shall serve a probationary period of six months of actual service.

An employee accepting a regular entrance appointment who has served on a limited duration appointment in the same class immediately prior to his/her regular appointment shall have that period of time counted as part of his the probationary period. ~~Rights and privileges shall accrue from the beginning date of~~

An employee accepting a promotional appointment who has served a limited duration appointment and shall be considered the original appointment date. (C.S. Res. 38851)(LDA) in the same class immediately prior to regular promotional appointment shall have the time served as a LDA counted as part of his/her promotional probationary period.

Section 7.03. Extension of Probationary Period. The appointing authority, with the approval of the Personnel Director, may extend the probationary period up to ninety (90) days in

the event the City has any legitimate question regarding the employee's continued employment. Notice of such extension shall be given to the employee prior to the scheduled end of a probationary period.

Section 6.03–7.04. Interruption of Probationary Period. Periods of time during unpaid absences shall automatically extend the probationary period by the number of days of the absence. Further, periods of time on paid leave exceeding ten (10) working days shall extend the probationary period by the number of days the employee is on such leave.

If an employee is laid off during the probationary period and subsequently reappointed to the same class of position, he/she shall be given credit for the portion of probationary service previously completed in that class of position.

If an employee is transferred during his/her probationary period from one position under one appointing authority to a position under another appointing authority, the second appointing authority shall grant credit for the portion of the probationary period previously completed.

Section 6.04–7.05. Performance Rating During Probationary Period. Department heads shall file an approved report of performance at the end of the third and fifth month of employment for each employee serving a six-month probationary period. ~~For probationary employees who have been required to serve a twelve-month probationary period, the department head shall file~~ prepare performance appraisals at regular intervals for employees serving probationary periods and shall file such performance appraisals with the Personnel Director a report of performance for each employee at the end of the third, fifth, eighth, and eleventh month of employment. This section does not preclude the filing of additional reports at any other time during the employment of any individual. Upon a favorable report, the ~~The~~ appointment of the employee shall be deemed to be complete at the expiration of the probationary period. In the event of an unfavorable report if the employee's performance has been deemed to be satisfactory. In the event the employee's performance has not been deemed satisfactory, the appointing authority shall notify the Personnel Director and the employee, at least five working days in advance, that his/her services will be terminated no later than the final date of the probationary period.

Section 6.05–7.06. Removal Or Demotion Of Employee During The Probationary Period:

At any time during the probationary period ~~(entrance appointment to a classified position— one year; police officer— 18 months; entrance and restricted entrance appointment to a higher or equal classification— one year; or a promotional appointment— six months),~~ an employee may be removed from his/her current position by the appointing authority, providing that:

(a.) Upon removal by the appointing authority, such probationer's name shall be removed from the eligible list from which he/she was certified, and he/she shall be considered permanently separated from that position without right of appeal ~~to the Board except as set forth in Section 6.06.b.~~

(b) If the employee has served in the City in another position in the competitive service, and reinstatement is approved by the appointing authority, the employee shall be notified by the Personnel Department ~~within five working days of removal and in writing,~~ that he/she may be reinstated to the prior classification from which promotion was made. The employee has five working days from date of notification to respond in writing; to the Personnel Director regarding his/her wish to be so reinstated.

(c.) Reinstatement to the former classification will be based on is entirely within the

discretion of the appointing authority who shall consider the circumstances of the employee's removal from the most recent appointment during the probationary period and the employee's work record as determined by the appointing authority in determining whether to approve the reinstatement.

(d.) If reinstatement is effected approved by the appointing authority, the employee shall be appointed to a vacant position in the former classification. If none However, if no vacancy is immediately available, it shall be the responsibility of the appointing authority to provide such a vacancy as expeditiously as possible without violating the rules of any applicable Memorandum of Understanding or the Personnel Manual concerning layoffs and without the necessity of creating an additional position. the City is under no obligation to create an additional position for the employee.

Section 6.06 – Limited Right By Employees During Probationary Period.

The right of an employee to appeal to the Board because of his permanent separation from his position during the probationary period shall be limited to the following:

- (a) ~~Failure of the appointing authority to comply with Section 6.04 of the Laws and Rules of the Civil Service Board;~~
- (b) ~~Failure of the appointing authority to comply with Section 6.05 of the Laws and Rules of the Civil Service Board;~~
- (c) ~~Discrimination against an employee during such probationary period because of race, creed, color, religion, or sex.~~

Section 6.07 – Procedure To Be Used On Appeals And Hearings Under Section 6.06:

~~Whenever an employee who has been permanently separated from his position during the probationary period desires appeal therefrom under the provisions of Section 6.06, the following order of procedure shall govern:~~

A. Order Of Procedure In Appeals:

- (1) ~~The appeal must be filed in the office of the Board within five (5) days from the date that notice of removal was filed upon the affected employee. Service of the notice of removal shall be made in the manner provided by Section 11.06 of rules. The effective date of service of the notice of removal shall likewise be governed by the provisions of Section 11.06 of these rules.~~
- (2) ~~The appeal must be submitted in writing, 1n triplicate, and if the appellant desires to waive a public hearing, such a waiver must be in writing.~~
- (3) ~~The appeal shall state the sub-section of Section 6.06 of these rules upon which it is based and a statement of the facts upon which such appeal is based.~~
- (4) ~~Within seven (7) days from the filing of this appeal, the appointing authority shall submit to the Board in writing its answer, in triplicate, to the charges preferred~~

against it, which answer may be in the form of a general denial, or state facts controverting the allegations of the appeal, or may allege new matter.

~~(5) The appeal shall be set for hearing in the manner set forth in Section 2.10 (a)(5) of these rules.~~

~~(6) Not less than five (5) days before the date the appeal is scheduled for hearing, the Board shall send:~~

~~(a) A written notice giving the date, time, and place of such hearing to the appointing authority, to the appellant or his attorney and/or representative, and to the City Attorney;~~

~~(b) A copy of the appeal to the appointing authority and the City Attorney; a copy of the answer of the appointing authority to the appellant or his attorney or representative.~~

~~(7) After the hearing the Board shall render its decision which may be:~~

~~(a) to sustain the action of the appointing authority concerned;~~

~~(b) to sustain the appeal and reinstate such probationary in accordance with subsection (a) hereof.~~

~~(8) The words "probationary period" as defined in Section 6.01 of these rules shall be construed to mean a period of probation consistent with the letter and spirit of these rules; if an appeal is sustained hereunder, the Board may determine that there has been an interruption in the probationary period from the date of the cause giving rise to the appeal hereunder, to the date of the decision by the Board, and the probationary period of the appellant may be extended by the length of such interruption.~~

~~(B) Burden Of Proof: In any appeal under this section, the burden of proof shall be upon the appellant, and the evidence in support of the allegations made in such appeal must be clear and convincing.~~

~~(C) Information For Conduct Of Hearings:~~

~~(1) The Board shall determine the evidence upon the charges and specifications set forth in the appellants' appeal, and the appointing authority's answer thereto, and shall consider any relevant evidence.~~

~~(2) The provisions of Section 2.10 (b)(1), (2), (4), (5), and (6) shall apply.~~

RULE 7
RULE 8

EMPLOYEE SERVICE RATINGS AND REPORTS/PERFORMANCE APPRAISALS

~~Section 7.01—Establishment of System of Employee Service Ratings and Reports.~~ The system of employee service ratings and reports is established to provide a fair, impartial, and objective means for rating and reporting the service and performance of each employee.8.01. Employee Performance Appraisals. The City shall require employees in the classified service:

The employee service rating plan, embodying significant factors and factor degrees for the various classes of positions, shall have reference to the quality and quantity of work done, and other characteristics which shall be considered in rating and reporting the ability, performance and efficiency of the respective employee and the value of the employee to the City service. The following rules and the supplemental manual of procedures and factors define the service rating standards and procedure which shall be used to undergo performance appraisals on at least an annual basis. Such performance appraisals shall be considered in connection with eligibility for advancement, layoff, re-employment, ~~reemployment~~, promotion, demotion, dismissal from the service, or as a recommendation for reduction in pay within the salary range for the classification, and in other decisions relating to the status of employees. ~~Such plan.~~ The performance appraisal system shall primarily be a means, whereby individual employees may regularly review their performance with their supervisors, and for ascertaining and encouraging the improvement in service by the employees, and in providing effective supervision of employees.

~~Section 7.02—Official Copy of Employee Service Rating Plan.~~ The system of employee service rating, as approved by the Board, shall be maintained in separate manual form. The Personnel Director shall provide each appointing authority with copies of the employee service rating plan and shall prescribe the forms to be used. prescribe appropriate forms and procedures for completing performance appraisals.

The service rating plan in the office of the Board shall be open for the inspection of the employees during business hours.

~~Section 7.03—Participants In Employee Service Rating Procedure.~~ The service ratings and reports for permanent employees in the classified service shall be made annually.8.02. Participants in the Performance Appraisal Process. The performance appraisals shall be prepared by a rating supervisor and reviewed by a reviewing supervisor in each organizational unit or division within each department, as designated by the appointing authority of each department. (C.S. Res. 40326—10/24/67)

~~Each rating supervisor, each of whom shall be designated by the department head of in each department.~~ The rating supervisor shall be the person who is immediately responsible for the work of the employee; that is, the first person in authority who has supervisory responsibility and who either regularly oversees, reviews and checks the work of the employee or who is most closely acquainted with his daily performance during the period of time for which the service ratings are made. The reviewing supervisor, designated by the department head, shall be the next higher supervisor ~~in~~ in line of authority above the rating supervisor, who has personal knowledge of the work and performance of the employee in the unit or division to which the employee is assigned. ~~Section 7.04—Assistance By The Personnel Director.~~ The Personnel Director shall be responsible for distributing employee service rating forms, instructing the rating and reviewing supervisors regarding the service rating procedure, recording final service ratings for individual employees on the appropriate records, and obtaining widespread understanding among the employees of the objectives and characteristics of the service rating procedure. performance appraisal process.

Section 7.05 – Open Records Of Employee Service Ratings. The service rating reports and records of the respective employees in each department shall be open at all times to said employees for review of their own file and for the inspection by the Personnel Director.

The service rating records of employees as maintained by the Personnel Director respecting each department likewise shall be open to the respective employees for review of their own file and to the appointing authority and to the superior officers in the department. Any employee shall be entitled to be informed by the Personnel Director only as to the service ratings recorded for himself and those employees who work under his supervision.

RULE 8

Section 8.03. Placement in Personnel Files. Completed performance appraisal forms shall be maintained in employee personnel files. The employee has a right to review his/her own performance appraisal(s). Employees may submit rebuttals to their performance appraisals within 20 working days of receipt of the performance appraisal. Such rebuttals shall also be maintained in the personnel files with the performance appraisal forms. Employees have no right to appeal statements or ratings made in performance appraisals.

RULE 9

VACATIONS AND LEAVES OF ABSENCE

Section 8.01 – Vacation Leave, Authority For: The following rules shall govern vacations and leaves of absence, in accordance with the provision of Ordinance No. 8546 C.M.S., passed by the City Council Kay 16, 1972:

"The Civil Service Board is hereby authorized to make rules and regulations governing leaves of absence and vacations for all employees in the Classified Civil Service whose leaves of absence and vacations are not otherwise provided for by ordinance or resolution of Council. Unless otherwise provided for by ordinance or resolution of Council, those employees not in the Classified Civil Service shall be allowed the rights and privileges granted to the employees in the Classified Civil Service."

(a) — Purpose. The purpose of annual vacation leave is to enable each eligible employee to return to his duties mentally and physically refreshed. All employees in the Classified Service, other than those excluded in Section (b) shall be entitled to earn annual vacation leave. (C.S. Res. 41664 – 6/6/72)

(b) — Exclusions. The provisions of this section do not apply to the following:

(1) — Employees who are covered by Charter provision.

Section 9.01. General Provisions regarding Leave.

Section 9.01.1. Employees are expected to be at work at scheduled times. To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work by notifying their supervisors or Department Heads whether such

absences are chargeable to sick leave, vacation or other type of leave. Leaves shall be subject to approval by the Department Head and scheduled in advance whenever possible, with due regard for the City's service need.

Section 9.01.2. The City may employ any reasonable measure to ensure employees are properly accounting for leaves, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of sickness supporting a request for sick leave. The City may require a fitness for duty certification from any employee returning from leave and may require that the employee be examined by a City-retained physician for the purpose of determining whether the employee is capable of performing his/her duties and returning to work. Abuse of leave privileges, including working for a secondary employer while on sick leave, may subject an employee to loss of sick leave privileges and disciplinary action, up to and including termination of employment.

~~(2) — Employees who work on a temporary, intermittent, or seasonal basis.~~

~~(3) — Employees who work on an exempt part-time basis.~~

~~(c) — Specific Inclusions:~~

~~(1) — City employees: Parsons employed on an exempt part-time basis who have worked a reasonably fixed pattern and who have worked at least 1040 hours in the preceding anniversary year.~~

~~(2) — Port employees: Persons who are employed on an exempt part-time basis and who have worked at least 1,730 hours in the preceding calendar year, and not less than 140 hours in any month during the year. (3) — Section 9.01.3. Leave benefits are available only to employees in the classified service, but are not available to seasonal, temporary or emergency employees or to exempt part-time employees. Employees who work on a permanent part-time basis in a classified position and who have worked at least 50 percent or more of each normal work week during the preceding calendar year. — (C.S. Res. 41934 — 4/24/73) are eligible for the same leave benefits as regular full-time employees based on a proration of average hours worked.~~

~~Vacation and sick leave credits should be determined on a pro-rated basis according to the time spent in part-time work, in relation to the normal workweek for the class.~~

~~(d) — Times At Which Vacation Leave Shall Be Taken.~~

~~(1) — The times at which an employee shall take his vacation leave during the calendar year shall be determined by his department head, with due regard for the wishes of the employee, and particular regard for the needs of the department. If circumstances are such that a department head cannot permit an employee within his department to take an annual~~

vacation leave or any part of such leave within a particular calendar year, the employee shall have the right to take the deferred vacation during the following calendar year, in addition to his then current vacation.

City employees must take vacation leave in units of not less than one day at a time.

Port employees must take vacation leave in units of not less than one week at a time, provided that under special circumstances the department head may grant a lesser unit of leave, subject to approval by the Personnel Director.

(C.S. Res. 41934-4/24/73)

- (2) — All vacations shall be computed and taken on a calendar year basis.
- (3) — Employees shall be allowed to take vacation according to the following schedules, with the approval of their department head. The time of which shall be determined with due regard for the employee's wishes and particular regard for department needs. Provided, however, that no employee shall take vacation leave before such leave has been earned.

(a) — After his fifth calendar year of continuous service, 15 working days.

Section 9.01.4. Employees eligible for leave shall accumulate leave from the date of the employee's initial appointment to a full-time, regular or probationary position.

Section 9.02. Available Leave Categories. The City provides the following leave categories: (a) vacation; (b) sick leave; (c) family medical leave; (d) pregnancy disability leave/parental leave; (e) on-the-job injury leave; (f) family death leave; (g) military leave; (h) jury duty leave; (i) management leave; (j) executive leave; (k) administrative leave with pay; (l) personal leave without pay; (m) family death leave; (n) holiday; (o) compensatory time off; (p) school leave, as well as other leaves mandated by law.

Section 9.03. Vacation.

Section 9.03.1. Accrual. Employees accrue vacation at the following rates, except as otherwise specified in an applicable MOU:

(a) During the first four calendar years of service, vacation shall accrue at the rate of 10 days per year;

(b) During the fifth through twelfth years of service, vacation shall accrue at the rate 15 days per year, plus one extra day during the 5th and 10th anniversary years for those years only;

(bc) — After his ~~During the thirteenth through~~ fifteenth calendar year~~s~~ of continuous service, vacation shall accrue at the rate of 18 working days per year, plus one extra day during the 15th anniversary year for that year only;

(c) — After his twentieth calendar year of continuous service, 20 working days.

(e) Rate At Which Vacation Leave Shall Accrue For Full-Time Employees:

- (1) For employees during their first four calendar years of service with the City of Oakland, vacation leave shall accrue at the rate of ten twelfths working days per month.
- (2) For employees who have completed four calendar years of service with the City of Oakland, ~~d~~ During the sixteenth through nineteenth years of service, vacation leave shall accrue at the rate of one and one quarter working days per month.
- (3) After completion of fourteen calendar years of service, leave shall accrue at the rate of one and one-half working days per month; after completion of nineteen calendar years of service, leave shall accrue at the rate of one and two thirds working days per month.
- (4) For purposes of computing the rate of accrual of vacation leave, a break in service of less than two years shall have no effect. A break in service in excess of two years shall mean that the employee so re-employed shall, for purposes of computing vacation leave, be treated as a new employee.
- (5) For the purpose of computing length of service in determining eligibility for vacation at the higher accrual rate, time spent on extended military leave shall be counted as time spent in the service of the City shall accrue at the rate of 19 days per year,

(e) During the twentieth through twenty-fifth years of service, vacation shall accrue at the rate of 20 days per year, plus one extra day during the 20th and 25th anniversary years for those years only;

(f) During the twenty-sixth through twenty-ninth years of service, vacation shall accrue at the rate of 25 days per year,

(g) After completion of thirty years of service, vacation shall accrue at the rate of 30 days per year, plus one extra day during the 30th anniversary year and at subsequent 5-year anniversary intervals for those years only, i.e., the 35th and then the 40th.

(6) An employee who works under the four day workweek plan shall accrue vacation leave on the same basis as he would accrue vacation leave under the five day workweek schedule. Vacation accrues biweekly. On an emergency basis, employees may take vacation time in less than one-half day increments. All vacation time used shall be charged by the actual hours taken.

(C.S. Res. 42204 - 5/14/74)

- (f) Deferred Vacation. Each employee who is entitled to ten or more working days vacation in any calendar year may, with the approval of his department head, defer such vacation to the succeeding calendar year. (C.S. Res. 41799 - 12/12/72)

(g) — Effect Of Leaves Of Absence Without Pay Upon Vacation. No employee who shall take a leave of absence without pay for a period in excess of fifteen working days shall earn vacation credits for such period.

(h) — Computation Of Vacation Leave Upon Termination Or Extended Military Leave.

(1) — Compensation For Unused Vacation For Terminated Employee. If, after six months or more of continuous service, an employee terminates or is terminated, such employee, or his estate, shall be paid for earned vacation leave which he has accumulated.

(2) — Method Of Payment For Unused Vacation. Upon

For purposes of computing the rate or accrual of vacation leave, a break in service of less than two years shall have no effect. A break in service in excess of two years shall mean that the employee shall be treated as a new employee, for purposes of computing accrual of vacation.

An employee who works under the four-day workweek plan shall accrue vacation leave on the same basis as he/she would accrue vacation under the five-day workweek schedule.

Section 9.03.4. Notice. Employees shall give at least two (2) weeks notice of a vacation request, unless the vacation is three days or less, in which case notice shall be at least one (1) week in advance of the requested leave. Scheduling of vacations must be made in consideration of departmental workload.

Section 9.03.5. Payment for Unused Vacation at Separation or Upon Commencement of Extended Military Leave. Upon termination of City service or commencement of extended military leave, an employee shall be paid in a lump sum for such unused vacation time as he has accrued. Payment shall be made on the following basis: For purposes of computation it shall be assumed that there are 250 working days in a year. The employee's actual annual salary divided by 250 determines the daily workday rate multiplied by the actual number of working days of vacation due the employee at termination shall be the amount paid to the employee.

For the purpose of computing the number of working days of vacation due an employee upon termination, an employee shall be allowed credit for one full day if he has served one half or more of the total number of calendar days in the month in which he terminates, plus the credit earned before that month; but no allowance shall be granted for service of less than this amount.

(3) — Limitation Upon Payment. No employee, or his estate, shall be paid for commencement of extended military leave, an employee shall be paid in a lump sum for accumulated unused vacation subject to the following provisions. No employee, or employee's estate, shall be paid or unused vacation in excess of forty-seven working days.

(i) — Supplemental Vacation Benefits.

- (1) ~~Sick leave credits may be accrued up to a maximum of one hundred and fifty days for sick leave use.~~
- (2) ~~Employees who accrue and maintain this maximum are eligible to earn supplemental vacation based on the following scale:~~
- (a) ~~Employees who accrue six (6) additional days of sick leave credit over and above the maximum during a calendar year are eligible for one additional day's vacation.~~
- (b) ~~Employees who accrue twelve (12) additional days of sick leave credit over and above the maximum during a calendar year are eligible for two (2) additional days of vacation.~~
- (3) ~~Determination of eligibility for supplemental vacation will be made at the end of each calendar year, and any sick leave credits above one hundred and fifty days will be reduced to zero at that time. Supplemental vacation shall be taken as a part of the employee's next scheduled vacation.~~
- (4) ~~Employees who are or become eligible for supplemental vacation on the basis of accrual of one hundred and twenty days sick leave pursuant to Section 8.01(1) as it was on June 30, 1969, shall continue to be eligible to earn supplemental vacation at that rate for a period of three years from July 1, 1969; effective July 1, 1972, an employee must have accumulated one hundred and fifty days sick leave in order to be eligible for supplemental vacation under Section 8.01(1) as hereby amended.~~

~~(C.S. Res. 40835 - 7/15/69)~~

~~Section 8.02 - Sick Leave - General. Each full-time employee, other than those whose sick leave is governed by Charter, shall be entitled to take sick leave, with full pay, in case of his illness or disability, or serious illness within his immediate family, in accordance with the provisions contained in Section 8.02 (a) through 8.02 (k) of this rule. In addition, Port employees shall be entitled to use accumulated sick leave in case of urgent personal business, in accordance with the provisions set forth in Section 8.02 (1) of this rule.~~

- (a) ~~Purpose of Sick Leave. It is the purpose of this rule to establish provisions which will enable the 111 employee to remain off his job until he is well enough to work, and to avoid subjecting coworkers to illnesses which might be contagious. Sick leave, under this rule, is a privilege which the employee can exercise only in the event of his bona fide illness or disability, or serious illness within his immediate family, except that Port employees only may be allowed additional use of sick leave as outlined in Section 8.02 (1) of this rule.~~

~~(C.S. Res. 41687 - 7/11/72)~~

- (b) ~~Rate At Which Employees Shall Earn Sick Leave.~~

- (1) — ~~Each employee, upon completion of three months of service with the City, shall be credited with three working days of sick leave credits with pay. seven (7) working days.~~

Section 9.03.6. Vacation Sell Back. Employees may choose to be paid for up to five (5) days of vacation in a calendar year instead of taking the days as vacation time, if they have met both of the following conditions:

(a) Have accumulated vacation days in excess of their annual vacation entitlement at the end of the calendar year; and

(b) Have already taken a minimum of 10 vacation days within that calendar year.

Employees can only buy back vacation days during the month of January.

Section 9.04. Sick Leave.

~~(2) — When the original sick leave credit has been granted, as provided in Section (1) above, each employee shall thereafter be credited with~~Section 9.04.1. Sick Leave with pay. Employees shall not accrue sick leave credit until they have three months of service. Thereafter, each employee shall accrue sick leave at the rate of one working day of sick leave credit with full pay for each per one month of service.~~(3) — For the purpose of this rule, a one month of service shall mean thirty calendar days.~~(30) calendar days.

Section 9.04.2. Sick leave usage is not a "right." Rather, sick leave may only be used in cases of actual sickness or disability. Employees unable to report to work must notify their immediate supervisors not later than one hour before work is scheduled to begin, if possible, or by whatever method is established by the supervisor. Failure to do so is cause for denying sick leave with pay.

Section 9.04.3. Sick leave with pay shall not be granted to an employee who is absent from duty due to an injury incurred while working for an employer other than the City.

Section 9.04.4. Unless otherwise provided in an applicable MOU, if an employee is determined to be eligible for disability retirement, the employee shall not be permitted to exhaust paid sick leave balances prior to retiring.

Section 9.04.5. Sick Leave Usage for Family Illness. In accordance with applicable law, an employee may use a minimum of one-half of his/her annual sick leave allotment to attend to an illness of a family member. For purposes of this Rule, the family members shall include: mother, father, husband, wife, domestic partner, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, grandchildren in the custody of the grandparents who are City employees. In special circumstances involving the illness of a person who has raised the represented employee in lieu of a natural parent, the Department Head may consider granting family illness leave under this Rule to the affected employee. The Department Head may require the employee to provide a medical certification from the treating physician of the family member to verify the need for the employee to utilize sick leave to attend to the illness of the family member.

~~(c) Section 9.04.6. Accumulation Of Sick Leave Credits. Such sick leave with pay, as provided for in Section (b), which is not used shall be cumulative. Sick leave credits~~ Unless otherwise specified in an applicable MOU, unused sick leave may be accumulated, not to exceed one hundred and fifty (150) working days. Sick leave credits accrued under this provision shall be expressed in hours. When the maximum of one hundred and fifty working days has been accumulated and

a portion of it is subsequently used, it may be re-accumulated at the applicable earning rate provided in Section (b). (C.S. Res. 30835-7/15/69)(d)

An employee who is granted leave without pay for a period of thirty (30) calendar days or more shall not earn sick leave credits for such time, unless otherwise provided in these Rules or in an applicable MOU.

Section 9.04.7. Disposition Of Sick Leave Credits Of Terminated Employees. Except as hereinafter set forth, if an employee ~~terminates~~separates from City employment or is terminated for any reason whatsoever, all accumulated sick leave shall be cancelled; ~~provided, however, that,~~ However, such employee who returns to work with the City of Oakland within one year of such termination shall be again credited with the amount of accumulated sick leave he/she had at the time he ~~terminated of termination.~~ An employee who is ~~re-appointed~~employed or reinstated in this manner shall earn sick leave at the rate of one working day per month, unless his/her previous service with the City of Oakland amounted to less than three months service.

If an employee with not less than ten years total City of Oakland ~~employment~~service, uninterrupted by ~~an~~ a single period of absence in excess of one year, ~~terminates~~separates from City employment or is terminated for any reason, he/she shall be paid a lump sum on the basis of 33-1/2% ~~of for one-third of any accumulated unused sick leave credit.~~ For this purpose, a day's pay will be computed in the manner set forth in Section 8.01 (h) (2) of these rules. at the rate of pay at time of separation.

(C.S. Res. 41374-7/20/71)

(e) ~~Family Illness - Immediate Family Defined.~~

(1) ~~Each employee who is otherwise eligible to take sick leave may, in the event of serious illness in his family, take a maximum of five working days family sick leave in any calendar year. Such family sick leave shall be charged against the employee's accumulated sick leave credits. In extreme or unusual circumstances, the appointing authority, with the approval of the Civil Service Board, may grant additional family sick leave time against earned sick leave credits and may, under extreme or unusual circumstances, authorize family sick leave for other than members of the immediate family.~~

(2) ~~The Immediate family of an employee shall include: wife, husband, mother, father, child, sister, brother, grandfather, and grandmother.~~

(f) ~~Limitations on Sick Leave.~~ Sick leave shall not be granted to an employee who is absent from duty due to an injury incurred while regularly working for an employer other than the City of Oakland.

(g) ~~Leave Without Pay: Effect Upon Sick Leave Credits.~~ An employee who is granted a leave without pay for a period of thirty calendar days or more shall not earn sick leave credits for such time, except as elsewhere noted.

(h) ~~Verification of Illness - Abuse of Sick Leave.~~ A department head may require of any employee under his jurisdiction, who has been on sick leave for one or more working days, a ~~doctor's certificate or other authoritative verification, certifying that the illness was bona~~

vide. He also may require that the employee be examined by the City Physician for the purpose of determining whether he is in fact, well enough to return to his regular duties. The employee concerned shall be considered on sick leave status until the City Physician releases him for duty.

Obvious abuses of the sick leave privilege will result in suspension of those privileges for a period of six months. Determination of abuse and the suspension of privileges will be made by the Civil Service Department and the City Physician, and any such suspension shall be by order of the Civil Service Board. Further disciplinary action by the appointing authority may be taken where deemed appropriate.

- (i) Required Method of Reporting Illness: In order to receive compensation for the period in which he is on sick leave, the employee shall notify his Immediate supervisor or a higher supervisor prior to or within one hour after the employee's regularly scheduled time for reporting to work. If the circumstances involved clearly are such as to make this impracticable, the employee shall report his illness at the earliest possible time. Failure to do so is cause for denying sick leave with pay.

Section 9.04.8. Sick Leave Without Pay. In the event paid balances are exhausted, employees may be placed on sick leave without pay if circumstances so warrant and within the discretion of the Department Head.. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay (unless the leave qualifies for Family and Medical Leave as set forth in these Rules).

Section 9.04.9. Return to Duty from Extended Sick Leave. For employees returning to duty after extended sick leave, medical clearance may be required from a City-retained physician prior to the employee's return to duty. Persons on sick leave may be required to be evaluated by a City-retained physician to aid the City in determining their anticipated return to duty date.

(j) Compulsory Sick Leave Section 9.04.10. Accommodation for Employees with Disabilities. If an employee believes he or she has a disability, the employee may request a reasonable accommodation for that disability in accordance with City policy. Such requests should be submitted to the employee's Department Head. The Department Head or designee from the Equal Employment Opportunity Office may engage in an interactive process with the employee to determine an appropriate accommodation for the employee in accordance with applicable law. If, in the opinion of the appointing authority City, an employee is unable to perform his/her work properly due to illness, he or injury, the City may direct that the employee be examined by the City Physician. If the City Physician undergo a fitness for duty examination by a City-retained physician. If the physician finds that the employee is physically or mentally unfit to properly perform his/her duties, the appointing authority may, subject to the approval of the Board, compel such employee to take sufficient leave of absence as will enable him to recuperate or regain his health so that he may again properly perform his duties. of the position, the City may consider a reasonable accommodation for the employee, may compel such employee to take a leave of absence, may provide for a disability retirement if the employee is eligible or may separate the employee for medical reasons in accordance with these Rules.

- (k) Return to Duty from Extended Sick Leave. In all instances employees returning to duty after extended sick leave (ten days or more), or when due to the nature of injury or illness, it is in the best interest of the City service, medical clearance must be obtained from the

City Physician prior to return to duty. Persons on sick leave may be called in by the City Physician for review and evaluation of their anticipated return to duty date.

(C.S. Res. 38851 - 6/30/64)

- (f) ~~Personal Leave for Port Employees.~~ Up to four (4) days of accumulated sick leave per year may be used by Port employees for urgent personal business. These four (4) days are not cumulative. However, if not used, this time will be counted as sick leave, in which case it can be carried from year to year. Using sick leave for personal business is subject to the approval of the department head. Urgent personal business is defined as necessary transactions that might affect an employee's economic well-being, or personal welfare, and which cannot be carried out during off-duty hours. At least forty-eight (48) hours prior notice shall be given, except in case of extreme emergency.

(C.S. Res. 41678 - 7/10/72)

~~Section 8.03 - Maternity Leave.~~ An appointing power may grant a maternity leave without pay to any employee under his jurisdiction, subject to the following regulations:

1. ~~No leave may be granted for a period exceeding one year.~~
2. ~~A department head may require an employee to take a leave of absence at any time during her pregnancy for reasons of health and safety, upon recommendation of the City Physician; or for reasons of unsatisfactory work performance due to the employee's physical condition.~~
3. ~~Before returning to duty following a maternity leave, an employee shall present to the City Physician a statement from her own physician stating that she is physically able to return to work.~~

(C.S. Res. 43473 - 10/11/70)

Section 8.04 - Injury On Duty.

Section 9.05. Family and Medical Leave/Paid Family Leave. The City will provide family and medical care leave for eligible employees in accordance with the requirements of the Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA") and pursuant to City policy. In addition, employees who pay into State Disability Insurance are eligible for Paid Family Leave in accordance with applicable law and City policy.

Section 9.06. Pregnancy Disability Leave/Parental Leave. The City shall provide pregnancy disability leave to eligible employees in accordance with applicable law and City policy. After the employee's pregnancy disability ends, the employee may be eligible for CFRA leave to care for the newborn, in accordance with applicable law and City policy.

Section 9.07. On-the-Job Injury Leave. Employees suffering injuries in the course and scope of their work shall be entitled to workers' compensation benefits in accordance with state law.

Section 9.07.1. If it is determined that the illness or injury is work-related, and the employee has over three years of regular service with the City, the employee may receive full pay from the first day of his/her absence up to a specified number of working days, equal to three times the employee's accumulated sick leave at the time of the injury. If the employee has less than three years of regular City service, the employee will receive full pay for 60 working days. There is no charge against the employee's sick leave in either situation.

Section 9.07.2. If the employee has had an extended illness of 21 continuous calendar days or more within two years from the date of the work-related injury, those sick leave days will be restored to the employee's accrual balance only for the purpose of calculating workers' compensation leave. If the employee remains disabled beyond the period of entitlement, the employee may use accumulated sick leave and vacation. When the employee has exhausted these benefits, the employee is eligible for temporary disability only.

(a) Section 9.07.3. Combining Benefits of Workmen's Workers' Compensation Act Benefits and Sick Leave.(1) — When Except for public safety officers covered by Labor Code section 4850, when an employee is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, he/she shall become entitled to leave of absence while so disabled, for a period not to exceed ninety (90) calendar days, including Saturdays, Sundays, and holidays, and such leave shall not be deducted from his/her accumulated sick leave; provided, however, that such sick leave for said period of not to exceed ninety (90) days including Saturdays, Sundays, and holidays, . However, such leave shall not be at full pay, but shall be in such amount as, when added to his disability indemnity under the Workmen's Compensation Act of the State of California/her workers' compensation benefits, will result in a payment equal to his/the employee's full salary or wage; and provided further, that such. Such leave, if interrupted by return to duty, shall in no event exceed in the aggregate ninety (90) days, including Saturdays, Sundays, and holidays, calendar days for each injury or illness.

(2) — If the specific disability continues with or without interruption for a period in excess of ninety (90) calendar days, including Saturdays, Sundays, and holidays, such employee may thereafter take as much of his/her accumulated sick leave as, when added to his disability indemnity/her workers' compensation payments, will result in a payment to him/the employee of not more than his/her full salary or wage. His The accumulated sick leave shall be reduced in proportion to the amount of salary or wage paid in excess of the indemnity/workers' compensation payments and shall be computed on a working-day basis.(3) If an employee whose disability continues, with or without interruption, beyond ninety (90) days, including Saturdays, Sundays, and holidays, If the employee elects to receive thereafter only the disability indemnity payments provided for in the Labor Code, he must so advise the City Attorney's office (or the Port Attorney's office if he is an employee of the Port of Oakland)workers' compensation benefits, the employee must so advise the Personnel Director within seven (7) days before the first payment of salary chargeable to his/her accumulated sick leave is made. If he/the employee does not so elect, he/she shall receive his/her full salary to the extent of his accumulated sick leave, and his accumulated sick leave will be reduced in proportion to the amount of salary or wages paid in excess of disability indemnity. When his the workers' compensation payments. When the employee's accumulated sick leave is exhausted, he/she still is entitled to receive disability indemnity as provided in the Labor Code.workers' compensation benefits as provided by law.

(b) — Reports to Board. When an employee has been injured in the line of duty and he receives compensation in accordance with the provisions of any " Workmen's Compensation Act of the State of California, the appointing power shall submit reports to the Board giving the following information: (1) The date such employee was taken out of service; (2) The date such employee returned to duty, with a brief statement as to the extent of disability, if any; (3) If the employee is unable to return to duty and is awarded a permanent total disability, the date of such award, with a report of termination of appointment.

Section 9.07.4. Fitness for Duty. When an employee seeks to return to work after being on injury or illness leave, the employee must provide medical certification that he/she is physically able to perform the duties of his/her position. The City may require the employee to undergo a fitness for duty examination before returning to work.

~~Section 8.05 – Leave of Absence on Disability Retirement. Every employee retired by the Board of Administration of the Oakland Municipal Employees' Retirement System because of disability, in accordance with Section 33 of the Charter and the provisions of Ordinance No. 713 C.M.S., shall be granted a leave of absence during the period of his disability. Such leave shall be reported to the Civil Service Board, but shall not require approval by the Board. If the disability for which such employee was retired ceases to the extent that he~~9.08. Return from Disability Retirement. If an employee retires for disability and thereafter the disability ceases, to the extent that the employee is able to perform the duties of the his/her position held by him when retired for on the date of disability retirement, and he the employee is otherwise qualified for employment by the City, such the position, and the position is vacant, the employee shall have the definite and absolute right to be returned be entitled to return to the vacant position or to a vacant position in within the same class as that occupied by him at the time of his retirement; and he shall be entitled to such other privileges as are provided for in these rules in these Rules.

~~Section 8.06 –~~

~~Section 9.09. Family Death Leave. Leaves of absence with pay due to a death in an employee's immediate family is allowed, and such leave shall not be charged against vacation or sick leave to which an employee may be entitled, but shall be in addition thereto.~~

- (a) ~~Eligibility for Family Death Leave. In order to be eligible for family death leave, an employee must have worked full-time for the City of Oakland for a period of time in excess of three months.~~
- (b) ~~Schedule of Allowances. In the event of a death within his immediate family, an employee may be permitted to remain absent from duty with pay for such time as hereinafter specified:~~
 - (1) ~~If the service is within the Bay Area, three working days with pay will be allowed.~~
 - (2) ~~If the service is outside the Bay Area but within 300 miles of Oakland, not to exceed four working days with pay.~~
 - (3) ~~If the service is more than 300 miles but less than 600 miles from Oakland, not to exceed five working days with pay.~~
 - (4) ~~If the service is more than 600 miles from Oakland, not to exceed eight working days with pay.~~

~~(C.S. Res. 38851 – 6/30/64)~~

- (c) ~~Exceptional Cases. Leave. The City shall grant a leave of absence with pay for up to five (5) working days when a member of the employee's immediate family dies. Such leave shall not be charged against vacation or sick leave.~~

~~"Immediate family" means mother, father, husband, wife, domestic partner, parent of spouse or domestic partner, child (including step-child or child of domestic partner), sibling, grandparent or grandchild. In special or unusual cases, the department head, with the approval of the Civil Service Board Personnel Director, may grant a family death leave to allow an employee to attend funeral or memorial services for someone other than those included within the definition of the immediate family under Section 8.02 (e) (2) of the Sick Leave Rule. It is the intent of this~~

provision to cover the kind of situation in which someone other than immediate kin has raised the employee, or due to unusual circumstances has a very close relationship with the employee.

- (d) — Procedure for Requesting Leave. In order to qualify for Family Death Leave, the employee shall obtain the approval of his immediate supervisor or a higher supervisor prior to going on leave of absence. If the circumstances are such as to clearly make this impracticable, he shall notify his supervisor at the earliest possible time. Failure to do so may be cause for denying leave with pay.

If the employee experiences extreme hardship relating to the death, an additional day off may be granted, with the approval of the department head. The department head or Personnel Director may require some proof that a death in the family has occurred.

Section 9.10. Military Leave. Military leave shall be granted in accordance with applicable state and federal law and City policy.

Section 9.11. Management Leave (FILL IN).

Section 9.12. Executive Leave (FILL IN).

Section 9.13. Jury Duty. Employees summoned by state or federal court to mandatory jury duty shall be paid regular salary during the period of jury service. Employees must keep their supervisors informed of jury service schedule, and shall provide proof of jury service to the City upon request. Employees may retain any fees or allowances received for such jury service.

Section 9.14. Administrative Leave with Pay. The City in its discretion may place an employee on administrative leave with pay. Employees on such leave shall be subject to the City's instructions during their normal working hours.

Section 9.15. Personal Leave Without Pay.

Section 9.15.1. To be eligible for a personal leave without pay, an employee must make a written request for the leave to his/her department head at least five (5) working days prior to the requested leave, stating specific reasons for the request.

Section 8.07 - Miscellaneous Leaves of Absence. Miscellaneous leaves of absence other than vacation and sick leave may be granted by the appointing authority, subject to the approval of the Civil Service Board, unless otherwise provided. Department heads may grant leaves of absence without pay for periods not in excess of The department head, in his/her discretion, may permit or require employees to be on personal leave without pay for a maximum of three (3) working days; provided, however, that, However, no employee shall be granted a total of more than five (5) working days of such leave without pay in any one calendar year.

- (a) — Procedure for Granting Leaves of Absence. An employee may be granted a leave of absence only if...

- (1) — The employee makes a written request to his department head at least five working days prior to the effective date of the request, stating his specific reasons for the request.

(2) — The appointing authority recommends the request and forwards it to the Civil Service Board prior to the effective date of the requested leave. Leaves of absence without pay of three working days or less need only be reported to the office of the Civil Service Board in writing. No other steps are necessary for this type of leave.

(b) — Limitation Upon Leaves of Absence Without Pay. No single leave or absence without pay, other than leaves to accept exempt positions in the City service or classified positions in the City service or classified positions in the City service financed in whole or in part by Federal or tax exempt foundations, may be granted for a period in excess of one year. Leaves of absence to fill exempt positions in the City service or classified positions in the City service financed in whole or in part by Federal or tax exempt foundations shall be granted for the entire period, during which the employee serves in such positions.

(C.S. Res. 39635 — 11/30/65)

For personal leave without pay in excess in three (3) working days, employees must obtain permission from the appointing authority, subject to the approval of the Personnel Director. Permission for such leave must be obtained in writing. A leave of absence may be extended, upon the recommendation of the appointing authority and the approval of the Civil Service Board/Personnel Director. In no event shall a leave of absence in excess of one year be granted.

(c) Section 9.15.2. Reasons for Which Leaves of Absence Without Pay May Be Granted. Leaves of absence without pay may be granted for reasons which, in the opinion of the appointing authority and the Civil Service Board, appear to be proper and in the best interest of the City, such as...including, but not limited to, the following:

(1a) To permit the employee to receive additional education of such nature that will improve the employee's job performance and increase his worth to the City;

(2b) To permit the employee, because of his/her particular abilities or his outstanding special competence, to assist another governmental jurisdiction, and which in a direct way will enhance the prestige of the City of Oakland;

(3c) To permit the employee to take care of urgent or most important personal business which cannot feasibly be accomplished by someone else.

(4) — To permit the employee to settle domestic problems. (5d) To permit the employee to take an exempt position in the City service.

(6e) To permit the employee to retain promotional and seniority rights to his permanent position upon accepting appointment to a classified position in the City service under a program financed in whole or in part by Federal or tax exempt foundations.

(C.S. Res. 39652 — 11/30/65)

Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay. Employees shall be entitled to take personal leave without pay when required by applicable law.

Section 9.16. Holidays.

Section 9.16.1. The City observes the following legal holidays.

- (a) New Year's Day
- (b) Martin Luther King Jr. Birthday
- (c) President's Day
- (d) Memorial Day
- (e) Independence Day
- (f) Labor Day
- (g) Admission Day
- (h) Veteran's Day
- (i) Thanksgiving Day
- (j) Day After Thanksgiving
- (k) Christmas

Floating Holiday (one eight-hour holiday per fiscal year).

Section 9.16.2. Legal holidays falling on a Saturday are observed on Friday. Legal holidays falling on a Sunday are observed on Monday. To qualify for holiday pay, employees must be on paid status on the regularly scheduled workday before and after the legal holiday, unless the absence is with the written permission of the City, or due to illness. Holidays occurring during an employee's vacation will be treated as a paid holiday.

Floating holidays are subject to supervisory approval and may not be carried over to another fiscal year, and are lost unless used prior to the end of the fiscal year.

When an employee's assigned work schedule requires him/her to work on both December 24th and December 31st, the employee is entitled to one of the following: (a) one half of the workshift as paid time off on both of the above days; OR (b) one full workshift as paid time off on either of the above days. If the employee's regular work week schedule is Monday through Friday, and December 24th and December 31st occurs on a Saturday or Sunday, the employee is entitled to one of the following: (a) one-half of the workshift as paid time off on both the Friday preceding Christmas Eve and the Friday preceding New Year's Eve; OR (b) one full workshift as paid time off on either the Friday preceding Christmas Eve or the Friday preceding New Year's Eve.

Section 9.17. School Activities Leave. Employees who are parents, guardians or grandparents having custody of a child in kindergarten through grade 12, or attending a liensed child day care facility, may take up to forty (40) hours per year, not exceeding eight (8) hours in a month, to participate in the child's school activities. The employee must use accrued vacation or a floating holiday for this leave. Employees must give their supervisor notice at least four (4) workdays prior to the planned absence. The employee shall use existing vacation, personal leave, or time off without pay for purposes of the school activities leave. If requested by the employee's supervisor, the employee shall provide documentation from the school or day care facility as proof that the employee participated in the school activity on a specific date and time.

Section 9.18. Voting Time. Time off with pay to vote in any general, direct primary or presidential primary election shall be granted as provided by state law. Employees must give prior notice to their immediate supervisors of their need to take such time off.

Section 9.19. Other Authorized Leaves of Absences With Pay. In addition to those leaves of absence with pay which are provided for elsewhere in these ~~rules~~ Rules, a leave of absence with pay may ~~be~~ granted to an employee under special or unusual circumstances which, in the opinion of the appointing authority and the Civil Service Board, ~~make it to, make it in~~ the best interests of the City to ~~do so grant such leave with pay, or which are required by applicable law.~~ In no case shall leave with pay be granted in excess of three (3) working days in any calendar year. Requests for such leave must be received in the Civil Service Office in time for it to be considered at a regular meeting prior to the effective date of the leave.

Leave of absence with pay may be granted to an employee who has been selected for jury duty, and from which he cannot be excused. Leave with pay for unexcused jury duty is not subject to the time limitation expressed above. Leave of absence with pay for jury duty may be approved by the appointing authority without reference to the Civil Service Board, and will not be counted as regular leave with pay. An employee who serves on jury duty shall be paid his regular salary for the period of such duty but shall be required, under the provisions of the Charter, to turn over to the City Treasurer all fees which he receives as payment for such jury duty. ~~To be eligible for a leave of absence with pay for other than jury duty, the~~ To be eligible for a personal leave of absence with pay, an employee must have served the City continuously for a period of ~~not~~ less than six months and ~~his service~~ the employee's work performance must have been thoroughly satisfactory.

Section 8.08 - Return to Duty Following Leave. Every leave of absence shall, be upon the condition that the employee taking the leave shall, subject to these rules, have the definite and absolute right, upon his return to his employment on the termination of his leave, to be reinstated to a position in the same class as that occupied by him at the time of the commencement of such leave, and he shall be entitled to such other privileges as are provided for in these rules. Any employee who fails to return to perform his regular duties by the date indicated in his leave, provided such leave has not been extended by action to the Civil Service Board, may be terminated.

An employee whose probationary period is interrupted as a result of taking a leave of absence shall, upon return, be given credit for the portion of probationary service previously completed.

(C.S. Res. 43473 - 10/11/79)

Section 8.09 - Authorization to Approve Leaves. The Personnel Director is authorized to act for the Civil Service Board in approving sick leaves, family death leaves, and all leaves of absence without pay, not exceeding 30 days.

Section 8.10 - Military Leave of Absence. Military leave of absence shall be granted City employees in accordance with the Military and Veteran's Act of the State of California, a copy of such act to be found in the office of the Board.

RULE 10

WAGE AND HOUR BENEFITS / OVERTIME

Section 10.01. The City is committed to observing all of its obligations under the Fair Labor Standards Act ("FLSA"). These Rules, as well as all applicable provisions in the Memoranda of Understanding and all City pay practices, shall comport with, and shall be interpreted to ensure the minimum requirements of the FLSA.

Section 10.02. The City designates as "FLSA Exempt" those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA. Except when necessary to address an emergency or special circumstances, employees who are entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a supervisor. In any event, employees shall report overtime work as soon as possible after the work is performed in no event later than 24 hours. Violations of this Rule may result in discipline, up to and including termination of employment.

NEW RULE 11

ATTENDANCE / MEAL PERIODS / REST PERIODS

Section 11.01. Workweek. The basic workweek for full time employees shall be forty (40) hours per week, in a seven-day period. The workweek commences at 12:01 a.m. every Sunday a.m., and is a regularly recurring seven (7) day period ending at 12 Midnight every Saturday p.m.

Section 11.02. The City shall establish and may modify regular working hours for its employees. The City may require employees to work overtime and to perform standby responsibilities. Employees shall be responsible for reporting to work on time, and observing the work schedule established for their department.

Section 11.03. Meal Periods. Unless otherwise established for a department or particular employees, employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated. During the meal period, the employee shall be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday.

Section 11.04. Rest Periods. Unless otherwise established for a department or particular employees, employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the department director. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated time. The rest periods may not be combined or used to shorten the workday – e.g., by taking a break at the beginning or end of the workday.

RULE 912

SENIORITY, LAYOFF, CHANGE IN STATUS, RESIGNATIONS, SEPARATIONS

Section 9.01 – Layoffs. Whenever there shall be need for a layoff, the staff shall be reduced in accordance with the procedure set forth in Section 9.02 of these rules. 12.01. Layoffs. Whenever, in the sole judgment of the City Council, it becomes necessary to abolish any position due to a reorganization, lack of work or funds, or abandonment of activities, the employee holding said position may be laid off or demoted in accordance with these Rules. Layoffs shall be on a City-wide basis by prescribed classification. The criteria applied in determining the particular employee(s) employees to be transferred or Laid off from the initiating or directly affected department or

~~commission laid off shall be those as specified in Section 9.02 (a 4 b). Rule 12.02. Employees who are laid off shall have their names placed on the appropriate Laid-off (reinstatement) list in reverse order of dates of layoff; and they shall be entitled to reappointment to positions in the same classes where such positions are to be refilled during the period of their eligibility on the Laid-off (reinstatement) list, or to similar classes for which no Laid-off (reinstatement) lists exist. have been laid off shall have no right to appeal the layoff decision.~~

~~Section 9.02 – Layoff Procedure. Whenever it becomes necessary to reduce a staff under the provisions of Section 9.01 of these rules, no permanent employee in the affected class shall be laid off while there are employees without status in the same class. Employees without status in the class of position involved shall be terminated in the following order~~ 12.02. Layoff Procedure. When a position classification has been abolished due to a layoff, the first order of layoff shall be the following: emergency, seasonal, temporary, and probationary. By the provisions of Charter Section 97, the rules on layoff do not apply to the Fire Department employees.

~~In making layoff~~ implementing layoffs, the appointing authority shall first communicate with the Personnel Director regarding the class of position to be considered. The appointing authority shall then obtain from the Personnel Director a list of the employees, compiled on City-wide basis, who will be affected by the layoff, together with the combined score for efficiency and seniority of each permanent employee to be laid off; ~~copies.~~ Copies of same shall be provided to those other appointing authorities whose employees may be involved. A permanent employee shall be notified in writing ~~and by direct submission~~ at least ten (10) working days prior to the date of layoff, and the notice shall contain the reason therefore. The appointing authority shall immediately thereafter render a written report to the Personnel Director on such form as he may prescribe, such report to state, on a form prescribed by the Director, stating the name or names of the employees set to be laid off and reasons therefor.

The method for computing layoff points shall be as follows:

(a) Seniority Credit: Credit in the class of layoff shall be granted at the rate of one point for each month of service in that class. Credit in a class that has been abolished, combined, divided, or otherwise altered shall be granted at the same rate when the Personnel Director determines that such class was equal to or higher in level than the class of layoff, ~~otherwise~~ Otherwise, credit for service in such class shall be computed at the rate of one-half point per month. Service that is less than full-time shall receive seniority credit on a pro-rata basis.

(b) Efficiency: ~~For failure to maintain an acceptable standard of performance, there,~~ Performance ratings shall also be computed/considered in the computing layoff or demotion score of points, as follows. If an employee with receives an "overall" performance rating of "Unacceptable," any time within the preceding twelve months, a minus thirty-six points. A rating of "Below Standard," any time within the preceding twelve months preceding the layoff decision, thirty-six (36) points shall be deducted from the employee's layoff points. If an employee receives an "overall" performance rating of "Needs Improvement" any time within the twelve months preceding the layoff decision, minus-twelve (12) points shall be deducted from the employee's layoff points.

(c) Order of Layoff When Combined Scores are Equal: As between two or more employees having the same combined score for efficiency and seniority; at their last evaluation, the order of layoff shall be determined by giving preference for retention ~~4~~ in the following sequences: (1) the employee with highest overall report of performance rating; (2) who achieved an overall "exceeds expectation" performance rating in the preceding twelve months shall have preference over an employee who achieved a "fully effective" performance rating or lower rating; (2) the employee with the greatest actual, time in the class in which the layoff is being made and in classes with the same or higher maximum salary shall have preference; (3)

employees the employee with greatest total time in City service, shall have preference; (4) the employee who received the highest score on the entrance examination in the classification shall have preference; and (5) the employee whose application for the position in the subject classification was first received shall have preference.

(d) Section 12.03. Reversion to Former Classification-. City employees who possess permanent status in one classification and who, either through open or promotional examination, are appointed to a position in another classification, in the event of layoff from that class, shall have the right to be reinstated to a position ~~in~~ their former classification. This right shall extend to both personnel with tenure ~~in~~ a class so affected, and to individuals serving probationary periods ~~in~~ such class at the time of layoff. To implement the foregoing, ~~that~~ the employee in the lower classification with the least number of seniority and efficiency points shall be laid-off.

~~Section 9.03 - Resignations. When an employee desires to resign from the classified service, the employee shall submit to his department head, two weeks in advance where possible, a formal resignation in writing. The department head shall forward one copy of such resignation to the Personnel Director, along with a report of separation and performance evaluation of such employee. The receipt of such formal resignation and separation report and an exit interview with the employee, where deemed desirable by the Personnel Director, shall constitute, when the facts so indicate, resignation from the classified service in good standing.~~

Upon receipt of the resignation, the Personnel Director shall conduct such investigation as he shall deem proper and necessary to determine that the resignation was submitted in good faith by the employee and free from undue pressure or threat.

The date of such resignation and the findings of the investigation shall be incorporated in the personnel record of the employee.

No form of resignation may be filed with any department head undated or with a future date.

Whenever resignations with any organizational unit are, in the opinion of the Personnel Director, excessive, it shall be his duty and he shall have the power to investigate the causes of such resignations and to report the same to the appointing authority and the Board.

Section 12.04. Reinstatement List. Full-time permanent employees who are laid off will have their names kept on a reinstatement list for two (2) years from the date of layoff. Names shall be placed on the reinstatement list in reverse order of layoff. The reinstatement list will be used by the City when a vacancy arises in the same or lower classification of position in the department where the layoff originally occurred. The City shall use this list before any other eligible list and before seeking general applications from others. The name of any permanent employee on a reinstatement list who has remained on the list for two full years shall be removed from the list and that person shall lose all civil service status. The City, in its discretion, may extend the active period of the reinstatement list. A permanent employee reinstated to duty on a permanent basis in a department other than the one from which laid off shall serve a new probationary period.

Section 12.05. Return of Laid-off Probationary Employees to Eligible Lists. Probationary employees who have been laid off will not have their names placed on a reinstatement list. Rather, they will may have their names restored to the eligible list from which they secured appointment, in the order of their original general score on such list; provided,

however,

(a) If the eligible lists from which such persons received appointment have expired or been canceled, the probationary employee shall have no reinstatement rights;

(b) Such persons whose names have been restored to an eligible list may have their name transferred to an appropriate list, from such date and in such order as the Personnel Director may determine.

(c) All probationary employees who have been laid off and reinstated to a new position in the same class shall complete their probationary period in that class. Probationary employees who are reinstated to a new position in a different class must serve the entire probationary period required in that class.

Section 12.06. Resignation. Employees are free to resign from their employment, but are encouraged to give at least two (2) weeks notice. A resignation becomes effective upon the City's receipt of a written notice of resignation. If no written resignation is tendered, but a resignation is indicated orally, a resignation becomes effective upon the City's notice of acceptance of the resignation. Once a resignation becomes effective, it is irrevocable except that the Personnel Director may, in his/her discretion, permit a resignation to be rescinded. The City may, in its discretion, require employees separating from City employment to undergo an exit interview with the Personnel Director.

Section 9.04-12.07. Service Retirement. Any person who is in regular full-time employment in the City service who shall become eligible to retire, and who shall be retired or pensioned under the provisions of any present or subsequent applicable retirement laws shall be deemed, for the purposes of these rules Rules, to have been separated from the City service in good standing; provided that a person who shall be so retired of disability and at an earlier date than the specified service retirement period shall be reinstated to a position in the same or similar class, provided that the disability for which he was retired ceases to exist, to the extent that he is able to perform the duties of the position held by him prior to his retirement.

Section 9.05 - Demotion on Account of Physical Incapacity. When an employee comes physically incapacitated for the performance of the duties of his position, he may, upon request of the appointing authority or upon his own initiative and with the approval of the City Physician, be transferred to a vacant position in a class of position having less difficult duties. Complete information regarding any such change shall be reported by the appointing authority to the Personnel Director and the affected employee and shall not become effective until approved by the Board.

Section 9.06 - Incompatible Activity of City Employees. A City officer or employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with his duties as a City officer or employee, or with the duties, functions or responsibilities of his appointing authority or the agency by which he is employed.

Each appointing authority shall determine and prescribe those activities which for employees under his jurisdiction, will be considered inconsistent, incompatible or in conflict with their duties as City officers or employees. In making this determination, the appointing authority shall give consideration to employment, activity or enterprise, which:

- (a) ~~Involves the use for private gain or advantage of City time, facilities, equipment and supplies, or the badge, uniform, prestige or influence of one's City office or employment or~~
- (b) ~~Involves receipt of 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 an act, would be required or expected to render in the regular course or hours of his City employment, or as a part of his duties as a City officer or employee or~~
- (c) ~~Involves the performance of an act in other than his capacity as a City officer or employee, which act may later be subject direct or indirectly to the control, inspection, review, audit or enforcement by such officer or employee or the agency by which he is employed. Each City officer and employee shall, during his hours of duty as a City officer or employee and subject to such other laws, rules or regulations as pertain thereto, devote his full time, attention and efforts to his City office or employment~~

~~Section 9.07 – Investigations by the Board. The Board, or its designated representative, may, upon its own initiative, make such inquiries and investigations as it may deem to be warranted regarding the administration and effect of the provisions of the City Charter as related to matters of personnel management, and of the rules adopted in accordance therewith, and make such recommendations to the appropriate authorities as in its judgment may be warranted.~~

RULE 10
DISCIPLINARY ACTIONS, APPEALS AND HEARINGS

~~Section 10.01 – Disciplinary Action. All persons holding positions in the Classified Civil Service shall be subject to suspension, fine and also to removal from office or employment by the City Manager, or, in case of persons employed in the office of the Auditor Controller, or any Board, by the Auditor Controller or Board, for misconduct, incompetency, or failure to perform their duties under or observe the rules and regulations of the department, office, or Board; but subject to the appeal of the aggrieved party to the Civil Service Board as herein provided.~~

~~Any chief official, any subordinate officer, and any superintendent or foreman in charge of municipal work may temporarily suspend any subordinate then under his direction for incompetency, neglect of duty or disobedience of orders, but shall within twenty four hours thereafter report the facts in writing to the City Manager, Auditor Controller, or Board, as the case may be, and furnish a copy of the report to the subordinate suspended, upon his request therefor. The City Manager, Auditor Controller or Board shall thereupon, if demanded by the subordinate suspended, hear evidence for and against him, and shall thereupon affirm or revoke such suspension according as he or it finds the facts to warrant. (Char. Sec. 81)~~

~~Employees in the classified service may be dismissed, demoted, fined, or suspended without pay for just cause.~~

~~When an employee in the classified service has failed or fails to perform the duties of his position in a satisfactory manner, or has committed any act or acts to the prejudice of the public service, or has failed to perform any act or acts it was his duty to perform, or whose service rendered is below satisfactory~~

standards, or who otherwise has become subject to disciplinary or other corrective measures, the appointing authority or his designated department heads shall have the power and it shall be their duty to take action, subject to the provisions of the Charter and these rules, in one of the following ways:

- (1) — To reprimand the employee and record such reprimand in his service rating report.
- (2) — To suspend the employee without pay.
- (3) — To demote the employee to a lower class of position than that currently filled by him.
- (4) — To fine the employee.
- (5) — To discharge the employee from the public service.

Section 10.02 Procedure in Disciplinary Actions. The appointing authority shall consider any reprimand that is subject to a written report, as opposed to departmental recording of reprimands, as a part of the report on the employee's service rating.

The department head shall notify the Personnel Director, in the manner and form prescribed by him, whenever any employee is suspended without pay, indicating the reasons therefor and the duration of the suspension. In case of any suspension, the employee shall have the right of hearing or investigation by the appointing authority or the Board, in accordance with the procedures described in the Charter and these rules.

RULE 11 RECORDS, REPORTS AND NOTICES

Section 11.01 Notice to Board of Appointments, etc. Immediate notice in writing shall be given by the appointing power to the Board of all appointments, permanent or temporary, made in such classified service, and of all transfers, promotions, resignations, suspensions, fines or vacancies from any case in such service, and of the date thereof, and a record of the same shall be kept by the Board. When any place of employment is created or abolished, or the compensation attached thereto altered, the power making such change shall immediately report the fact in writing to the Board. (Char. Sec. 75)

Section 11.02 Official Roster. The Personnel Director shall provide and maintain a complete official roster of employees, showing for each employee his name, address, class title, rate of pay, changes in any of these, and such other information as he may deem desirable. The form and manner in which such information shall be maintained shall be determined by the Personnel Director. All persons employed in the classified service and all persons whose names appear on eligible lists shall notify the Board of any change of address and telephone number, otherwise any notice sent by tinted States mail to the address of record shall be deemed to have been sufficiently given.

Section 11.03 Access of Department Records. The Personnel Director shall arrange with the respective departments for the keeping and maintenance by each department of such personnel records as may be deemed necessary for carrying out the provisions of these rules.

The officers and employees shall make available to the Personnel Director all department reports, records and documents dealing with personnel matters, the examination of which will aid him in the discharge of his duties.

~~Section 11.04 – Records Open to the Public.~~ With the exceptions indicated in these rules, the records of the Civil Service Department, the minutes of the meetings of the Board, annual and special reports, the classification and compensation plans, and the official roster are hereby declared "to be public records, and shall be open to public inspection at the Civil Service offices under reasonable conditions during business hours. However, the Personnel Director shall have the authority to withhold information dealing with employee personal records and special reports which would be detrimental to the employee and to the functions and operations of the City service or the Civil Service Department.

Material used or to be used in tests, confidential reports regarding applicants or eligibles, and the names and identity of special examiners who may be temporarily employed by the City and whose usefulness would be impaired if their identity were disclosed, shall be considered confidential and not open to the public.

~~Section 11.05 – Disposition of Records.~~ Personnel roster cards, position cards, and minutes of Board meetings shall be kept permanently. All other non-permanent records pertaining to examinations or personnel transactions, or any other records or reports no longer required, may be destroyed at the discretion of the Personnel Director in accordance with applicable laws.

Exhibits submitted in the cases of appeal to the Board may be destroyed one year after the decision of the Board, unless recovered by the persons concerned.

~~Section 11.06 – Official Written Notice by Board.~~ Any written notice required by the provisions of these rules to be given to any employee may be given either by personal service or by mail. In the case of service by mail, the notice must be deposited in the United States Post Office or a mailbox, sub-post office, substation or mail chute, or other like facility regularly maintained by the Government of the United States, in a sealed envelope, with postage prepaid, addressed to the person on whom it is to be served at his last address as the same appears on the records of the Board. The service is complete at the time of the deposit.

RULE 12 CERTIFICATION OF PAYROLLS

~~Section 12.01 – Certification to Auditor-Controller.~~ The Board shall certify to the Auditor-Controller all appointments to places of employment in the classified Civil Service, and all vacancies occurring therein, and all fines and suspensions made under the provisions of this article. (Char. Sec 79)

The Personnel Director shall establish procedures for sending copies of reports and notices to the Auditor-Controller of any new positions, new employees, changes in pay, classification, or status, and attendance and absence of employees and of his approval or disapproval of such actions for use in auditing and approval of payment of any salaries or wages to employees in the City service. The Personnel Director shall, if so requested by the Auditor-Controller, make available the official roster for the purpose of making such audits.

Whenever it is brought to the attention of the Personnel Director that any person is employed or is proposed to be paid as an employee in the classified service in any amount not provided for, he shall so notify the Auditor-Controller. After such notice, the Auditor-Controller shall not approve any payment of such person, except in accordance with such provisions.

Section 12.02 – Effect of Classification and Allocation on Payment. No person shall be employed or paid in any position until the class of such position has been determined through allocation of the position to the appropriate class by the Board.

No employee shall be appointed, employed, or paid under any title other than that of the class to which the position occupied by him has been so allocated.

Section 12.08. Medical Separation. An employee who becomes unable to perform the essential assigned functions of his/her position due to a disability or other medical condition may be medically separated. Prior to medical separation, the City will determine what accommodations, if any, will be reasonably provided to the employee in accordance with City policy and applicable law, and may determine whether the employee may be eligible for disability retirement, if appropriate. An employee who is medically separated is eligible for special reemployment procedures as set forth in Section 12.09.3. Except by mutual consent, an employee shall not be medically separated while on any authorized leave of absence.

Section 12.08.1. Proof of Disability. Proof of the employee's disability is required and is subject to verification by the City. When the City requests a medical opinion as verification of disability, the City shall pay the reasonable costs of the medical examination(s) requested.

Section 12.08.2. Notice of Intent to Medically Separate. If the employee has passed his/her probationary period, a written notice of intent to medically separate shall be given to the employee either by delivery of the notice to the employee in person or by placing the notice of intent in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. Proof of service shall accompany the notice of intent. The notice shall: (a) inform the employee of the action intended, the reason for the action and the effective date; and (b) inform the employee of the right to respond and to whom to respond within ten (10) calendar days from the date of issuance of such notice of intent, in accordance with the instruction given by the City in the written notice provided to the employee. After review of the employee's timely response, if any, the City shall notify the employee of any action to be taken. An effective date of separation shall be at least ten (10) calendar days after the date of issuance of the notice of intention to separate or timely receipt of the employee's response, if any, whichever is later. The employee shall have no right to a post-separation appeal.

Section 12.08.3. Reemployment. For a period of one (1) year following the date of medical separation, a medically separated employee may be selected for a vacant position within the class he/she occupied prior to separation without the requirement of going through a competitive selection process. In order to be eligible for reemployment, the medically separated employee must provide medical certification from a City-approved medical physician describing in detail the medically separated employee's ability to return to work, and the employee must otherwise meet the qualifications and requirements for the position.

Section 12.09. Separation Due to Absence Without Leave. If an employee is absent from work without authorization for five or more consecutive working days, such absence shall be treated as an "automatic resignation" and the employee may be separated.

Section 12.09.1. Notice of Intent to Separate Due to Absence Without Leave. If the employee has passed his/her probationary period, a written notice of intent to separate due to

absence without leave shall be given to the employee either by delivery of the notice to the employee in person or by placing the notice of intent in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. Proof of service shall accompany the notice of intent. The notice shall: (a) inform the employee of the action intended, the reason for the action and the effective date; and (b) inform the employee of the right to respond and to whom to respond within ten (10) calendar days from the date of issuance of such notice of intent, in accordance with the instruction given by the City in the written notice provided to the employee. After review of the employee's timely response, if any, the City shall notify the employee of any action to be taken. An effective date of separation shall be at least ten (10) calendar days after the date of issuance of the notice of intention to separate or timely receipt of the employee's response, if any, whichever is later. The employee shall have no right to a post-separation appeal.

RULE 13

PROHIBITIONS AND PENALTIES

Section 13.01—Frauds Prohibited. No person shall willfully or corruptly by himself or in cooperation with any other person or persons:

- (a) ~~Willfully and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified pursuant to the City Charter or these rules pertaining to the classified service, or the service ratings of any employee, or aid in so doing, or shall willfully make any false representation concerning the same, or concerning any person examined;~~
- (b) ~~Impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination, appointment, or application or request for examination;~~
- (c) ~~Defeat, deceive, or obstruct any person in respect to his or her rights in relation to any examination or appointment in the classified service;~~
- (d) ~~Furnish any person any special or secret information for the purpose of either improving or injuring the prospects or chances of such person in connection with any examination or appointment;~~
- (e) ~~Directly or indirectly give, render, pay, offer, solicit or accept money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.~~

Section 13.02—Penalty. Any person violating any of the provisions of this Article or any rule hereunder shall be deemed guilty of a misdemeanor, and for such offense may, upon conviction thereof, be suspended, reduced in grade, or dismissed from the service. (Char. Sec. 86)

DISCIPLINARY ACTIONS, APPEALS AND HEARINGS

Section 13.01. General Rules of Conduct. It is expected that all employees shall render the best possible service and reflect credit on the City. Therefore, the highest standards of professional conduct are essential and expected of all employees.

Section 13.02. Disciplinary Actions. The City may invoke the following types of disciplinary actions:

- (a) Written Reprimand;
- (b) Suspension Without Pay;
- (c) Demotion;
- (d) Discharge/Termination

Section 13.03. Grounds for Discipline. Any employee holding a permanent appointment in the classified service may be disciplined for good cause. City employees who are employed "at-will," or who are emergency, seasonal, temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals. Such employees may be disciplined without reference to these provisions.

Good cause exists, not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform his or her duties, causes other employees not be to able to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee.

Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

(a) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City;

(b) Dishonesty; knowingly furnishing false information in the course of the employee's duties and responsibilities;

(c) Inefficiency, incompetence, carelessness or negligence in the performance of duties;

(d) Violation of safety rules;

(e) Violation of any of the provisions of these Rules, department rules and regulations, City policies, ordinances or resolutions;

(f) Inattention to duty;

(g) Tardiness or overstaying lunch periods;

(h) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on City property, when called in for emergency duty;

(i) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor; or interference or disruption of work or with supervisor's instructions (e.g., telling employees they do not have to do work assigned by supervisors)

(j) Any violation of the City's Nondiscrimination Policy;

(k) Unauthorized soliciting on City property;

(l) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work;

(m) Conviction of a felony, or a misdemeanor relating to an offense which has a connection to the employee's job, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform his/her job or brings discredit to the City. (For purposes of this section, a misdemeanor conviction does not include a conviction based on a plea of *nolo contendere*);

(n) Discourteous or offensive treatment of the public or other employees;

(o) Falsifying any City document or record;

(p) Misuse of City property (including any personal use of City property, equipment or resources); improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property;

(q) Fighting, assault and/or battery;

(r) Theft or sabotage of City property;

(s) Sleeping on the job, except as specifically authorized for twenty-four (24) hour duty personnel;

(t) Accepting bribes or kickbacks;

(u) Engaging in outside employment which conflicts with an employee's responsibilities;

(v) Intimidation or interference with the rights of any employee;

(w) Outside work which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service;

(x) Failure to maintain the minimum qualifications for a position or a necessary license or certification specified for the position;

(y) Abusive or intemperate language toward or in the presence of others in the workplace;

(z) Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

Section 13.04. Authority to Discipline. Any authorized supervisory employee may institute disciplinary action for cause against an employee under his/her supervision in accordance with the procedures outlined in these Rules.

Section 13.05. Procedures for Disciplinary Actions. In the absence of a process in a MOU, employees covered by these Rules shall be governed by the following provisions:

Section 13.05.1. Written Notice/Pre-Discipline Meeting/Final Action.

A manager shall issue a written notice of discipline which describes the intended discipline and the basis for the discipline. The notice shall reference that the documents upon which the action is based are available for review and copying by the employee.

Discipline which is lesser in severity than a suspension of more than five (5) working days may be imposed at the time of the written notice of discipline. However, after a suspension without pay for five (5) days or less is imposed, the employee shall have the right to respond to the disciplinary action orally or in writing as set forth below within a reasonable period of time.

For discipline that is greater in severity than a suspension of five (5) working days, the manager shall issue a notice of intent to impose discipline which describes the intended discipline and the basis for the discipline and states that the documents upon which the action is based are available for review and copying by the employee. The notice shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed. The City shall set the pre-discipline meeting approximately one (1) week from the date of the notice, unless a different time and date is set by mutual agreement.

For discipline involving suspensions without pay, demotions or discharge, the manager, in coordination with the Personnel Office, shall designate a City official who is disinterested in the matter and who has authority to recommend discipline who shall convene a meeting to review the employee's response and position before imposing discipline. The employee shall be entitled to a representative of his/her choice. However, the inability of a particular representative to attend the meeting shall not be cause requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any information for consideration by the City.

At some reasonable time after the employee has been provided an opportunity to respond to the charges, the designated City official shall issue a final notice of discipline. The notice shall include the final decision, the effective date of the discipline and the facts upon which the discipline is based. In cases involving suspensions of more than five days, demotions or discharge, after the final notice of discipline has been issued, the discipline shall be imposed. The notice may be given either by personal service or by mail. In the case of service by mail, the notice must be deposited in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. Proof of service shall accompany the notice of intent. Service is complete at time of deposit.

Section 13.05.2. Appeal of Disciplinary Action.

For discipline that is greater in severity than a suspension of five days, employees shall have the right to appeal from the final notice of discipline. The notice of appeal must be received by the Secretary to the Board within ten (10) calendar days from the date the final notice of discipline was served upon the appellant, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final. The appeal shall address each of the reasons for the disciplinary action enumerated in the written notice and may provide any relevant additional information.

The appeal shall be submitted to the Secretary to the Board. The Board shall decide whether it shall hear the appeal itself or whether the appeal shall be heard by an independent Hearing Officer. In cases in which the appellant has requested a public hearing, the Board shall hear the appeal.

Section 13.05.2.1. Procedures for Hearings by the Board. In the event that the Board decides to hear the appeal itself, the following procedures shall apply:

A hearing date will be set after the appeal is initially received by the Secretary to the Board. The request for appeal must contain the following items: (1) Cover sheet, including appellant's name, address, and telephone number; name, title, address, telephone number of appellant's representative, if any (Representative's telephone number will suffice in the absence of appellant's number); (2) A list of available Thursdays for hearing dates; (3) An estimate of the number of hours required for case presentation.

Appellant representatives and the City Attorney must provide two (2) complete hearing packets to the Board's secretary by at least one week prior to the scheduled hearing. Appellant's failure to provide such information may, at the Board's discretion, result in the rescheduling of the hearing. Packets must include the following items: (1) A chronology of events; (2) An agreed upon Statement of Facts; and (3) Statement of Facts in Dispute.

The City Attorney shall also present to the Board a copy of the Notice of Intent to Impose Discipline, and Notice of Discipline with accompanying materials. In the event the City Attorney and the Appellant's representative are unable to meet on the above items, the Appellant's representative must submit their version of the facts at least one week prior to the hearing.

The City Attorney and the Appellant's representative are required to meet at least one hour prior to the hearing to finalize exhibit packets which must include the following: (1) A list of exhibits, if any; (2) Pre-marked exhibits (if any exhibits are to be submitted) Additional exhibits may be submitted during the hearing, if they were not available to a party prior to the hearing.

No documents submitted to the Board for consideration shall be considered public records, unless consent to by all parties or otherwise required by law.

Good reason appearing therefore, the hearing may be continued beyond the date originally scheduled or recessed to a future date agreeable to the Board and the parties. However, if a continuance is requested by the appellant or his/her representative, and the Board shall later sustain the appeal, the Board may rule that the appellant shall receive no pay for the period of time during which such continuance was granted.

Hearings shall be closed to the public unless the appellant requests a public hearing in writing. In the event that a hearing is public, upon motion of a directly interested party, the Board may exclude from the hearing room any witnesses not at the time under examination, except that a party to the proceeding and his/her counsel cannot be excluded.

Hearings shall be tape-recorded. Copies of the tape will be available to the appellant, if desired, for no charge. Transcripts of the taped proceedings will be available upon request at the requesting parties' expense. Board subpoenas will be issued upon the request of either party. Subpoenas may be secured by contacting the Secretary to the Board.

The Board shall convene the hearing, receive evidence through testimony and documents and make findings of fact and conclusions about the discipline. Technical rules of evidence shall not apply. However, all testimony and exhibits must be relevant to the issues in contention, and the Board may exclude any evidence which it deems to be irrelevant. The Board shall consider and rule on any objection by either party. Closing arguments shall be oral; provided, however that either party may elect to submit a closing brief. Briefs are to be submitted to the Board within a time set by the Board. Briefs submitted after the deadline shall not be considered by the Board.

The Board will make no assumptions of innocence or guilt. The Board will be guided in its decision by the weight of the evidence as it appears to it at the hearing.

The Board has the power to sustain or not sustain the discipline, reduce or increase the discipline, award back pay and determine the extent of back pay to be awarded, if any, based on the circumstances, and take any other appropriate action. The Board's determination will be issued in writing, within thirty (30) working days of the conclusion of the hearing, unless post-hearing briefs are to be submitted, in which case the Board's determination will be issued within thirty (30) working days of timely receipt of the post-hearing briefs. Copies of the Board's determination shall be forwarded to the appellant and his/her representative, City Attorney's Officer and the affected City department. The Board's decision shall be the final decision of the City but is reviewable by writ of mandamus in accordance with applicable law.

Section 13.05.2.2. Procedures for Hearing by a Hearing Officer. In the event that an appeal is to be heard by a Hearing Officer, the following procedures shall apply.

The Hearing Officer shall be selected by the Board in accordance with selection procedures established by the Board which ensure that the Hearing Officer is independent, neutral and un-biased.

Hearings shall be closed to the public. The costs of the Hearing Officer shall be borne by the City. Hearings shall be tape-recorded. Copies of the tape will be available to the appellant, if desired, for no charge. Transcripts of the taped proceedings will be available upon request at the requesting parties' expense.

The Hearing Officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. Closing arguments shall be oral; provided, however that either party may elect to submit a closing brief following the presentation of closing arguments. Briefs are to be submitted to the Hearing Officer within twenty (20) calendar days of the close of the hearing. Briefs submitted after the deadline shall not be considered by the Hearing Officer.

The Hearing Officer shall render written findings and recommendations to the Board within thirty (30) calendar days of the close of the hearing. If post-hearing briefs are submitted, the recommendation shall be submitted to the Board within thirty (30) calendar days after timely receipt of the brief(s).

The Hearing Officer shall provide the Board the following documents, which shall constitute the official hearing record: (1) A summation page delineating the case name; issue; brief summary of the case; and his/her recommendation; (2) a complete written report

documenting the findings; (3) any documentary evidence, written motions and briefs submitted; (4) the cassette tape(s) of the hearing.

Civil Service Board Responsibilities. After receiving a Hearing Officer's recommendation, the Board Secretary shall schedule the case for the next available Board meeting. The Board will make every effort to schedule a case within thirty (30) days of receiving the Hearing Officer's recommendation.

In reviewing a decision, the Board shall review the hearing record and may review the cassette tape of the hearing. The Board's decision shall be made in accordance with Ordinance No. 8979, as amended, which requires a majority of a quorum to accept, reject, or modify an appeal.

The Board's determination will be issued in writing, within ten (10) days of the conclusion of the Board's review of the Hearing Officer's recommendation. Copies of the Board's determination and the recommendation of the Hearing Officer shall be forwarded to the appellant and his/her representative, City Attorney's Officer and the affected City department. The Board's determination shall be the final decision of the City but is reviewable by writ of mandamus in accordance with applicable law.

RULE 14

EMPLOYEE-MANAGEMENT RELATIONS

Section 14.01 - Objectives of Employee Management Relations Program. The objectives of the employee-management relations program are primarily threefold in character as follows:

- (a) ————— To recognize the need for handling suggestions and complaints from employees in the public service through provision of a continuing operating committee to receive, consider and make recommendations of such matters as relate to personnel administration, Civil Service procedures, and satisfactory employee-management relations in the public service.
- (b) ————— To provide the means for encouraging the submission of and obtaining the suggestions and constructive criticisms from employees and supervisors through their representatives on any matters of personnel policy or Civil Service procedures being considered for adoption or change.
- (c) ————— To provide lines and means of communication and disseminating information to employees in the public service.

INCOMPATIBLE ACTIVITY OF CITY EMPLOYEES

Section 14.01. A City officer or employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with his duties as a City officer or employee, or with the duties, functions or responsibilities of his appointing authority or any aspect of City operations.

Section 14.02. During the workday, employees are expected to devote their full time in the performance of their assigned duties as City employees. Any outside work, part time job, hobbies or personal business must be performed during off duty hours. Off duty hours include unpaid lunch break periods, but do not include other rest or break periods during which the

employee continues to receive pay.

Section 14.03. Employee shall not perform work for compensation outside of his/her City employment where any part of his/her efforts will be subject to approval by any officer, employee, board or commission of the City, unless the employee obtains the approval of his/her department head.

Section 14.04. No officer or employee of the City shall solicit or accept, for self or family, favors, benefits, gifts or gratuities under circumstances which might be construed by reasonable persons as influencing the performance of the employee's governmental duties. The City utilizes the limits imposed by the Fair Political Practices Act (\$50 as of January 2002) as a measure of what is presumptively inappropriate under this policy.

Section 14.05. Employees who violate this Rule shall be subject to disciplinary action up to and including termination, and, where appropriate, may be subject to criminal charges.

NEW RULE 15:

MISCELLANEOUS

Section 15.01. Word Usage. The term "City" as used in these Rules refers to the City of Oakland. Responsibilities and rights of the City under these Rules are exercised by the Board, and may be delegated by the Board in its discretion. Duties assigned to the Personnel Director under these Rules may be delegated by the Director in his/her discretion.

~~Section 14.02 – Establishment of Employee Management Committee. (Rule 14 should be made effective after the membership of such a committee is decided upon.~~

~~Section 14.03 – Functions of Employee Management Committee. The employee management committee may serve in an advisory capacity to the various boards, commissions, the Auditor-Controller, City Manager, and department heads with respect to matters of Civil Service procedures, personnel administration and employee relations, excepting matters of formal appeals and hearings, or other procedures which fall within the jurisdiction of the Civil Service Board.~~

The general functions of the committee shall include such as the following:

- (a) ~~Assisting and developing information with respect to the administration of the classification program;~~
- (b) ~~Assisting and developing information with respect to the administration of the recruitment, examination, and certification program;~~
- (c) ~~Assisting in the development of a proper employee service rating program and the administration of a training program;~~
- (d) ~~Regular review of Civil Service policies, rules, and regulations and developing constructive suggestions for their improvement;~~

- (e) ~~Dissemination of information regarding significant features of adjustments in the Civil Service program.~~

RULE 15

~~SAVINGS CLAUSE Section 15.01—Savings Clause. If any section, sentence, clause or phrase of these rules shall be held, for any reason, to be inoperative or unconstitutional, void or invalid, the validity of the remaining portion of these rules shall not be affected thereby, it being the intention of the Civil Service Board in adopting these rules, that no portion thereof, or provision herein, shall become inoperative or fail by reason of the unconstitutionality or invalidity of any other portion or provision; and the Civil Service Board does hereby declare that it would have severally passed and adopted the provisions contained herein separately and apart one~~15.02. Savings Clause. If any part of these Rules is determined to be illegal or unconstitutional, such part shall be severed from these Rules and the remaining Rules shall be given full force and effect.

744686_1

710823



**PERSONNEL MANUAL
CIVIL SERVICE BOARD
City of Oakland, California**

**Recommended Revisions for Review
Finance Committee Meeting – October 12, 2004**

Revised as of September 24, 2004

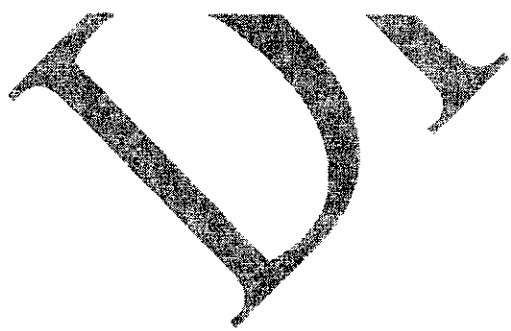


TABLE OF CONTENTS

	<u>PAGE</u>
RULE 1. INTRODUCTION	1
RULE 2. DEFINITIONS	2
RULE 3. ORGANIZATION, RULES AND PROCEDURES OF THE CIVIL SERVICE BOARD	5
RULE 4. CLASSIFICATION PLAN	7
RULE 5. APPLICATION, SELECTION, AND ELIGIBLE LISTS	10
RULE 6. CERTIFICATION AND APPOINTMENT	16
RULE 7. PROBATIONARY PERIOD	19
RULE 8. EMPLOYEE PERFORMANCE APPRAISALS	20
RULE 9. VACATIONS AND LEAVES OF ABSENCE	21
RULE 10. WAGE AND HOUR BENEFITS / OVERTIME	28
RULE 11. ATTENDANCE / MEAL PERIODS / REST PERIODS	29
RULE 12. LAYOFF, RESIGNATIONS, SEPARATIONS	29
RULE 13. DISCIPLINARY ACTIONS, APPEALS AND HEARINGS	32
RULE 14. INCOMPATIBLE ACTIVITY OF CITY EMPLOYEES	37
RULE 15. MISCELLANEOUS	38

NEW RULE 1

INTRODUCTION

Section 1.01. This Personnel Manual sets forth Personnel Rules of the Civil Service Board (hereafter "Rules") which generally describe the employment relationship between the City of Oakland and its employees. These Rules apply to all City employees, except where otherwise indicated in these Rules or where an applicable Memorandum of Understanding ("MOU") specifically conflicts with a Rule, in which case the MOU provision shall govern. As specified herein, some Rules apply only to employees in the "Classified Service." The "Classified Service" consists of all employees who are not in positions exempted by action of the Civil Service Board or exempted by Section 902 of the City Charter. Positions exempted from classified service by Section 902 of the City Charter include the following:

(a) Offices required by this Charter to be filled by election or to be appointed by the Mayor and City Council.

(b) One secretary and all professional and administrative assistants in the office of the City Administrator; the Mayor's secretary and an assistant and such other staff as authorized by Council; one secretary and one assistant to the City Attorney and the Auditor respectively; and the heads of such other departments and an assistant to each as may be provided for by ordinance. The City Administrator, the Mayor, the City Attorney, and the Auditor shall respectively appoint such exempt personnel.

(c) Department heads, one secretary to the executive director, the secretary of the board, commercial representatives and freight and cargo handlers and checkers employed by the Port Department; also such others engaged in the handling of ships and shipping as are found by both the Board of Port Commissioners and the action of the Civil Service Board to hold positions peculiar to the operations of the Port as a commercial enterprise.

(d) Part-time employees who are regularly employed for less than one-half the established working hours throughout the year, or those who are employed in any seasonal employment for not more than 120 days in any consecutive 12 months.

(e) Individuals engaged by contract.

Section 1.02. These Rules were established to conform and be complementary to the City Charter. In cases where there is deemed to be a conflict between a Rule and the City Charter, the Charter shall prevail.

Section 1.03. The City's labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq. The City has in place an Employer-Employee Relations Resolution which specifies the City's local rules, rights and obligations regarding labor relations. Under the City's Employer-Employee Relations Resolution and the MMBA, the City recognizes certain employee organizations as the exclusive representative for purposes of labor negotiations. For represented employees, the City meets and confers with employee labor representatives regarding wages, hours and others terms and conditions of employment, and provides advance notice of certain matters as specified by the Employer-Employee Relations Resolution. Whenever any amendments to these Rules affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as established by the MMBA and the Employer-Employee Relations Resolution.

RULE 2

DEFINITIONS

Section 2.01. Glossary of Terms. The words and terms described in this section, to the extent that they are used in these Rules and elsewhere in documents relating to Civil Service processes shall have, unless the context otherwise requires, the following meanings:

(a) Allocation - the official determination of the class in which a position in the classified service shall be deemed to exist and the assignment of such position to the appropriate class in the classified service.

(b) Applicant - a person who has filed an application for examination.

(c) Appointing Authority - any official or group of officials having authority to make appointments to or cause a removal from any position in a specified department, division or office of the City government.

(d) Appointment - the designation of a person, by due authority, to become an employee in a position, and his/her induction into employment in such position.

(e) Board - the Civil Service Board of the City of Oakland,

(f) Candidate - a person participating in an examination.

(g) Charter - the Charter of the City of Oakland.

(h) Class or Class of Positions - a position or group of positions for which a common descriptive job title may be used, and which are defined by similar education, experience, knowledge, qualifications and compensation schedule.

(i) Classification Plan - an orderly arrangement of titles and descriptions of positions under separate and distinct classes in the classified service.

(j) Classified (or Competitive) Service - all positions now existing or hereafter created in or under any of the City departments, boards or commissions enumerated by the City Charter, but not including those positions specifically exempted from the Competitive Service by Section 902 of the City Charter, or otherwise excepted by the Board.

(k) Class Title - the designation given to a class, to each position allocated to such class and to the incumbent of any such position. Its meaning is set forth in the corresponding general duties statements in the class specifications.

(l) Compensation - the salary and wages earned by or paid to any employee in remuneration for services in any position, but does not include allowances for expenses authorized and incurred as incident to employment.

(m) Compensation Plan - a series of schedules of salaries and wages established for the several classes of positions in the classification plan, and the method of administration.

(n) Competitive Examination - an examination, either assembled or unassembled, in which one or more candidates are in competition, either with each other or against a standard established by the Board as the minimum acceptable which candidates must possess in order to competently perform the duties of a position.

(o) Confidential Position -- Confidential positions are those positions which are privy to management decision-making discussions and memoranda affecting employer-employee relations.

(p) Demotion - a change of an employee in the city service from a position of one class to a position of another class for which a lower schedule of pay is prescribed.

(q) Domestic Partner - a person who has registered for a Certificate of Domestic Partnership and who is in a committed relationship with a City employee, in which two cohabiting, unrelated people who are over the age of 18, share common responsibility for the necessities of life and have resided together for at least six months prior to registering for a Certificate of Domestic Partnership.

(r) Discharge or Removal - the separation of an employee from his or her position.

(s) Eligible - a person whose name is recorded on an eligible list or laid-off list.

(t) Eligible List - any of the lists of names of persons who have been found qualified through suitable examination for employment in a specific class of position in the classified service.

(u) Employee - a person formally occupying a position in the city service in accordance with applicable rules and procedures of the city, and shall include the designation "officer".

(v) Examination - all the tests of fitness, taken together, that are applied to determine the eligibility of applicants for positions of any class in the classified service.

(w) Final Earned Rating - the final percentage attained by a candidate in an examination as computed from the percentage earned in each part of such examination.

(x) Laid-off (Reinstatement) List - a list of names of persons, arranged in the order as provided by these Rules, who have occupied positions in the classified service, who have been separated from the classified service as a result of a layoff and who are entitled to have their names certified to appointing authorities under the provisions of these Rules.

(y) Layoff - the separation of a non-probationary employee from the classified service without fault on his/her part and by reason of lack of work or funds or reorganization.

(z) New Position - a position created through the authorized addition of a position not previously existing.

(aa) Part-time Employment - a person occupying a position in the City service under the following conditions:

- i. Classified - employee working in a classified position on a permanent basis, working less than the normal hours of the normal work week for that department.
- ii. Exempt - employee working in a position that is exempt from the classified service on a less than full-time basis.

(bb) Permanent Employee - an employee who has satisfactorily completed a probation period and whose regular appointment has been approved by the appointing authority.

- (cc) Position - an individual place of employment in a particular class.
- i. Limited Duration - a position created for a specific purpose due to an urgent need of limited duration.
 - ii. Exempt - a position not included in the classified service by reason of Charter exception or exception by the Board.
 - iii. Permanent - a position in the classified service which has required or which is intended to require the services of an incumbent without interruption for a period of more than 120 calendar days.
 - iv. Temporary - a position in the classified service which has required, or which is intended to require, the services of an incumbent for a period not to exceed 120 calendar days.

(dd) Promotion - the change of an employee in the classified service from a position of one class to a position of another class in the same or similar series, for which a higher maximum rate of pay is provided in the compensation plan and which involves increased or more complex duties.

(ee) Promotional List - a list of names of persons arranged in order of relative percentages, as provided by these Rules, who have been found qualified for promotion to a higher position or positions.

(ff) Reallocation or Reclassification - the reassignment or change in allocation of an individual position by raising it to a higher, reducing it to a lower, or moving it to another class of the same level on the basis of significant changes in the kind or difficulty of duties and responsibilities in such position.

(gg) Redesignation - the designation of the incumbent in a position without affecting his/her status in the position in the event of a title change.

(hh) Re-employment - the re-employment of a permanent employee who has resigned in good standing to a position in the same or similar class from which he resigned, within an allowable time period as provided by these Rules.

(ii) Re-employment List - a list of the names of former employees who had obtained permanent status in the City service and who have requested the privilege of re-employment.

(jj) Resignation - the voluntary separation of an employee from employment.

(kk) Restricted Entrance - an examination limited to specific full-time City employees who meet the minimum qualifications of the class to be examined.

(ll) Separation - the voluntary or involuntary termination of an employee's position from City service without regard to cause.

(mm) Series - a subdivision of a group in the classification plan, being a collection of classes in one occupational group having similar duties but usually at different pay schedules.

(nn) Shall and May - "shall" is mandatory and "may" is permissive.

(oo) Suspension - the temporary separation of an employee from his/her position with loss of pay as a disciplinary measure.

(pp) Termination of Appointment - the involuntary separation of an employee for cause from a permanent position in the classified service.

(qq) Test - one part of an examination.

(rr) Weight - the fixed numerical value given to each part of an examination designating the relative worth and used in computing a general average.

(ss) Y-rated salary - when an employee is placed in a different position of a different salary range, the salary of an employee is fixed at the rate the employee was earning at the time of the change in placement until the salary rate for the position to which the employee is placed reaches or exceeds the level of salary which the employee is receiving.

RULE 3

ORGANIZATION, RULES AND PROCEDURES OF THE CIVIL SERVICE BOARD

Section 3.01. Duties of City Administrator and Personnel Director. The City Administrator shall be responsible for the administration of the personnel system in accordance with the Charter. The City Administrator shall appoint a Personnel Director who shall have the following duties, subject to the direction of the City Administrator.

- (1) Be responsible for the efficient operation of the Personnel Department of the City;
- (2) *Prepare, maintain AND AMEND the Personnel Manual*
- (3) *Prepare and maintain the position classification plan, including detailed position description*
- (4) *Administer the selection process for positions in the classified service and maintain eligible lists of qualified candidates*
- (5) Perform other duties as the City Administrator may assign.

Section 3.02. Civil Service Board Duties. The functions and duties of the Civil Service Board are as follows:

- (1) To enforce, through general supervision of the personnel system, the provisions of the Charter and Ordinance 8979, as amended;
- (2) To study, investigate and research into such areas and matters as the City Administrator, or the Council through the City Administrator, or the Board of Port Commissioners, may request, or as it may deem advisable;
- (3) To make reports and recommendations in writing thereon and to formulate policy recommendations or *recommended changes to the Personnel Manual for the better realization of the objectives of the personnel system as set forth in the Charter,*

- (4) To approve exemption of positions from the classified service;
- (5) To perform the appellate duties and functions set forth in the Personnel Manual excepting those which are administrative in nature, proposed by the City Administrator, *provided that changes in which the Board does not concur may be made with the approval of Council*; and
- (6) To perform such other duties and functions as the City Administrator may from time to time request.

Section 3.03. Civil Service Board Composition. The Board shall consist of seven members who will be appointed pursuant to Section 601 of the Charter, and who shall serve without compensation. Two members shall be appointed for a term of one year, two for two years, and three for four years, said terms to commence upon the date of appointment. Thereafter, each appointment shall be for a term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only.

Section 3.04. Vacancy and Removal on Civil Service Board. A vacancy on the Board will exist whenever a member dies, resigns, or is removed or whenever an appointee fails to be confirmed by the Council within ten days of appointment. A member may be removed pursuant to Section 601 of the Charter. Cause for removal shall include conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, and unexcused absence from meetings.

Section 3.05. Officers, Meetings of Civil Service Board. Each year at its first regular meeting in July, the Board shall elect a chairman and vice-chairman from among its members. The Board shall meet at least once each month in the City Hall, at an established time suitable for its purpose. Such meetings shall be designated regular meetings. Meetings called by the Mayor or City Administrator, and meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of special meetings shall be given to the Board members, the Council, the City Administrator, the Board of Port Commissioners, and the press at least twenty-four (24) hours before the meeting is scheduled to convene.

Section 3.06. Civil Service Board Procedures. The Board shall, in consultation with the City Administrator and with the approval of the Council, establish procedures for the conduct of its meetings. Assuming at least a quorum of the Board is present, a majority vote of those members present is required for the adoption of any procedural or appellate motion. A quorum shall consist of four (4) members of the Board. The Board shall make its reports, findings and recommendations in writing unless otherwise requested. All reports, findings and recommendations shall be submitted to the City Administrator who shall forward these matters within the province of the Council, or the Board of Port Commissioners, as the jurisdiction may be.

Section 3.07. Staffing for Civil Service Board. The City Administrator shall provide the Board with assistance from City employees under his or her jurisdiction.

RULE 4

CLASSIFICATION OF POSITIONS

Section 4.01. Classified Service. All positions in the City shall be in the classified service except those positions designated in section 902 of the City Charter or otherwise exempted by the Board. All positions in the classified service shall be under the jurisdiction of the Board. No appointment to positions within the classified service shall be made except in accordance with these Rules.

Section 4.02. Definition of Classification Plan.

(a) Classification of Positions: All positions in the classified service shall be grouped into classes, and each class shall include those positions sufficiently similar in respect to their duties, functions, and responsibilities so that similar positions may be assigned similar titles and embraced within the same class specifications, so that similar requirements as to training, experience, knowledge, skill, and ability and same rates of pay are applicable. The purpose of such classification is to provide uniform standards, uniform pay scales and an orderly means of regulating the status of incumbents. It contemplates fixing titles of positions to their proper classes so that all positions with the same titles may be in the same class, and allocating the classes or positions to their respective salary schedules according to a designated pay plan.

(b) Preparation and Content of Class Specifications: Class specifications defining the duties shall be prepared and maintained by the Personnel Director.

- i. Purpose and Effect of Class Specifications: Each class specification describes the main characteristics and qualification requirements of positions in the class and gives examples of specific duties which employees holding such positions may be required to perform. The class specification is descriptive and explanatory, but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks of related kind or character or skills.
- ii. Statement of Minimum Qualifications: The statement of minimum qualifications in a class specification is intended to be used in determining the admissibility of applicants to competitive examinations, and as an aid in the preparation of such examinations. The Personnel Director, after consultation with the appointing authorities, shall determine desired combinations of training and experience as minimum qualifications for the respective classes and these minimum qualifications shall become part of the class specification.

Section 4.03. Title of Positions. The class title of a position shall be used to designate such position in all budgets, payrolls and other official records in connection with all personnel transactions.

Section 4.04. Administration and Maintenance of the Classification Plan.

(a) Responsibilities of the Personnel Director: The Personnel Director shall be responsible for administering and maintaining the classification plan. The Personnel Director shall determine whether the reallocation of any position from one class to another class is warranted whenever a change in duties and responsibilities of such position makes the class to which the position is allocated no longer applicable. Any reallocation to be made shall be made with notice to the employee concerned and his/her appointing authority.

(b) Reclassification of Positions: The Personnel Director may initiate and conduct classification studies of any positions in the classified service when he/she deems such review is necessary, and may recommend a change in classification where the facts warrant such action. The Personnel Director may require any appointing authority or employees to prepare a statement of the current duties and responsibilities of positions under consideration. An appointing authority may also submit requests for changes in classification of positions to the Personnel Director. The appointing authority may be required to submit to the Personnel Director, the following information:

- i. A full description of the duties and responsibilities of the position.
- ii. Suggestions as to the qualification requirements.
- iii. A suggested title.
- iv. A suggested salary schedule.
- v. A statement regarding any changes in the duties and responsibilities of all positions in the department which may be affected by the creation of the new position.

(c) Employee Requests for Classification Review. Any employee shall have the right to request consideration by the Personnel Director regarding a change in the classification of his/her position. The employee shall make the request initially to the department head who shall submit the request to the Personnel Director for review and such further action as he/she may deem appropriate.

(d) Creation of New Classifications. An appointing authority may submit a request to the Personnel Director for the creation of a new classification. In recommending the establishment of a new classification, the Personnel Director shall submit to the appointing authority and to the Board, for its approval, a class title and specification for such classification. (EXPLAIN PROCESS –Does Board take final action in approving new class or does Council?)

(e) Changes Requiring Formal Approval of the Board The approval of the Board shall be obtained for the establishment of any new class and changes in class titles.

(f) Appeal to Board regarding Changes in Classification In the event a decision is made to change an employee's classification, the appointing authority and employee concerned shall have reasonable notice and an opportunity to be heard by the Board before a change in classification becomes effective. Hearings regarding disputes about classification changes shall be scheduled by the Board. At the hearing, the appointing authority and/or employee shall have an opportunity to present their positions, either orally or in writing, regarding the proposed classification change. The Personnel Director or his/her designee shall also have an opportunity to be heard by the Board regarding the issue, either orally or in writing. After consideration of the positions of the individuals concerned, within a reasonable period of time, the Board shall issue a final and binding decision regarding the classification change.

Section 4.05. Treatment of Incumbents as Result of Reclassification of Positions. In the event of a classification study, the following treatment of incumbents of reclassified positions may take place:

(a) Upgrading of Position: When a position is reallocated to a class of higher grade, the incumbent may be re-designated to the class of higher grade without examination providing he/she has performed the duties of the class for one year prior to the inception of the

classification study. The Department Head must attest to the fact that the employee has performed these duties for a period of one year. If the incumbent has served less than one year in the position that has been reallocated, that person shall be laid off and placed upon the reinstatement list for positions of the same class as that from which he/she was so separated. If a position is reallocated to a class of position for which the maximum rate of pay is higher and the incumbent has held the position for less than one year, the position shall be filled by appointment from the reinstatement or eligible list of the class to which the position is reallocated. In the absence of such reinstatement or eligible list, the incumbent shall continue in the position until such time as a reinstatement or an eligible list shall have been created, from which the position can be filled.

(b) Downgrading of Position: When a position is reallocated to a class of lower grade, the incumbent may be re-designated to the position of a lower grade at no loss in salary at the time of the downgrading. Within the discretion of the Personnel Director, the salary may be "Y-rated" until such time as it becomes equivalent to the salary paid the classification. The employee shall be placed on the laid-off list of his/her former class and shall have priority re-employment rights to the classification from which he/she was downgraded for a period of two years from the date of the action changing the classification.

(c) Notification: When a position is reallocated to a class of a lower or higher grade, the incumbent shall be notified in writing at least two calendar weeks in advance of the reallocation.

Section 4.06. Classification of Temporary or other Non-Permanent Employment.

Whenever temporary or other non-permanent positions are authorized, such positions shall be classified by the Personnel Director upon receipt of a statement of the duties and responsibilities and the salary schedule of the position irrespective of Rule 4.04.

Section 4.07. Conditions for Accepting an Exempt Position into the Competitive Service. In the event that positions, which were previously exempted from the classified service, are to be included in the classified service, the following procedure shall be followed:

The Personnel Director shall review the position to determine that its organizational structure, job design, and compensation meet the standards established for other City positions. If these standards are met and the position is vacant, the position shall be placed in the classified service in the same manner as any new position or classification.

(a) In the event the position has an incumbent, the Personnel Director shall review the position in the manner described above. If the incumbent meets the minimum requirements for the position, has served for at least one year in the position performing the same or similar duties, and has standard or above performance ratings, the Department Head in concurrence with the Personnel Director may recommend to the appointing authority that the incumbent be granted permanent status in the classified service.

(b) Should the incumbent not meet the requirements as established in Section (a) above, but has more than one year service in the position, such employee shall be placed in a probationary status for one year. Failure to meet these requirements, based on performance appraisals, shall be cause for termination from the position occupied. If in a promotional position, the incumbent may be returned to the previously occupied position upon recommendation of the Department Head, assuming he/she is qualified for the lower position.

(c) If an employee has performed satisfactorily in a position for less than one year but more than eight months, and possesses the minimum qualifications, upon recommendation of the Department Head and the Personnel Director, the employee shall be placed in a probationary status for a period not to exceed 120 days. The employee shall be

evaluated, and upon a period of satisfactory performance not to exceed 120 days, the Department Head with concurrence of the Personnel Director shall recommend to the appointing authority that the employee be granted permanent status in the competitive service.

(d) If an incumbent has occupied a position for a period of at least 120 days but less than eight months and possesses the minimum qualifications, such employee shall be treated in the same manner as described above except that the probationary status and period of evaluation shall extend from the 120-day period to the end of one year of satisfactory service. Should the employee not perform in a satisfactory manner, based on performance appraisal, such employee shall be terminated.

(e) Should a position be occupied by an incumbent whose service is less than 120 days and/or does not possess the minimum qualifications, such employee shall be declared a provisional employee and may continue in that status for a period not to exceed 120 days from date of such declaration. The position shall then be treated as being vacant and open to competitive examination. Upon appointment of a candidate from an eligible list, the position shall be deemed classified and the incumbent placed in a probationary status for a period of one year. Should the position be promotional by nature, the probationary period shall be for six months.

Any such action relating to position review, allocation and assignment of any individual to a position and/or classification shall be the determination of the appointing authority based on a recommendation of the Department Head and the Personnel Director.

RULE 5

APPLICATION, SELECTION, AND ELIGIBLE LISTS

Section 5.01. Recruitment. The City may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be "open" or may be restricted to City employees, depending on the City's needs. The City will give reasonable notice to all of its employees concerning the City's employment opportunities. Announcements of selection processes for restricted entrance and promotion shall be supplied to each appointing authority, who may post such notices on the departmental bulletin boards.

Section 5.02. Applicants for Selection Process. All applicants for classified positions will be required to participate in a competitive selection process. The City will make City of Oakland application forms available to all prospective applicants. Once submitted to the City, applications shall not be returned. Applicants must submit applications on or before the filing deadline stated in the job announcement. However, the Personnel Director may, at his or her discretion, permit a letter, resume or other indication of interest to be accepted, pending receipt of a properly completed application. An applicant's failure to provide complete and accurate information on all application materials may be grounds for immediate disqualification in the application process, and may result in dismissal from employment.

Section 5.03. Background Checks. As part of the pre-employment procedure, applicants may be required to supply references, and a waiver, to enable a thorough background check by the City. The City shall have the right to conduct an exhaustive background investigation on any applicant seeking employment in the City.

Section 5.04. Eligibility to Compete in a Selection Process. Open competitive selection processes shall be open to all applicants who meet the standards or requirements established by the City's classification system, with regard to experience, education, license or

other professional, specific or special certifications or standards that generally determine the ability of candidates to efficiently perform the duties of the position.

Section 5.05. Basis for Rejection of Applications. The Personnel Director may refuse to examine and/or certify an applicant who is found to lack any of the requirements established for the position of employment for which application is made, or for any legitimate reason including, but not limited to, the following:

- (a) The applicant's past employment record is of such a nature that would indicate an unsuitability for public employment; including incompetency, misconduct, or unsatisfactory service;
- (b) The applicant has practiced, or attempted to practice, any deception or fraud in his/her application, or in securing his eligibility or appointment;
- (c) The applicant has been convicted of an offense which excludes the applicant from eligibility for the position based on applicable law or which, in the judgment of the Personnel Director, renders the applicant unsuitable for the position.
- (d) The applicant has made a false statement or has omitted material facts on the application.

If the applicant's name is placed on the eligible list before the Personnel Director becomes aware of any false statements made on the application, the applicant's name shall be stricken from the eligible list. If, after the applicant has been appointed to a position, such false statement is discovered, the Personnel Director shall notify the appointing authority in whose department such person is employed, who shall, if the false statement is of material fact, summarily discharge the person.

Section 5.06. Frauds Prohibited. The City prohibits the following conduct:

- (a) Willfully and falsely marking, grading, estimating, or reporting upon the examination or proper standing of any person examined or certified pursuant to these Rules, or the service ratings of any employee, or aiding in so doing, or willfully making any false representation concerning the same, or concerning any person examined;
- (b) Impersonating any other person, or permitting or aiding in any manner any other person to impersonate him/her in connection with any examination, appointment, or application or request for examination;
- (c) Deceiving or obstructing any person in respect to his or her rights in relation to any examination or appointment in the classified service;
- (d) Directly or indirectly giving, rendering, paying, offering, soliciting or accepting money, service, or other valuable considerations for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

Any employee determined to have committed any of the above acts shall be subject to disciplinary action up to and including termination and may also be subject to criminal charges. Any applicant or non-employee determined to have committed any of the above acts may be subject to criminal charges.

Section 5.07. Announcement of Selection Process to Fill Vacancy. The

announcement of the selection process to fill a vacancy shall list a description of the position, its duties, the minimum education, experience and license requirements for application, and any other such information as is necessary to adequately inform prospective applicants about the selection process. The minimum rating for which eligibility for the position may be achieved will be established by the Personnel Director.

Section 5.08. Type and Scope of Competitive Selection Processes. Original, restricted entrance, and promotional selection processes shall be designed for the purpose of determining the qualifications of applicants for positions, and shall take into consideration elements or requirements of education, experience, knowledge and skill, aptitude, character, personality, physical fitness, and any other element or requirements pertinent to the job and the specifications, as determined by the Personnel Director. The City may use any legitimate method to determine the qualifications of applicants, including without limitation, supplemental questionnaires, written tests, physical agility tests, oral examinations, panel interviews, assessment centers and oral interviews.

Section 5.09. Conduct of Examination. Each examination shall be conducted by the Personnel Director or his/her designee. Appropriate safeguards will be put in place to ensure fairness, prevent collusion and/or fraud in the examination process, and comply with testing provisions.

Section 5.10. Ratings of Results of Examination. The Personnel Director shall utilize appropriate techniques and procedures in rating the results of examinations and in determining the relative standings of the candidates. Candidates shall be required to attain a score of not less than 70 on the examination. In all examinations, the 70% used, representing the minimum passing score, need not be the arithmetic 70% of the total possible score but may be an adjusted score based on a consideration of the difficulty of the test, the quality of the competition, and the needs of the City service. Any such adjusted score shall be established before the identification of the candidates' examination papers. The final earned rating of each person competing in any examination shall be determined by the weighted average of the earned ratings on all parts of the examination, according to the weights for each part established by the Personnel Director, in advance of the conduct of the examination. On entrance examinations, the Personnel Director may set minimum qualifying ratings for each phase of an examination, and may provide that candidates failing to achieve such ratings in any phase shall be disqualified from any further participation in the examination.

Section 5.11 Preferences in Selection Processes.

Section 5.11.1. Oakland Residents Preference. A City of Oakland resident who competes in an open or promotional selection process for a position in the classified service shall be given an additional five percent (5%) on his/her final examination score, provided that he/she initially scores a passing grade on the examination and has been a City resident for a minimum of one (1) year as of the date of the establishment of the eligible list for that examination. This preference shall not apply to recruitments for sworn members of the Police and Fire Departments. The applicants must submit satisfactory written proof of residency as determined by the Personnel Director.

Section 5.11.2. Veterans' Preference in Examinations. A qualifying veteran who competes in an examination for a position in the classified service shall be given an additional five percent (5%) on his/her final examination score, provided that he/she initially scores a passing grade on the examinations. For purposes of this Rule and Rule 5.11.3, a "veteran" means any person who has served full time for 30 days or more in the armed forces in time of war, or in time of peace in a campaign or expedition or service in which a medal has been authorized by the government of the United States, or after January 31, 1955 for at least 181

consecutive days of active duty, who has been discharged or released under conditions other than dishonorable, but does not include any person who served only in auxiliary or reserve components of the armed forces, whose service did not exempt him from the operation of the Selective Training Act of 1940, nor those who have retired from the military service.

Section 5.11.3. Disabled Veterans' Preference in Examination. A qualifying disabled veteran who competes in an examination for a position in the classified service shall be given an additional 10% on his/her final examination score, provided that he/she initially scores a passing grade on the examinations. For purposes of this Rule, "disabled veteran" means a veteran who was disabled as a result of such service as referenced in the preceding Rule. *Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.* In order to qualify for this credit, the veteran must be capable of performing the essential functions of the position with or without reasonable accommodation.

Section 5.11.4. Seniority Credit. Credit for seniority shall be given for current employees who compete in promotional examinations. An employee with ten (10) or more years of active City service who successfully completes a promotional examination shall have five (5) points added to the final score. An employee with fewer than ten (10) years of active City service shall have up to a maximum of five (5) points, prorated based on the number of years of active City service, added to the employee's final score. Seniority points shall be calculated as of the date of the job announcement.

Section 5.12. Eligibility for Promotional Selection Processes. Promotions in the classified service shall be made on the basis of competitive selection process. Employees with post-probationary status who meet the requirements as set forth in the specification of the class for which the promotional examination is to be held, or who are employed in an appropriate class or classes of positions, shall be considered eligible to compete in such examination; provided that any permanent employee whose position has been reallocated shall be eligible to compete in any promotional examination held to fill the allocated position. Applicants shall meet the following requirements:

(a) They shall be employed in the classes of positions at the time of examination, or shall be upon the reinstatement list therefore, or shall be on leave of absence therefrom.

(b) They shall have maintained a record clear of any disciplinary action for a period of one year prior to the date of examination. However, the Personnel Director may declare, for legitimate reason, that such disciplinary action may not bar the applicant from taking an examination.

(c) They shall have maintained an overall service rating of standard or above for a period of at least one year prior to the date of examination. However, the Personnel Director may make exceptions in such cases where the efficiency of an employee has been rated below standard and who has improved his/her performance within the year to the standards desired by the department head.

Section 5.13. Scheduling of Promotional Examinations. Upon giving three days' notice to the immediate supervisor, and with the consent of the immediate supervisor, any City employee otherwise qualified may be permitted to take any City Civil Service examination during working hours, if the examination is scheduled during such period.

Section 5.14. Reordered Selection Processes. The Personnel Director may order an additional selection process in the event that all candidates in an open or promotional selection process fail, or in the event that there is an insufficient number of candidates on an eligible list which prevents the full certification of that list.

Section 5.15. Notice and Review of Results of Examinations. All persons competing in any examination shall be given notice of their final score or rating, or their failure to attain a place upon the eligible list. A promotional candidate may inspect his/her own examination papers and the grading thereof within a period of not to exceed 30 days after the Personnel Director or his/her designee has certified the eligible list. Candidates for open examinations do not have a right to inspect their examination papers. Information concerning the results of an examination shall not be made public until after the eligible list has been certified.

Section 5.16. Appeal of Examination Results. An appeal to the Board from the results of an examination or any of its parts may be based only on the following issues and only if the party bringing the appeal demonstrates by clear and convincing evidence that:

- (a) A mechanical error or error not involving judgment or discretion was made in grading, scoring, or computing, or
- (b) An examination grade or rating was the result of fraud or bias on the part of an examiner or rater.

Test content is not subject to appeal. By "clear and convincing evidence" is meant proof that is so clear, explicit and unequivocal as to leave no substantial doubt in a reasonable mind.

Any appeal hereunder must be filed with the Board no later than thirty days after the posting of the eligible list resulting from the examination in question. No person previously appointed shall be displaced by reason of such correction. The decision of the Board shall be final.

Section 5.17. The Establishment of Eligible Lists. From the reports of the scoring and rating of the selection process, the Personnel Director shall prepare or cause to be prepared an eligible list showing the names of candidates who have obtained ratings equal to or greater than the minimum required in any stage of the selection process., whose final earned rating is 70 or more, and who have been accepted as meeting all other requirements for eligibility, arranged in order of their relative percentages. The Personnel Director may determine the total number of persons who shall constitute the list of eligibles.

Eligible lists shall become effective upon approval by the Personnel Director. Open and restricted entrance eligibility lists shall expire one year from that date; and promotional lists shall expire two years from that date; unless extended or cancelled prior to the expiration of said time period by the Personnel Director. However, no list shall be extended for a period exceeding four years from date of original posting. When there is more than one eligible list for a particular class of position, the two lists may be combined and the names of eligibles may be entered on the combined list at the discretion of the Personnel Director. Any names occurring on combined lists shall be cancelled at the date on which the original list from which they came would expire.

In the event a promotional or restricted entrance eligible list has fewer than four names to be certified to the appointing authority, the appointing authority may request that the list be cancelled and a new selection process be held. Upon receipt of such request, the Personnel Director may proceed with the selection process and compile an eligibility list with sufficient persons on the list in order to certify a minimum of four names for the position vacancy. In the alternative, the appointing authority may request to review alternative lists including a transfer list or an eligibility list for comparable classes.

Section 5.18. Kinds of Eligible Lists. There are four kinds of eligible lists:

(1) Reinstatement list, consisting of employees who have been laid-off; (2) Promotional lists, from which promotions shall be made; (3) Employment lists, from which original entrance appointments shall be made, and (4) Transfer List, consisting of names of employees eligible of transfers.

Section 5.19. Reinstatement Lists. Permanent employees who are laid off shall be placed on a reinstatement list in reverse order of layoff in accordance with the provisions of Rule 12.04.

Section 5.20. Removal of Names from Eligible Lists. Names of eligibles will be removed from any eligible list for any causes as set forth in Section 5.06, and may be removed for any of the following:

- (a) has been appointed through certification from any such list to fill a vacancy in any department;
- (b) has refused certification without any satisfactory reason, failed to respond to timelines for certification or refused to accept an appointment offered him/her, without giving a satisfactory reason;
- (c) has waived certification three times to a permanent position in any given class;
- (d) has failed to respond to correspondence regarding availability for employment.

Section 5.21. Waiver of Appointment. After being offered an appointment, eligibles on any of the eligible lists may waive appointment, without losing their eligibility for future appointment, by filing a written waiver stating that they are not willing to accept appointment from the eligible list; provided, however, that

- (a) such waivers shall be filed within three working days of notification of certification, and satisfactory reason for the waiver shall be submitted;
- (b) such waivers may be withdrawn upon the written request therefore;
- (c) such waivers of appointment from a promotional eligible list shall not be permitted where the vacancy occurs within the department in which the eligible is then employed;
- (d) such waivers of appointment from promotional eligible lists may be accepted when an employee is on more than one eligible list and he/she has accepted appointment from one or the other of such lists.

Eligibles who are notified that they are being offered an appointment are required to respond to the Office of Personnel within five (5) working days of the date of notification. The Personnel Director may extend the time response period. Failure of an employee to respond within the time limits shall be considered a refusal of the offer of appointment. Eligibles who fail to possess and maintain the qualifications required by law and the terms of the position announcement shall forfeit their right to appointment.

Section 5.22. Restoration of Names to Eligible Lists. Names removed from any eligible lists may be restored thereto, for just cause, upon a request made in writing to the Personnel Director.

RULE 6

CERTIFICATION AND APPOINTMENT

Section 6.01. Power of Appointment and Types of Appointments. All appointments to positions in the classified service shall be made by the respective appointing authorities under and in conformity with the provisions of the City Charter and these Rules by original appointment, provisional appointment, limited duration appointment, reinstatement, re-employment, transfer or promotion.

There are three types of vacancies in the City service to be filled by appointments: permanent vacancies, temporary vacancies, and absences. Permanent vacancies shall be filled by regular appointments, when an individual is certified from an eligibility, reinstatement, re-employment or transfer list. Temporary vacancies and absences may be filled by (a) limited duration appointments, (b) provisional appointments, (c) temporary contract service employees, (d) exempt limited duration employees, or (e) temporary agency assignments.

Section 6.02. Procedure for Certification of Eligibles to Fill Vacancies. In order to fill any classified position, the following two prerequisites must be met: 1) an authorized budgeted position must exist; and 2) the position must be vacant.

Whenever a vacancy is to be filled other than by transfer, demotion or re-employment, the appointing authority may request certification of the names of the persons eligible for reinstatement or appointment to the class of position for which the vacancy exists. Upon receipt of this request for certification, the Personnel Director shall make certification from the list for the appropriate class in the following order: (1) reinstatement list; (2) promotional list; (3) restricted entrance list; (4) original entrance list. If no appropriate eligible list exists, the Personnel Director may certify from such other list(s) as he/she deems most appropriate.

In case of certification from a reinstatement list, the Personnel Director shall certify the names in rank order on the list. If no reinstatement list exists, the Personnel Director shall certify, whenever possible, the top ten ranks on the eligibility list for the vacancy, with an additional rank for each additional vacancy. However, fewer persons may be certified if there are less than ten ranks on the eligibility list.

Section 6.03. Selective Certification. The eligibles certified shall be the highest ranking eligibles willing to accept employment. However, the appointing authority may require additional and special qualifications and experience for the position. In that event, notice shall be provided to the eligibles that the appointing authority desires to pass over for appointment any eligibles who do not possess such qualifications, including a brief statement of the reason for the need for such qualifications.

Section 6.04. Certification to Position in Lower Class. An eligible on an entrance or reinstatement list may, with the approval of the Personnel Director, be certified to a class of position lower than that for which he/she was examined, provided such position is one having similar duties and responsibilities and provided further, that no eligible list exists for the lower class. Acceptance of such position shall not defeat the eligible's rights to be certified to the class of position for which he/she was originally examined.

Section 6.05 Provisional Appointments. The Personnel Director shall have the power to make provisional appointments, in the absence of an eligible list, for any position in which a vacancy may occur. No such provisional employment shall continue after the establishment of an eligible list, nor for more than 120 calendar days in any event. Provisional appointees are required to participate in an examination and achieve a reachable rank on the eligibility list in

order to be permanently appointed to fill the vacancy.

In cases where the appointing authority desires to fill a vacancy by provisional appointment of a regular City employee having permanent status, such employee may be so appointed provided that he/she is eligible to compete in the examination for that vacancy.

Section 6.06. Limited Duration Appointments. Whenever a department requires emergency assistance because of a special project, employees' absence due to sick or other leave or vacation relief, or a temporary increase in the workload, appointments of a limited duration may be made as follows.

(a) Provisional appointment A provisional appointment may be made in accordance with Rule 6.06.

(b) Temporary Contract Service Employee An employee may be appointed in a temporary contract service employee classification and may serve for a maximum of 960 hours per fiscal year and may be one of two types of assignments. Employees may be assigned to a division or a project on a regular basis up to the maximum of 960 hours in a fiscal year; or, assignments may be on an occasional or short-term (less than 30 days) basis. These assignments usually require specialized skills. This classification may not be used for on-going or repetitive use. Temporary Contract Service Employees may not be placed in permanent employment without successfully competing in an examination process.

(c) Exempt Limited Duration Employees This classification is intended to meet the City's need to fill positions with: (a) limited funding cycles of one year or less; (b) special projects that are longer than 6 months in duration, yet still short-term; or (c) positions where the duties and responsibilities have not been fully defined. Exempt Limited Duration appointments may not exceed one year. Exempt Limited Duration employees may not be placed in permanent employment without successfully competing in an examination process.

(d) Temporary Agency Assignments. The Office of Personnel may contract with temporary agencies to provide temporary services in the event of an emergency, a special project or under unusual circumstances when help is needed immediately and for short duration. If temporary personnel are required for more than 30 days, it is preferable to make a provisional or limited duration appointment. Temporary agency assignments may not exceed 120 days. *Temporary agency employees are not City employees.*

Such limited duration appointments delineated above shall not attain permanent status. Such positions shall be deemed "at will." At will positions are not subject to the job protections described in these Rules, including process and rules for recruitment, discipline, termination, probationary periods, testing and appointment from eligible lists. The employment of at will personnel may be terminated at any time, for any legal reasons, and without any requirement of demonstrating "good cause." At will employees and temporary agency personnel have no right to appeal any discipline or termination. A person serving in a limited duration appointment shall serve the City only for such time-limited period as is determined by the City. However, if a person serving in such appointment works more time or is retained in excess of this time period, the person does not acquire permanent status as a civil service employee of the City.

Section 6.07. Transfer of Employees. An appointing authority may at any time re-assign any employee under his/her jurisdiction from one position to another position in the same class. The appointing authority may also, with the approval of the Personnel Director, transfer an employee to a position of a similar class for which the maximum rate of pay is the same.

The transfer of a classified employee from a position under the jurisdiction of one

appointing authority to a position under the jurisdiction of another appointing authority may be made with the consent of the employee and the approval of the Personnel Director and the consent of the appointing authorities concerned, provided the positions are in the same or similar class.

Any transfer of an employee from a position in a lower class to a position in a class carrying a higher maximum salary shall be deemed a promotional appointment, and shall be accomplished only in the manner provided in these Rules for making promotional appointments.

Any transfer of an employee from a position in a higher class to a position in a class carrying a lower maximum salary shall be deemed a demotion, and may be effected only in the manner provided in these Rules for making demotions.

An appointing authority, with the approval of the Personnel Director, may at any time reassign an employee who has a disability to a vacant position for which the employee is qualified as a reasonable accommodation to the employee, in accordance with the City's policies and applicable law. Such reassignments shall have priority over any individuals on existing eligible lists.

Section 6.08. Transfer List. Any permanent classified employee may request a transfer from one department to another, provided the employee meets the qualifications for the position. A transfer list may be maintained and employees may, upon written application to the Personnel Director, have their names made available to department heads for consideration of appointment to vacancies for which they would be eligible as defined by these Rules. Names of employees may also be placed on the transfer list upon request of the department head concerned (with the notice of the employee). Vacancies may, with the consent of the department head, be filled from the transfer list.

Section 6.09. Re-employment After Resignation. Any permanent employee who has resigned from service in good standing shall, upon his/her written request, be considered for re-employment to a position in the same or similar class in the classified service, within two years of the date of such separation. A longer period of time from separation date to re-employment may be approved by the Personnel Director and appointing authority, for highly qualified former employees and for positions where recruitment is difficult.

Such re-employment may be made without additional examination, and must have the approval of the appointing authority and the Personnel Director. Re-employment as herein defined, may take precedence over eligible lists; but in no way shall it be made mandatory for any appointing authority to re-employ former employees. Appointment shall otherwise be made in the manner as for original employment as defined in other sections of these Rules.

Section 6.10. Nepotism Policy. No employee, prospective employee, or applicant shall be improperly denied employment or benefits of employment on the basis of marital status with another employee or official of the City (except as provided in the section 907 of City Charter).

Notwithstanding the above, the City retains the right to take appropriate steps to avoid inappropriate working relationships among relatives, including married persons. For administrative purposes, a relative shall be defined as a spouse, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law, sister-in-law or any other individual related by blood or marriage. The City retains its rights to:

(a) Refuse to place one party to a relationship under the direct or indirect supervision of the other party of a relationship.

(b) Refuse to place both parties to a relationship in the same department, division, or facility when such action has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.

(c) Disqualify one party to a relationship for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.

(d) Effect a transfer in the event the City learns of circumstances described above.

RULE 7

PROBATIONARY PERIOD

Section 7.01. Probationary Period. Every person appointed or promoted to a permanent position in the classified service shall serve a period of probation while occupying such position, which shall be considered as part of the test of fitness. The probationary period shall be an essential part of the examination process, and shall be utilized to observe the employee's work. During the probationary period, an employee may be rejected if his/her performance does not meet the required standard. The employee is not entitled to be provided with a reason for such rejection from probation. A probationary employee shall have no rights of tenure and may be terminated without cause and without any right of appeal. Probationary periods do not apply for any position which is designated as "at will;" such positions are terminable at any time with or without cause.

Section 7.02. Duration of Probationary Period. For entrance appointments, the duration of such appointments shall be for a period of twelve consecutive months of actual service.

The probationary period for persons appointed on a promotional basis shall be six months of actual service.

Former employees who are re-employed under the provision of these Rules shall serve a probationary period of six months of actual service.

An employee accepting a regular entrance appointment who has served on a limited duration appointment in the same class immediately prior to his/her regular appointment shall have that period of time counted as part of the probationary period.

An employee accepting a promotional appointment who has served a limited duration appointment (LDA) in the same class immediately prior to regular promotional appointment shall have the time served as a LDA counted as part of his/her promotional probationary period.

Section 7.03. Extension of Probationary Period. The appointing authority, with the approval of the Personnel Director, may extend the probationary period up to ninety (90) days in the event the City has any legitimate question regarding the employee's continued employment. Notice of such extension shall be given to the employee prior to the scheduled end of a probationary period.

Section 7.04. Interruption of Probationary Period. Periods of time during unpaid absences shall automatically extend the probationary period by the number of days of the absence. Further, periods of time on paid leave exceeding ten (10) working days shall extend the probationary period by the number of days the employee is on such leave.

If an employee is laid off during the probationary period and subsequently reappointed to the same class of position, the employee shall be given credit for the portion of probationary service previously completed in that class of position.

If an employee is transferred during the probationary period from one position under one appointing authority to a position under another appointing authority, the second appointing authority shall grant credit for the portion of the probationary period previously completed.

Section 7.05. Performance Rating During Probationary Period. Department heads shall prepare performance appraisals at regular intervals for employees serving probationary periods and shall file such performance appraisals with the Personnel Director. The appointment of the employee shall be deemed to be complete at the expiration of the probationary period if the employee's performance has been deemed to be satisfactory. In the event the employee's performance has not been deemed satisfactory, the appointing authority shall notify the Personnel Director and the employee that his/her services will be terminated no later than the final date of the probationary period.

Section 7.06. Removal or Demotion of Employee During the Probationary Period.

At any time during the probationary period, an employee may be removed from his/her current position by the appointing authority, providing that:

(a) Upon removal by the appointing authority, such probationer's name shall be removed from the eligible list from which he/she was certified, and he/she shall be considered permanently separated from that position without right of appeal.

(b) If the employee has served in the City in another position in the competitive service, and reinstatement is approved by the appointing authority, the employee shall be notified by the Personnel Department in writing, that he/she may be reinstated to the prior classification from which promotion was made. The employee has five working days from date of notification to respond in writing to the Personnel Director regarding his/her wish to be so reinstated.

(c) Reinstatement to the former classification is entirely within the discretion of the appointing authority who shall consider the circumstances of the employee's removal from the most recent appointment and the employee's work record in determining whether to approve the reinstatement.

(d) If reinstatement is approved by the appointing authority, the employee shall be appointed to a vacant position in the former classification. However, if no vacancy is immediately available, the City is under no obligation to create an additional position for the employee.

RULE 8

EMPLOYEE PERFORMANCE APPRAISALS

Section 8.01. Employee Performance Appraisals. The City shall require employees in the classified service to undergo performance appraisals on at least an annual basis. Such performance appraisals shall be considered in connection with eligibility for advancement, layoff, reemployment, promotion, demotion, dismissal from service, or as a recommendation for reduction in pay within the salary range for the classification, and in other decisions relating to the status of employees. The performance appraisal system shall be a means whereby employees may review their performance with their supervisors, and for ascertaining and encouraging the

improvement in service by employees, and in providing effective supervision of employees. The Personnel Director shall prescribe appropriate forms and procedures for completing performance appraisals.

Section 8.02. Participants in the Performance Appraisal Process. The performance appraisals shall be prepared by a rating supervisor and reviewed by a reviewing supervisor, each of whom shall be designated by the department head in each department. The rating supervisor shall be the person immediately responsible for the work of the employee. The reviewing supervisor shall be the next higher supervisor in line of authority above the rating supervisor who has personal knowledge of the work and performance of the employee. The Personnel Director shall be responsible for instructing the rating and reviewing supervisors regarding the performance appraisal process.

Section 8.03. Placement in Personnel Files. Completed performance appraisal forms shall be maintained in employee personnel files. The employee has a right to review his/her own performance appraisal(s). Employees may submit rebuttals to their performance appraisals within 20 working days of receipt of the performance appraisal. Such rebuttals shall also be maintained in the personnel files with the performance appraisal forms. Employees have no right to appeal statements or ratings made in performance appraisals.

RULE 9

VACATIONS AND LEAVES OF ABSENCE

Section 9.01. General Provisions regarding Leave.

Section 9.01.1. Employees are expected to be at work at scheduled times. To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work by notifying their supervisors or Department Heads whether such absences are chargeable to sick leave, vacation or other type of leave. Leaves shall be subject to approval by the Department Head and scheduled in advance whenever possible, with due regard for the City's service need.

Section 9.01.2. The City may employ any reasonable measure to ensure employees are properly accounting for leaves, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of sickness supporting a request for sick leave. The City may require a fitness for duty certification from any employee returning from leave and may require that the employee be examined by a City-retained physician for the purpose of determining whether the employee is capable of performing his/her duties and returning to work. Abuse of leave privileges, including working for a secondary employer while on sick leave, may subject an employee to loss of sick leave privileges and disciplinary action, up to and including termination of employment.

Section 9.01.3. Leave benefits are available only to employees in the classified service, but are not available to seasonal, temporary or emergency employees or to exempt part-time employees. Employees who work on a permanent part-time basis in a classified position and who have worked at least 50 percent or more of each normal work week are eligible for the same leave benefits as regular full-time employees based on a proration of average hours worked.

Section 9.01.4. Employees eligible for leave shall accumulate leave from the date of the employee's initial appointment to a full-time, regular or probationary position.

Section 9.02. Available Leave Categories. The City provides the following leave categories: (a) vacation; (b) sick leave; (c) family medical leave; (d) pregnancy disability

leave/parental leave; (e) on-the-job injury leave; (f) family death leave; (g) military leave; (h) jury duty leave; (i) management leave; (j) executive leave; (k) administrative leave with pay; (l) personal leave without pay; (m) family death leave; (n) holiday; (o) compensatory time off; (p) school leave, as well as other leaves mandated by law.

Section 9.03. Vacation.

Section 9.03.1. Accrual. Employees accrue vacation at the following rates, except as otherwise specified in an applicable MOU:

(a) During the first four calendar years of service, vacation shall accrue at the rate of 10 days per year;

(b) During the fifth through twelfth years of service, vacation shall accrue at the rate 15 days per year, plus one extra day during the 5th and 10th anniversary years for those years only;

(c) During the thirteenth through fifteenth years of service, vacation shall accrue at the rate of 18 days per year, plus one extra day during the 15th anniversary year for that year only;

(d) During the sixteenth through nineteenth years of service, vacation shall accrue at the rate of 19 days per year,

(e) During the twentieth through twenty-fifth years of service, vacation shall accrue at the rate of 20 days per year, plus one extra day during the 20th and 25th anniversary years for those years only;

(f) During the twenty-sixth through twenty-ninth years of service, vacation shall accrue at the rate of 25 days per year,

(g) After completion of thirty years of service, vacation shall accrue at the rate of 30 days per year, plus one extra day during the 30th anniversary year and at subsequent 5-year anniversary intervals for those years only, i.e., the 35th and then the 40th.

Vacation accrues biweekly. On an emergency basis, employees may take vacation time in less than one-half day increments. All vacation time used shall be charged by the actual hours taken.

For purposes of computing the rate or accrual of vacation leave, a break in service of less than two years shall have no effect. A break in service in excess of two years shall mean that the employee shall be treated as a new employee, for purposes of computing accrual of vacation.

An employee who works under the four-day workweek plan shall accrue vacation leave on the same basis as he/she would accrue vacation under the five-day workweek schedule.

Section 9.03.4. Notice. Employees shall give at least two (2) weeks notice of a vacation request, unless the vacation is three days or less, in which case notice shall be at least one (1) week in advance of the requested leave. Scheduling of vacations must be made in consideration of departmental workload.

Section 9.03.5. Payment for Unused Vacation at Separation or Upon Commencement of Extended Military Leave. Upon termination of City service or commencement of extended military leave, an employee shall be paid in a lump sum for accumulated unused vacation subject to the following provisions. No employee, or employee's estate, shall be paid or unused vacation in excess of forty-seven (47) working days.

Section 9.03.6. Vacation Sell Back. Employees may choose to be paid for up to five (5) days of vacation in a calendar year instead of taking the days as vacation time, if they have met both of the following conditions:

- (a) Have accumulated vacation days in excess of their annual vacation entitlement at the end of the calendar year; and
- (b) Have already taken a minimum of 10 vacation days within that calendar year.

Employees can only buy back vacation days during the month of January

Section 9.04. Sick Leave.

Section 9.04.1. Sick Leave with pay. Employees shall not accrue sick leave credit until they have three months of service. Thereafter, each employee shall accrue sick leave at the rate of one working day of sick leave per one month of service. For purpose of this rule, one month of service shall mean thirty (30) calendar days.

Section 9.04.2. Sick leave usage is not a "right." Rather, sick leave may only be used in cases of actual sickness or disability. Employees unable to report to work must notify their immediate supervisors not later than one hour before work is scheduled to begin, if possible, or by whatever method is established by the supervisor. Failure to do so is cause for denying sick leave with pay.

Section 9.04.3. Sick leave with pay shall not be granted to an employee who is absent from duty due to an injury incurred while working for an employer other than the City.

Section 9.04.4. Unless otherwise provided in an applicable MOU, if an employee is determined to be eligible for disability retirement, the employee shall not be permitted to exhaust paid sick leave balances prior to retiring.

Section 9.04.5. Sick Leave Usage for Family Illness. In accordance with applicable law, an employee may use a minimum of one-half of his/her annual sick leave allotment to attend to an illness of a family member. For purposes of this Rule, the family members shall include: mother, father, husband, wife, domestic partner, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, grandchildren in the custody of the grandparents who are City employees. In special circumstances involving the illness of a person who has raised the represented employee in lieu of a natural parent, the Department Head may consider granting family illness leave under this Rule to the affected employee. The Department Head may require the employee to provide a medical certification from the treating physician of the family member to verify the need for the employee to utilize sick leave to attend to the illness of the family member.

Section 9.04.6. Accumulation of Sick Leave Credits. Unless otherwise specified in an applicable MOU, unused sick leave may be accumulated, not to exceed one hundred and fifty (150) working days. Sick leave credits accrued under this provision shall be expressed in hours.

An employee who is granted leave without pay for a period of thirty (30) calendar days or more shall not earn sick leave credits for such time, unless otherwise provided in these Rules or in an applicable MOU.

Section 9.04.7. Disposition of Sick Leave Credits of Terminated Employees. Except as hereinafter set forth, if an employee separates from City employment or is terminated for any reason whatsoever, all accumulated sick leave shall be cancelled. However, such employee who

returns to work with the City within one year of such termination shall be again credited with the amount of accumulated sick leave he/she had at the time of termination. An employee who is re-employed or reinstated in this manner shall earn sick leave at the rate of one working day per month, unless his/her previous service with the City amounted to less than three months service.

If an employee with not less than ten years total City service, uninterrupted by a single period of absence in excess of one year, separates from City employment or is terminated for any reason, he/she shall be paid a lump sum for one-third of any accumulated unused sick leave at the rate of pay at time of separation.

Section 9.04.8. Sick Leave Without Pay. In the event paid balances are exhausted, employees may be placed on sick leave without pay if circumstances so warrant and within the discretion of the Department Head. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay (unless the leave qualifies for Family and Medical Leave as set forth in these Rules).

Section 9.04.9. Return to Duty from Extended Sick Leave. For employees returning to duty after extended sick leave, medical clearance may be required from a City-retained physician prior to the employee's return to duty. Persons on sick leave may be required to be evaluated by a City-retained physician to aid the City in determining their anticipated return to duty date.

Section 9.04.10. Accommodation for Employees with Disabilities. If an employee believes he or she has a disability, the employee may request a reasonable accommodation for that disability in accordance with City policy. Such requests should be submitted to the employee's Department Head. The Department Head or designee from the Equal Employment Opportunity Office may engage in an interactive process with the employee to determine an appropriate accommodation for the employee in accordance with applicable law. If, in the opinion of the City, an employee is unable to perform his/her work properly due to illness or injury, the City may direct that the employee undergo a fitness for duty examination by a City-retained physician. If the physician finds that the employee is physically or mentally unfit to perform the duties of the position, the City may consider a reasonable accommodation for the employee, may compel such employee to take a leave of absence, may provide for a disability retirement if the employee is eligible or may separate the employee for medical reasons in accordance with these Rules.

Section 9.05. Family and Medical Leave/Paid Family Leave. The City will provide family and medical care leave for eligible employees in accordance with the requirements of the Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA") and pursuant to City policy. In addition, employees who pay into State Disability Insurance are eligible for Paid Family Leave in accordance with applicable law and City policy.

Section 9.06. Pregnancy Disability Leave/Parental Leave. The City shall provide pregnancy disability leave to eligible employees in accordance with applicable law and City policy. After the employee's pregnancy disability ends, the employee may be eligible for CFRA leave to care for the newborn, in accordance with applicable law and City policy.

Section 9.07. On-the-Job Injury Leave. Employees suffering injuries in the course and scope of their work shall be entitled to workers' compensation benefits in accordance with state law.

Section 9.07.1. If it is determined that the illness or injury is work-related, and the employee has over three years of regular service with the City, the employee may receive full pay from the first day of his/her absence up to a specified number of working days, equal to three times the employee's accumulated sick leave at the time of the injury. If the employee has less

than three years of regular City service, the employee will receive full pay for 60 working days. There is no charge against the employee's sick leave in either situation.

Section 9.07.2. If the employee has had an extended illness of 21 continuous calendar days or more within two years from the date of the work-related injury, those sick leave days will be restored to the employee's accrual balance only for the purpose of calculating workers' compensation leave. If the employee remains disabled beyond the period of entitlement, the employee may use accumulated sick leave and vacation. When the employee has exhausted these benefits, the employee is eligible for temporary disability only.

Section 9.07.3. Combining Workers' Compensation Benefits and Sick Leave. Except for public safety officers covered by Labor Code section 4850, when an employee is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, he/she shall become entitled to leave of absence while so disabled, for a period not to exceed ninety (90) calendar days and such leave shall not be deducted from his/her accumulated sick leave. However, such leave shall not be at full pay, but shall be in such amount as, when added to his/her workers' compensation benefits, will result in a payment equal to the employee's full salary or wage. Such leave, if interrupted by return to duty, shall in no event exceed ninety (90) calendar days for each injury or illness.

If the specific disability continues with or without interruption for a period in excess of ninety (90) calendar days, such employee may thereafter take as much of his/her accumulated sick leave as, when added to his/her workers' compensation payments, will result in a payment to the employee of not more than his/her full salary or wage. The accumulated sick leave shall be reduced in proportion to the amount of salary or wage paid in excess of the workers' compensation payments and shall be computed on a working-day basis. If the employee elects to receive thereafter only the workers' compensation benefits, the employee must so advise the Personnel Director within seven (7) days before the first payment of salary chargeable to his/her accumulated sick leave is made. If the employee does not so elect, he/she shall receive his/her full salary to the extent of his accumulated sick leave, and his accumulated sick leave will be reduced in proportion to the amount of salary or wages paid in excess of the workers' compensation payments. When the employee's accumulated sick leave is exhausted, he/she still is entitled to receive workers' compensation benefits as provided by law.

Section 9.07.4. Fitness for Duty. When an employee seeks to return to work after being on injury or illness leave, the employee must provide medical certification that he/she is physically able to perform the duties of his/her position. The City may require the employee to undergo a fitness for duty examination before returning to work.

Section 9.08. Return from Disability Retirement. If an employee retires for disability and thereafter the disability ceases, to the extent that the employee is able to perform the duties of his/her position held on the date of disability retirement, and the employee is otherwise qualified for the position, and the position is vacant, the employee shall be entitled to return to the vacant position or to a vacant position within the same class as that occupied at the time of retirement and shall be entitled to such other privileges as are provided in these Rules.

Section 9.09. Family Death Leave. The City shall grant a leave of absence with pay for up to five (5) working days when a member of the employee's immediate family dies. Such leave shall not be charged against vacation or sick leave.

"Immediate family" means mother, father, husband, wife, domestic partner, parent of spouse or domestic partner, child (including step-child or child of domestic partner), sibling, grandparent or grandchild. In special or unusual cases, the department head, with the approval of the Personnel Director, may grant a family death leave to allow an employee to attend funeral or

memorial services for someone other than those included within the definition of the immediate family. It is the intent of this provision to cover the kind of situation in which someone other than immediate kin has raised the employee, or due to unusual circumstances has a very close relationship with the employee.

If the employee experiences extreme hardship relating to the death, an additional day off may be granted, with the approval of the department head. The department head or Personnel Director may require some proof that a death in the family has occurred.

Section 9.10. Military Leave. Military leave shall be granted in accordance with applicable state and federal law and City policy.

Section 9.11. Management Leave (FILL IN).

Section 9.12. Executive Leave (FILL IN).

Section 9.13. Jury Duty. Employees summoned by state or federal court to mandatory jury duty shall be paid regular salary during the period of jury service. Employees must keep their supervisors informed of jury service schedule, and shall provide proof of jury service to the City upon request. Employees may retain any fees or allowances received for such jury service.

Section 9.14. Administrative Leave with Pay. The City in its discretion may place an employee on administrative leave with pay. Employees on such leave shall be subject to the City's instructions during their normal working hours.

Section 9.15. Personal Leave Without Pay.

Section 9.15.1. To be eligible for a personal leave without pay, an employee must make a written request for the leave to his/her department head at least five (5) working days prior to the requested leave, stating specific reasons for the request.

The department head, in his/her discretion, may permit or require employees to be on personal leave without pay for a maximum of three (3) working days. However, no employee shall be granted more than five (5) working days of such leave without pay in any one calendar year.

For personal leave without pay in excess in three (3) working days, employees must obtain permission from the appointing authority, subject to the approval of the Personnel Director. Permission for such leave must be obtained in writing. A leave of absence may be extended, upon the recommendation of the appointing authority and the approval of the Personnel Director. In no event shall a leave of absence in excess of one year be granted.

Section 9.15.2. Reasons for Which Leaves of Absence without Pay May Be Granted.

Leaves of absence without pay may be granted for reasons which, in the opinion of the appointing authority and the Board, appear to be proper and in the best interest of the City, including, but not limited to, the following:

(a) To permit the employee to receive additional education of such nature that will improve the employee's job performance with the City;

(b) To permit the employee, because of his/her particular abilities or special competence, to assist another governmental jurisdiction, and which in a direct way will enhance the prestige of the City;

(c) To permit the employee to take care of urgent personal business which cannot feasibly be accomplished by someone else.

(d) To permit the employee to take an exempt position in the City service.

(e) To permit the employee to retain promotional and seniority rights to his permanent position upon accepting appointment to a classified position in the City service under a program financed in whole or in part by Federal or tax exempt foundations.

Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay. Employees shall be entitled to take personal leave without pay when required by applicable law.

Section 9.16. Holidays.

Section 9.16.1. The City observes the following legal holidays.

- (a) New Year's Day
- (b) Martin Luther King Jr. Birthday
- (c) President's Day
- (d) Memorial Day
- (e) Independence Day
- (f) Labor Day
- (g) Admission Day
- (h) Veteran's Day
- (i) Thanksgiving Day
- (j) Day After Thanksgiving
- (k) Christmas

Floating Holiday (one eight-hour holiday per fiscal year).

Section 9.16.2. Legal holidays falling on a Saturday are observed on Friday. Legal holidays falling on a Sunday are observed on Monday. To qualify for holiday pay, employees must be on paid status on the regularly scheduled workday before and after the legal holiday, unless the absence is with the written permission of the City, or due to illness. Holidays occurring during an employee's vacation will be treated as a paid holiday.

Floating holidays are subject to supervisory approval and may not be carried over to another fiscal year, and are lost unless used prior to the end of the fiscal year.

When an employee's assigned work schedule requires him/her to work on both December 24th and December 31st, the employee is entitled to one of the following: (a) one half of the workshift as paid time off on both of the above days; OR (b) one full workshift as paid time off

on either of the above days. If the employee's regular work week schedule is Monday through Friday, and December 24th and December 31st occurs on a Saturday or Sunday, the employee is entitled to one of the following: (a) one-half of the workshift as paid time off on both the Friday preceding Christmas Eve and the Friday preceding New Year's Eve; OR (b) one full workshift as paid time off on either the Friday preceding Christmas Eve or the Friday preceding New Year's Eve.

Section 9.17. School Activities Leave. Employees who are parents, guardians or grandparents having custody of a child in kindergarten through grade 12, or attending a licensed child day care facility, may take up to forty (40) hours per year, not exceeding eight (8) hours in a month, to participate in the child's school activities. The employee must use accrued vacation or a floating holiday for this leave. Employees must give their supervisor notice at least four (4) workdays prior to the planned absence. The employee shall use existing vacation, personal leave, or time off without pay for purposes of the school activities leave. If requested by the employee's supervisor, the employee shall provide documentation from the school or day care facility as proof that the employee participated in the school activity on a specific date and time.

Section 9.18. Voting Time. Time off with pay to vote in any general, direct primary or presidential primary election shall be granted as provided by state law. Employees must give prior notice to their immediate supervisors of their need to take such time off.

Section 9.19. Other Authorized Leaves With Pay. In addition to those leaves absence with pay which are provided for elsewhere in these Rules, a leave of absence with pay may be granted to an employee under special circumstances which, in the opinion of the appointing authority, make it in the best interests of the City to grant such leave with pay, or which are required by applicable law. In no case shall leave with pay be granted in excess of three (3) working days in any calendar year. To be eligible for a personal leave of absence with pay, an employee must have served the City continuously for a period of not less than six months and the employee's work performance must have been satisfactory.

RULE 10

WAGE AND HOUR BENEFITS / OVERTIME

Section 10.01. The City is committed to observing all of its obligations under the Fair Labor Standards Act ("FLSA"). These Rules, as well as all applicable provisions in the Memoranda of Understanding and all City pay practices, shall comport with, and shall be interpreted to ensure the minimum requirements of the FLSA.

Section 10.02. The City designates as "FLSA Exempt" those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA. Except when necessary to address an emergency or special circumstances, employees who are entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a supervisor. In any event, employees shall report overtime work as soon as possible after the work is performed in no event later than 24 hours. Violations of this Rule may result in discipline, up to and including termination of employment.

NEW RULE 11

ATTENDANCE / MEAL PERIODS / REST PERIODS

Section 11.01. Workweek. The basic workweek for full time employees shall be forty (40) hours per week, in a seven-day period. The workweek commences at 12:01 a.m. every Sunday a.m., and is a regularly recurring seven (7) day period ending at 12 Midnight every Saturday p.m.

Section 11.02. The City shall establish and may modify regular working hours for its employees. The City may require employees to work overtime and to perform standby responsibilities. Employees shall be responsible for reporting to work on time, and observing the work schedule established for their department.

Section 11.03. Meal Periods. Unless otherwise established for a department or particular employees, employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated. During the meal period, the employee shall be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday.

Section 11.04. Rest Periods. Unless otherwise established for a department or particular employees, employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the department director. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated time. The rest periods may not be combined or used to shorten the workday – e.g., by taking a break at the beginning or end of the workday.

RULE 12

LAYOFF, RESIGNATIONS, SEPARATIONS

Section 12.01. Layoffs. Whenever, in the sole judgment of the City Council, it becomes necessary to abolish any position due to a reorganization, lack of work or funds, or abandonment of activities, the employee holding said position may be laid off or demoted in accordance with these Rules. Layoffs shall be on a City-wide basis by prescribed classification. The criteria applied in the particular employees to be laid off shall be those specified in Rule 12.02. Employees who have been laid off shall have no right to appeal the layoff decision.

Section 12.02. Layoff Procedure. When a position classification has been abolished due to a layoff, the first order of layoff shall be the following: emergency, seasonal, temporary and probationary employees.

In implementing layoffs, the appointing authority shall first communicate with the Personnel Director regarding the class of position to be considered. The appointing authority shall then obtain from the Personnel Director a list of the employees, compiled on City-wide basis, who will be affected by the layoff, together with the combined score for efficiency and seniority of each permanent employee to be laid off. Copies of same shall be provided to those other appointing authorities whose employees may be involved. A permanent employee shall be notified in writing at least ten (10) working days prior to the date of layoff, and the notice shall contain the reason therefore. The appointing authority shall thereafter render a written report to the Personnel Director, on a form prescribed by the Director, stating the name or names of the employees to be laid off.

The method for computing layoff points shall be as follows:

(a) Seniority Credit. Credit in the class of layoff shall be granted at the rate of one point for each month of service in that class. Credit in a class that has been abolished, combined, divided, or otherwise altered shall be granted at the same rate when the Personnel Director

determines that such class was equal to or higher in level than the class of layoff, Otherwise, credit for service in such class shall be computed at the rate of one-half point per month. Service that is less than full time shall receive seniority credit on a pro-rata basis.

(b) Efficiency. Performance ratings shall also be considered in computing layoff points, as follows. If an employee receives an "overall" performance rating of "Unacceptable" any time within the twelve months preceding the layoff decision, thirty-six (36) points shall be deducted from the employee's layoff points. If an employee receives an "overall" performance rating of "Needs Improvement" any time within the twelve months preceding the layoff decision, twelve (12) points shall be deducted from the employee's layoff points.

(c) Order of Layoff When Combined Scores are Equal. As between two or more employees having the same combined score for efficiency and seniority at their last evaluation, the order of layoff shall be determined by giving preference for retention in the following sequences: (1) the employee who achieved an overall "exceeds expectation" performance rating in the preceding twelve months shall have preference over an employee who achieved a "fully effective" performance rating or lower rating; (2) the employee with the greatest actual time in class in which the layoff is being made and in classes with the same or higher maximum salary shall have preference; (3) the employee with greatest total time in City service shall have preference; (4) the employee who received the highest score on the entrance examination in the classification shall have preference; and (5) the employee whose application for the position in the subject classification was first received shall have preference.

Section 12.03. Reversion to Former Classification. City employees who possess permanent status in one classification and who, either through open or promotional examination, are appointed to a position in another classification, in the event of layoff from that class, shall have the right to be reinstated to a position in their former classification. This right shall extend to both personnel with tenure in a class so affected, and to individuals serving probationary periods in such class at the time of layoff. To implement the foregoing, the employee in the lower classification with the least number of seniority and efficiency points shall be laid off.

Section 12.04. Reinstatement List. Full-time permanent employees who are laid off will have their names kept on a reinstatement list for two (2) years from the date of layoff. Names shall be placed on the reinstatement list in reverse order of layoff. The reinstatement list will be used by the City when a vacancy arises in the same or lower classification of position in the department where the layoff originally occurred. The City shall use this list before any other eligible list and before seeking general applications from others. The name of any permanent employee on a reinstatement list who has remained on the list for two full years shall be removed from the list and that person shall lose all civil service status. The City, in its discretion, may extend the active period of the reinstatement list. A permanent employee reinstated to duty on a permanent basis in a department other than the one from which laid off shall serve a new probationary period.

Section 12.05. Return of Laid-off Probationary Employees to Eligible Lists. Probationary employees who have been laid off will not have their names placed on a reinstatement list. Rather, they will may have their names restored to the eligible list from which they secured appointment, in the order of their original general score on such list; provided, however,

(a) If the eligible lists from which such persons received appointment have expired or been canceled, the probationary employee shall have no reinstatement rights;

(b) Such persons whose names have been restored to an eligible list may have their name transferred to an appropriate list, from such date and in such order as the Personnel

Director may determine.

(c) All probationary employees who have been laid off and reinstated to a new position in the same class shall complete their probationary period in that class. Probationary employees who are reinstated to a new position in a different class must serve the entire probationary period required in that class.

Section 12.06. Resignation. Employees are free to resign from their employment, but are encouraged to give at least two (2) weeks notice. A resignation becomes effective upon the City's receipt of a written notice of resignation. If no written resignation is tendered, but a resignation is indicated orally, a resignation becomes effective upon the City's notice of acceptance of the resignation. Once a resignation becomes effective, it is irrevocable except that the Personnel Director may, in his/her discretion, permit a resignation to be rescinded. The City may, in its discretion, require employees separating from City employment to undergo an exit interview with the Personnel Director.

Section 12.07. Service Retirement. Any person who is in regular employment who shall retire under the provisions of applicable retirement laws shall be deemed, for the purposes of these Rules, to have been separated from City service in good standing.

Section 12.08. Medical Separation. An employee who becomes unable to perform the essential assigned functions of his/her position due to a disability or other medical condition may be medically separated. Prior to medical separation, the City will determine what accommodations, if any, will be reasonably provided to the employee in accordance with City policy and applicable law, and may determine whether the employee may be eligible for disability retirement, if appropriate. An employee who is medically separated is eligible for special reemployment procedures as set forth in Section 12.09.3. Except by mutual consent, an employee shall not be medically separated while on any authorized leave of absence.

Section 12.08.1. Proof of Disability. Proof of the employee's disability is required and is subject to verification by the City. When the City requests a medical opinion as verification of disability, the City shall pay the reasonable costs of the medical examination(s) requested.

Section 12.08.2. Notice of Intent to Medically Separate. If the employee has passed his/her probationary period, a written notice of intent to medically separate shall be given to the employee either by delivery of the notice to the employee in person or by placing the notice of intent in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. Proof of service shall accompany the notice of intent. The notice shall: (a) inform the employee of the action intended, the reason for the action and the effective date; and (b) inform the employee of the right to respond and to whom to respond within ten (10) calendar days from the date of issuance of such notice of intent, in accordance with the instruction given by the City in the written notice provided to the employee. After review of the employee's timely response, if any, the City shall notify the employee of any action to be taken. An effective date of separation shall be at least ten (10) calendar days after the date of issuance of the notice of intention to separate or timely receipt of the employee's response, if any, whichever is later. The employee shall have no right to a post-separation appeal.

Section 12.08.3. Reemployment. For a period of one (1) year following the date of medical separation, a medically separated employee may be selected for a vacant position within the class he/she occupied prior to separation without the requirement of going through a competitive selection process. In order to be eligible for reemployment, the medically separated employee must provide medical certification from a City-approved medical physician describing in detail the medically separated employee's ability to return to work, and the employee must otherwise meet the qualifications and requirements for the position.

Section 12.09. Separation Due to Absence Without Leave. If an employee is absent from work without authorization for five or more consecutive working days, such absence shall be treated as an "automatic resignation" and the employee may be separated.

Section 12.09.1. Notice of Intent to Separate Due to Absence Without Leave. If the employee has passed his/her probationary period, a written notice of intent to separate due to absence without leave shall be given to the employee either by delivery of the notice to the employee in person or by placing the notice of intent in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. Proof of service shall accompany the notice of intent. The notice shall: (a) inform the employee of the action intended, the reason for the action and the effective date; and (b) inform the employee of the right to respond and to whom to respond within ten (10) calendar days from the date of issuance of such notice of intent, in accordance with the instruction given by the City in the written notice provided to the employee. After review of the employee's timely response, if any, the City shall notify the employee of any action to be taken. An effective date of separation shall be at least ten (10) calendar days after the date of issuance of the notice of intention to separate or timely receipt of the employee's response, if any, whichever is later. The employee shall have no right to a post-separation appeal.

RULE 13

DISCIPLINARY ACTIONS, APPEALS AND HEARINGS

Section 13.01. General Rules of Conduct. It is expected that all employees shall render the best possible service and reflect credit on the City. Therefore, the highest standards of professional conduct are essential and expected of all employees.

Section 13.02. Disciplinary Actions. The City may invoke the following types of disciplinary actions:

- (a) Written Reprimand;
- (b) Suspension Without Pay;
- (c) Demotion;
- (d) Discharge/Termination.

Section 13.03. Grounds for Discipline. Any employee holding a permanent appointment in the classified service may be disciplined for good cause. City employees who are employed "at-will," or who are emergency, seasonal, temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals. Such employees may be disciplined without reference to these provisions.

Good cause exists, not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform his or her duties, causes other employees not be able to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee.

Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- (a) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City;
- (b) Dishonesty; knowingly furnishing false information in the course of the employee's duties and responsibilities;
- (c) Inefficiency, incompetence, carelessness or negligence in the performance of duties;
- (d) Violation of safety rules;
- (e) Violation of any of the provisions of these Rules, department rules and regulations, City policies, ordinances or resolutions;
- (f) Inattention to duty;
- (g) Tardiness or overstaying lunch periods;
- (h) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on City property, when called in for emergency duty;
- (i) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor; or interference or disruption of work or with supervisor's instructions (e.g., telling employees they do not have to do work assigned by supervisors)
- (j) Any violation of the City's Nondiscrimination Policy;
- (k) Unauthorized soliciting on City property;
- (l) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work;
- (m) Conviction of a felony, or a misdemeanor relating to an offense which has a connection to the employee's job, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform his/her job or brings discredit to the City. (For purposes of this section, a misdemeanor conviction does not include a conviction based on a plea of *nolo contendere*);
- (n) Discourteous or offensive treatment of the public or other employees;
- (o) Falsifying any City document or record;
- (p) Misuse of City property (including any personal use of City property, equipment or resources); improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property;
- (q) Fighting, assault and/or battery;
- (r) Theft or sabotage of City property;

- (s) Sleeping on the job, except as specifically authorized for twenty-four (24) hour duty personnel;
- (t) Accepting bribes or kickbacks;
- (u) Engaging in outside employment which conflicts with an employee's responsibilities;
- (v) Intimidation or interference with the rights of any employee;
- (w) Outside work which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service;
- (x) Failure to maintain the minimum qualifications for a position or a necessary license or certification specified for the position;
- (y) Abusive or intemperate language toward or in the presence of others in the workplace;
- (z) Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

Section 13.04. Authority to Discipline. Any authorized supervisory employee may institute disciplinary action for cause against an employee under his/her supervision in accordance with the procedures outlined in these Rules.

Section 13.05. Procedures for Disciplinary Actions. In the absence of a process in a MOU, employees covered by these Rules shall be governed by the following provisions:

Section 13.05.1. Written Notice/Pre-Discipline Meeting/Final Action.

A manager shall issue a written notice of discipline which describes the intended discipline and the basis for the discipline. The notice shall reference that the documents upon which the action is based are available for review and copying by the employee.

Discipline which is lesser in severity than a suspension of more than five (5) working days may be imposed at the time of the written notice of discipline. However, after a suspension without pay for five (5) days or less is imposed, the employee shall have the right to respond to the disciplinary action orally or in writing as set forth below within a reasonable period of time.

For discipline that is greater in severity than a suspension of five (5) working days, the manager shall issue a notice of intent to impose discipline which describes the intended discipline and the basis for the discipline and states that the documents upon which the action is based are available for review and copying by the employee. The notice shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed. The City shall set the pre-discipline meeting approximately one (1) week from the date of the notice, unless a different time and date is set by mutual agreement.

For discipline involving suspensions without pay, demotions or discharge, the manager, in coordination with the Personnel Office, shall designate a City official who is disinterested in the matter and who has authority to recommend discipline who shall convene a meeting to review the employee's response and position before imposing discipline. The employee shall be entitled to a representative of his/her choice. However, the inability of a particular representative to

attend the meeting shall not be cause requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any information for consideration by the City.

At some reasonable time after the employee has been provided an opportunity to respond to the charges, the designated City official shall issue a final notice of discipline. The notice shall include the final decision, the effective date of the discipline and the facts upon which the discipline is based. In cases involving suspensions of more than five days, demotions or discharge, after the final notice of discipline has been issued, the discipline shall be imposed. The notice may be given either by personal service or by mail. In the case of service by mail, the notice must be deposited in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. Proof of service shall accompany the notice of intent. Service is complete at time of deposit.

Section 13.05.2. Appeal of Disciplinary Action.

For discipline that is greater in severity than a suspension of five days, employees shall have the right to appeal from the final notice of discipline. The notice of appeal must be received by the Secretary to the Board within ten (10) calendar days from the date the final notice of discipline was served upon the appellant, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final. The appeal shall address each of the reasons for the disciplinary action enumerated in the written notice and may provide any relevant additional information.

The appeal shall be submitted to the Secretary to the Board. The Board shall decide whether it shall hear the appeal itself or whether the appeal shall be heard by an independent Hearing Officer. In cases in which the appellant has requested a public hearing, the Board shall hear the appeal.

Section 13.05.2.1. Procedures for Hearings by the Board. In the event that the Board decides to hear the appeal itself, the following procedures shall apply:

A hearing date will be set after the appeal is initially received by the Secretary to the Board. The request for appeal must contain the following items: (1) Cover sheet, including appellant's name, address, and telephone number; name, title, address, telephone number of appellant's representative, if any (Representative's telephone number will suffice in the absence of appellant's number); (2) A list of available Thursdays for hearing dates; (3) An estimate of the number of hours required for case presentation.

Appellant representatives and the City Attorney must provide two (2) complete hearing packets to the Board's secretary by at least one week prior to the scheduled hearing. Appellant's failure to provide such information may, at the Board's discretion, result in the rescheduling of the hearing. Packets must include the following items: (1) A chronology of events; (2) An agreed upon Statement of Facts; and (3) Statement of Facts in Dispute.

The City Attorney shall also present to the Board a copy of the Notice of Intent to Impose Discipline, and Notice of Discipline with accompanying materials. In the event the City Attorney and the Appellant's representative are unable to meet on the above items, the Appellant's representative must submit their version of the facts at least one week prior to the hearing.

The City Attorney and the Appellant's representative are required to meet at least one hour prior to the hearing to finalize exhibit packets which must include the following: (1) A list of exhibits, if any; (2) Pre-marked exhibits (if any exhibits are to be submitted) Additional exhibits may be submitted during the hearing, if they were not available to a party prior to the hearing.

No documents submitted to the Board for consideration shall be considered public records, unless consent to by all parties or otherwise required by law.

Good reason appearing therefore, the hearing may be continued beyond the date originally scheduled or recessed to a future date agreeable to the Board and the parties. However, if a continuance is requested by the appellant or his/her representative, and the Board shall later sustain the appeal, the Board may rule that the appellant shall receive no pay for the period of time during which such continuance was granted.

Hearings shall be closed to the public unless the appellant requests a public hearing in writing. In the event that a hearing is public, upon motion of a directly interested party, the Board may exclude from the hearing room any witnesses not at the time under examination, except that a party to the proceeding and his/her counsel cannot be excluded.

Hearings shall be tape-recorded. Copies of the tape will be available to the appellant, if desired, for no charge. Transcripts of the taped proceedings will be available upon request at the requesting parties' expense. Board subpoenas will be issued upon the request of either party. Subpoenas may be secured by contacting the Secretary to the Board.

The Board shall convene the hearing, receive evidence through testimony and documents and make findings of fact and conclusions about the discipline. Technical rules of evidence shall not apply. However, all testimony and exhibits must be relevant to the issues in contention, and the Board may exclude any evidence which it deems to be irrelevant. The Board shall consider and rule on any objection by either party. Closing arguments shall be oral; provided, however that either party may elect to submit a closing brief. Briefs are to be submitted to the Board within a time set by the Board. Briefs submitted after the deadline shall not be considered by the Board.

The Board will make no assumptions of innocence or guilt. The Board will be guided in its decision by the weight of the evidence as it appears to it at the hearing.

The Board has the power to sustain or not sustain the discipline, reduce or increase the discipline, award back pay and determine the extent of back pay to be awarded, if any, based on the circumstances, and take any other appropriate action. The Board's determination will be issued in writing, within thirty (30) working days of the conclusion of the hearing, unless post-hearing briefs are to be submitted, in which case the Board's determination will be issued within thirty (30) working days of timely receipt of the post-hearing briefs. Copies of the Board's determination shall be forwarded to the appellant and his/her representative, City Attorney's Officer and the affected City department. The Board's decision shall be the final decision of the City but is reviewable by writ of mandamus in accordance with applicable law.

Section 13.05.2.2. Procedures for Hearing by a Hearing Officer. In the event that an appeal is to be heard by a Hearing Officer, the following procedures shall apply.

The Hearing Officer shall be selected by the Board in accordance with selection procedures established by the Board which ensure that the Hearing Officer is independent, neutral and un-biased.

Hearings shall be closed to the public. The costs of the Hearing Officer shall be borne by the City. Hearings shall be tape-recorded. Copies of the tape will be available to the appellant, if desired, for no charge. Transcripts of the taped proceedings will be available upon request at the requesting parties' expense.

The Hearing Officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. Closing arguments shall be oral; provided, however that either party may elect to submit a closing brief following the presentation of closing arguments. Briefs are to be submitted to the Hearing Officer within twenty (20) calendar days of the close of the hearing. Briefs submitted after the deadline shall not be considered by the Hearing Officer.

The Hearing Officer shall render written findings and recommendations to the Board within thirty (30) calendar days of the close of the hearing. If post-hearing briefs are submitted, the recommendation shall be submitted to the Board within thirty (30) calendar days after timely receipt of the brief(s).

The Hearing Officer shall provide the Board the following documents, which shall constitute the official hearing record: (1) A summation page delineating the case name; issue; brief summary of the case; and his/her recommendation; (2) a complete written report documenting the findings; (3) any documentary evidence, written motions and briefs submitted; (4) the cassette tape(s) of the hearing.

Civil Service Board Responsibilities. After receiving a Hearing Officer's recommendation, the Board Secretary shall schedule the case for the next available Board meeting. The Board will make every effort to schedule a case within thirty (30) days of receiving the Hearing Officer's recommendation.

In reviewing a decision, the Board shall review the hearing record and may review the cassette tape of the hearing. The Board's decision shall be made in accordance with Ordinance No. 8979, as amended, which requires a majority of a quorum to accept, reject, or modify an appeal.

The Board's determination will be issued in writing, within ten (10) days of the conclusion of the Board's review of the Hearing Officer's recommendation. Copies of the Board's determination and the recommendation of the Hearing Officer shall be forwarded to the appellant and his/her representative, City Attorney's Officer and the affected City department. The Board's determination shall be the final decision of the City but is reviewable by writ of mandamus in accordance with applicable law.

RULE 14

INCOMPATIBLE ACTIVITY OF CITY EMPLOYEES

Section 14.01. A City officer or employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with his duties as a City officer or employee, or with the duties, functions or responsibilities of his appointing authority or any aspect of City operations.

Section 14.02. During the workday, employees are expected to devote their full time in

the performance of their assigned duties as City employees. Any outside work, part time job, hobbies or personal business must be performed during off duty hours. Off duty hours include unpaid lunch break periods, but do not include other rest or break periods during which the employee continues to receive pay.

Section 14.03. Employee shall not perform work for compensation outside of his/her City employment where any part of his/her efforts will be subject to approval by any officer, employee, board or commission of the City, unless the employee obtains the approval of his/her department head.

Section 14.04. No officer or employee of the City shall solicit or accept, for self or family, favors, benefits, gifts or gratuities under circumstances which might be construed by reasonable persons as influencing the performance of the employee's governmental duties. The City utilizes the limits imposed by the Fair Political Practices Act (\$50 as of January 2002) as a measure of what is presumptively inappropriate under this policy.

Section 14.05. Employees who violate this Rule shall be subject to disciplinary action up to and including termination, and, where appropriate, may be subject to criminal charges.

NEW RULE 15:

MISCELLANEOUS

Section 15.01. Word Usage. The term "City" as used in these Rules refers to the City of Oakland. Responsibilities and rights of the City under these Rules are exercised by the Board, and may be delegated by the Board in its discretion. Duties assigned to the Personnel Director under these Rules may be delegated by the Director in his/her discretion.

Section 15.02. Savings Clause. If any part of these Rules is determined to be illegal or unconstitutional, such part shall be severed from these Rules and the remaining Rules shall be given full force and effect.

710825

PERSONNEL MANUAL

CIVIL SERVICE BOARD

City of Oakland, California

September 1971

TABLE OF CONTENTS

<u>RULE</u>	<u>DEFINITIONS</u>	<u>SECTION</u>	<u>PAGE</u>
	Glossary of Terms	1.01	1
<u>RULE 2</u>	<u>ORGANIZATION, RULES, AND PROCEDURES OF THE CIVIL SERVICE BOARD</u>		
	Creation of the Board	2.01	5
	Appointment and Terms of Board Members	2.02	5
	Compensation of the Board	2.03	5
	Election of President	2.04	5
	Removal of Board Members	2.05	5
	Meetings of the Board	2.06	5
	Administrative Procedure	2.07	5
	Appointment and Duties of Personnel Director	2.08	6
	Appeals to the Civil Service Board	2.09	6
	Procedures to be Used on Appeals and Hearings	2.10	7
<u>RULE 3</u>	<u>CLASSIFICATION PLAN</u>		
	Classified Service	3.01	8
	Definition of Classification Plan	3.02	9
	Titles of Positions	3.03	10
	Official Copy of Classification Plan	3.04	10
	Administration and Maintenance of the Classification Plan	3.05	10
<u>RULE 4</u>	<u>APPLICATIONS, EXAMINATIONS, AND ELIGIBLE LISTS</u>		
	Applicants for Examinations	4.01	12
	Names of Applicants Withheld	4.02	12
	Eligibility to Compete in Examinations	4.03	12
	Information to be Furnished on Applications	4.04	12
	Age and Physical Requirements	4.05	12
	Proof of Age, Citizenship, and Military Service	4.06	13
	Basis for Rejection of Applications	4.07	13
	Announcement of Examinations for Promotion and Original Employment	4.08	13
	Notice on Announcement of Examination Parts	4.09	14
	Type and Scope of Competitive Tests	4.10	14
	Scheduling of Promotional Examinations	4.11	14
	Eligibility for Promotional Examinations	4.12	14
	Seniority on Promotional Examinations	4.13	16
	Ascertained Merit on Promotional Examinations	4.14	16
	Reordered Examinations	4.15	16
	Conduct of Examinations	4.16	16
	Ratings of Results of Examinations	4.17	16
	Veterans' Preference in Examinations	4.18	17

	<u>SECTION</u>	<u>PAGE</u>
Disabled Veterans' Preference in Examinations	4.19	17
Notice of Results of Examinations	4.20	17
Review of Examination Papers	4.21	18
The Establishment of Eligible Lists	4.22	18
Kinds of Eligible Lists	4.23	18
Names of Persons Which May be Placed on Eligible Lists	4.24	18
Declaration of Alternative Eligible Lists	4.25	19
Laid-off (Reinstatement) Lists	4.26	19
Return of Laid-off Probationary Employees to List	4.27	19
Removal of Names from Eligible Lists	4.28	19
Waiver of Appointment	4.29	20
Restoration of Names to Eligible Lists	4.30	20

RULE 5 CERTIFICATION AND APPOINTMENT

Power of Appointment and Types of Appointments	5.01	20
Certification of Eligibles to Fill Vacancies	5.02	20
Procedure for Certification to Fill Vacancies	5.03	21
Selective Certification	5.04	21
Limit on Certifications	5.05	21
Certification to Position in Lower Class	5.06	21
Temporary Appointments	5.07	22
Limited Duration Appointments	5.08	22
Transfer of Employees	5.09	22
Re-employment of Former Employees	5.10	23
Medical Examination Prior to Appointment, Reinstatement, or Re-employment	5.11	23

RULE 6 PROBATIONARY PERIOD

Probationary Period	6.01	23
Duration of Probationary Period	6.02	24
Interruption of Probationary Period	6.03	24
Performance Rating During Probationary Period	6.04	24
Removal or Demotion of Employee During the Probationary Period	6.05	24

RULE 7 EMPLOYEE SERVICE RATINGS AND REPORTS

Establishment of System of Employee Service Ratings and Reports	7.01	25
Official Copy of Employee Service Rating Plan	7.02	25
Participants in Employee Service Rating Procedure	7.03	25
Assistance by the Personnel Director	7.04	26
Open Records of Employee Service Ratings	7.05	26

RULE 8 VACATIONS AND LEAVES OF ABSENCE

Vacation Leave, Authority for	8.01	26
---	------	----

	<u>SECTION</u>	<u>PAC</u>
Sick Leave - General	8.02	29
Maternity Leave	8.03	31
Injury on Duty	8.04	31
Leave of Absence on Disability Retirement	8.05	32
Family Death Leave.	8.06	32
Miscellaneous Leaves of Absence	8.07	33
Return to Duty Following Leave	8.08	34
Authorization to Approve Leaves	8.09	34
Military Leave of Absence.	8.10	34

RULE 9 SENIORITY, LAYOFF, CHANGE IN STATUS, RESIGNATIONS

Layoffs	9.01	35
Layoff Procedure	9.02	35
Resignations	9.03	36
Retirement	9.04	36
Demotion on Account of Physical Incapacity	9.05	36
Incompatible Activity of City Employees	9.06	37
Investigations by the Board	9.07	37

RULE 10 DISCIPLINARY ACTIONS, APPEALS, AND HEARINGS

Disciplinary Action	10.01	37
Procedure in Disciplinary Actions	10.02	38

RULE 11 RECORDS, REPORTS, AND NOTICES

* Notice to Board of Appointments, etc.	11.01	39
Official Roster	11.02	39
Access of Department Records	11.03	39
Records Open to the Public	11.04	39
Disposition of Records	11.05	39
Official Written Notice by Board	11.06	40

RULE 12 CERTIFICATION OF PAYROLLS

Certification to Auditor-Controller	12.01	40
Effect of Classification and Allocation on Payment	12.02	40

RULE 13 PROHIBITIONS AND PENALTIES

Frauds Prohibited	13.01	40
Penalty	13.02	41

RULE 14 EMPLOYEE-MANAGEMENT RELATIONS

Objectives of Employee-Management Relations Program	14.01	41
---	-------	----

	<u>SECTION</u>	<u>PAGE</u>
Establishment of Employee-Management Committee	14.02	42
Functions of Employee-Management Com- mittee	14.03	42
 <u>RULE 15 SAVINGS CLAUSE</u>		
Savings Clause	15.01	42
INDEX A.		44
INDEX B.		62
INDEX C.		68

RULE I

DEFINITIONS

Section 1.01 - Glossary of Terms. The words and terms described in this section, to the extent that they are used in the Rules and elsewhere in documents, relating to Civil Service processes shall have, unless the context otherwise requires, the following meanings:

- (a) Allocation - the official determination of the class in which a position in the classified service shall be deemed to exist and the assignment of such position to the appropriate class in the classified service.
- (b) Applicant - a person who has filed application for examination.
- (c) Appointing Authority - any official or group of officials having authority to make appointments to or cause a removal from any position in a specified department, division or office of the City government.
- (d) Appointment - the designation of a person, by due authority, to become an employee in a position, and his induction into employment in such position.

Regular Appointment - appointment to a position made from an eligible list.

Provisional Appointment - appointment for not more than one hundred twenty days to a position in the absence of an eligible list as provided for in Charter Section 803. (C.S. Res. 40885 - 9/30/69).

Limited Duration Appointment - appointment from an eligible list to a position created for a specific purpose and in which the appointment will be terminated after a definitely described period of time.

- (e) Ascertained Merit - maintaining an acceptable degree of efficiency on the job in order to participate in promotional examinations.
- (f) Board - the Civil Service Board of the City of Oakland.
- (g) Candidate - a person participating in an examination.
- (h) Charter - the Charter of the City of Oakland.
- (i) Class or Class of Positions - a definitely recognized kind of employment in the City service designated to embrace all positions sufficiently similar with respect to the duties, authority and responsibilities, and in which (a) similar requirements as to education, experience, knowledge, ability or other qualifications are required of incumbents; (b) similar tests of fitness may be used in choosing qualified appointees; and (c) a similar compensation schedule may be made to apply with equity and uniformity.

- (j) Classification Plan - an orderly arrangement of titles and descriptions of positions under separate and distinct classes in the classified service.
- (k) Classified Service - all positions now existing or hereafter created in or under any of the City departments, boards or commissions enumerated by the City Charter, but not including those positions specifically excepted from the operation of the Civil Service Rules by Sections 30, 80, 87.5, and 219 of the City Charter, or otherwise excepted from the Rules of Civil Service.
- (l) Class Title - the designation given to a class, to each position allocated to such class and to the incumbent of any such position. Its meaning is set forth in the corresponding general duties statements in the class specifications, and it is always to be used and understood in that sense, even though it may previously have had a broader, narrower or different significance.
- (m) Compensation - the salary and wages earned by or paid to any employee in remuneration for services in any position, but does not include allowances for expenses authorized and incurred as incident to employment.
- (n) Compensation Plan - a series of schedules of salaries and wages established for the several classes of positions in the classification plan, and the method of administration.
- (o) Competitive Examination - an examination, either assembled or un-assembled, in which one or more candidates are in competition, either with each other or against a standard established by the Board as the minimum acceptable which candidates must possess in order to competently perform the duties of a position.
- (p) Demotion - a change of an employee in the City service from a position of one class to a position of another class for which a lower schedule of pay is prescribed.
- (q) Discharge or Removal - the separation of an employee from his position in accordance with the provisions of the Charter.
- (r) Eligible - a person whose name is recorded on an eligible list or laid-off list.
- (s) Eligible List - any of the lists of names of persons who have been found qualified through suitable examination for employment in a specific class of position in the classified service arranged in the order of their relative percentages.
- (t) Employee - a person legally occupying a position in the City service, and shall include the designation "Officer".
- (u) Examination - all the tests of fitness, taken together, that are applied to determine the eligibility of applicants for positions of any class in the classified service.

Assembled Examination - an examination in which applicants are

called together in one or more designated places to compete in tests according to procedures established and controlled by the Civil Service staff.

Unassembled Examination - an examination in which applicants are subject only to general controls as to the manner in which required material is submitted to the examining staff for review and rating, and usually not involving the calling of applicants together.

- (v) Final Earned Rating - the final percentage attained by a candidate in an examination as computed from the percentage earned in each part of such examination.
- (w) Laid-off (Reinstatement) List - an eligible list of names of persons, arranged in the order as provided by these rules, who have occupied positions in the classified service, who have been separated from the classified service and who are entitled to have their names certified to appointing authorities under the provisions of these rules.
- (x) Layoff - the separation of a non-probationary employee from the classified service without fault or delinquencies on his part and by reason of lack of work or funds, resulting in the placement of his name on a laid-off list.
- (y) New Position - a position created through the authorized addition of a position not previously existing.
- (yy) Part-time Employee - a person occupying a position in the City service under one of the following:
 - (a) Classified - employee working in a classified position on a permanent basis, working less than the normal hours of the normal work week for that department.
 - (b) Exempt - employee working in an exempt position on a part-time basis.
- (z) Permanent Employee - an employee who has satisfactorily completed a probation period and whose regular appointment has been approved by the appointing authority.
- (aa) Position - an individual place of employment in a particular class.
 - Limited Duration - a position created for a specific purpose or an urgent need contemplating a limited duration.
 - Exempt - a position not included in the classified service by reason of Charter exception or Board resolution.
 - Permanent - a position in the classified service which has required or which is intended to require, the services of an incumbent without interruption for a period of more than 120 calendar days.
 - Temporary - a position in the classified service which has required, or which will require, the services of an incumbent for a period not to exceed 120 calendar days.

- (bb) Promotion - the change of an employee in the classified service from a position of one class to a position of another class in the same or similar series, for which a higher maximum rate of pay is provided in the compensation plan.
- (cc) Promotional List - a list of names of persons arranged in order of relative percentages, as provided by these rules, who have been found qualified for promotion to a higher position or positions.
- (dd) Reallocation or Reclassification - the reassignment or change in allocation of an individual position by raising it to a higher, reducing it to a lower, or moving it to another class of the same level on the basis of significant changes in the kind or difficulty of duties and responsibilities in such position.
- (ee) Redesignation - the designation of the incumbent in a position without affecting his status in the position in event of a title change.
- (ff) Re-employment - the re-employment of a permanent employee who has resigned in good standing to a position in the same or similar class from which he resigned, within an allowable two-year period.
- (gg) Re-employment List - a record of the names of former employees who had obtained permanent status in the City service and who have requested the privilege of re-employment.
- (hh) Resignation - the separation of an employee from employment in a particular class of position, voluntary and complete on his part.
- (hhh) Restricted Entrance - an examination limited to specific full-time (exempt) employees of the City service who meet the minimum qualifications of the class to be examined. (C.S. Res. 41714 - 8/29/72)
- (ii) Separation - the leaving of an employee from a position in the City service for any reason.
- (jj) Series - a subdivision of a group in the classification plan, being a collection of classes in one occupational group having similar duties but usually at different pay schedules.
- (kk) Shall and May - "shall" is mandatory and "may" is permissive.
- (ll) Suspension - the temporary separation of an employee from his position with loss of pay as a disciplinary measure.
- (mm) Termination of Appointment - the separation of an employee from a position in the classified service, which separation as distinguished from a discharge or resignation, shall not affect the rights which the employee then has under the Charter or the Civil Service Rules.
- (nn) Test - one part of an examination.
- (oo) Weight - the fixed numerical value given to each part of an examination designating the relative worth and used in computing a general average. (C.S. Res. 38851 - 6/30/64)

RULE 2

ORGANIZATION, RULES AND PROCEDURES OF THE CIVIL SERVICE BOARD

Section 2.01 - Creation of the Board. The Civil Service Board heretofore established by the Charter shall be continued in effect; provided, however that from after July 1, 1953, the said Board shall consist of seven members. The two new members shall be appointed as in this section provided, except that one shall be appointed for a term expiring June 30, 1956, and one for a term expiring June 30, 1958. (Char. Sec. 70 - Amen. 1953) See ORD 8979CMS, pg 2.

Section 2.02 - Appointment and Terms of Board Members. At the expiration of the terms of any of the members of the said Board, one member shall be appointed by the Council, upon nomination by the Mayor, for a term of four years, to take the place of the member whose term shall have expired. If a vacancy occurs in the Board, it shall be filled by appointment by the Council, upon nomination by the Mayor, for the unexpired term. (Char. Sec. 70 - Amen. 1953)
See ORD 8979 composition and vacancy.

Section 2.04 - Election of President and Vice President. At the first meeting in July, the Civil Service Board shall elect one of its members as president, who shall be its executive officer, and one of its members as vice president, each to serve for a period of one year. Should the president be unable to fulfill his term for any reason, the vice president shall assume the unexpired term until the following July. If both the president and vice president are absent, the Board shall select a president, pro tem, who shall perform all the duties of the president. (C.S. Res. 41375 - 7/20/71)
See ORD 8979 - #3 Officers and Meetings.

Section 2.05 - Removal of Board Members. In cases of misconduct, inability or willful neglect in the performance of the duties of the office by any member of the Board, such member may be removed from office by the Council by an affirmative vote of six members; but such member of the Civil Service Board shall be given an opportunity to be heard by the Council in defense and shall have the right to appear by counsel and to have process issued to compel the attendance of witnesses who shall be required to give testimony if such member of the Civil Service Board so requests. In such cases the hearing shall be public and a full and complete statement of the reasons for such removal, if such member be removed, together with the findings of fact as made by the Council, shall be filed by the Council with the City Clerk, and shall be and become a matter of public record. (Char. Sec. 71 - Amen. 1931) See ORD 8979 - #2 Vacancy.

Section 2.06 - Meetings of the Board. Regular meetings shall be held every Tuesday at 4:00 p.m., or at such other times as the Board may fix. Special meetings may be held at any time when all members of the Board are present, with reasonable notice, or upon twenty-four hours previous written notice by the Personnel Director and Secretary to the Board, upon request of any member of the Board. The Director shall also inform interested parties when regular sessions of the Board are not to be held. All regular and special meetings of the Board shall be open to the public, except that, upon a unanimous vote, the Board may meet in executive session. (See ORD 8979 - #3 Officers and Meetings.)

Section 2.07 - Administrative Procedure. The Board shall make rules to carry out the purposes of this Article, and for examinations, appointments and promotions. All rules and all changes therein shall be forthwith printed by the Board for distribution. (Char. Sec. 73) See ORD 8979 - #4 Procedures.

The Board may by resolution from time to time prescribe the procedure for the administration of these rules and for carrying on of the work of the department. Three members of the Board shall constitute a quorum, and such quorum may exercise all the powers and authority conferred upon the Board and may, by unanimous vote of those members present, suspend these rules, provided that in no event shall any exemption be passed nor shall any rules be adopted, amended, or rescinded except by a unanimous vote of the entire membership of the Board after 7 days notice of such change.

The Council, whenever requested by the Board, may by ordinance confer upon the Board such rights, duties and privileges other than those mentioned in the Charter, as may be necessary adequately to enforce and carry out the principles of Civil Service. (Char. Sec. 72 - Amen. 1931)

In the event that a rule change is promulgated by either the Civil Service Board or the City Manager and is not acted upon by the other party within a period of thirty calendar days after receipt, the rule will automatically become effective at the end of that period, unless a written request for an extension of time is submitted by either party. (C.S. Res. 42349 - 12/17/74)

Section 2.08 - Appointment and Duties of Personnel Director. The person appointed to fill the position of Clerk, provided for by Section 71 of the Charter, shall be the Ex-officio Personnel Director, and he shall also act as Secretary to the Board. In addition to the duties prescribed by the Charter, he shall, subject to the approval of the Board, direct and be responsible for the performance of the functions and activities of the Civil Service Department, as prescribed by the Board. The Board shall fix the compensation of the Personnel Director. (Char. Sec. 71 - Amen. 1931)

Section 2.09 - Appeals to the Civil Service Board. Any person suspended, fined, or discharged (and any person whose order of suspension has been revoked) may within ten days of the making by the appointing authority of the order suspending, fining or discharging him, or affirming or revoking an order of suspension, as the case may be, appeal therefrom to the Civil Service Board, which shall fully hear and determine the matter. The accused shall be entitled to appear personally, and to have counsel and a public hearing. The finding and decision of the Civil Service Board shall be certified to the appointing authority from whose order the appeal is taken, and shall forthwith be enforced and followed by said appointing authority. (Char. Sec. 82)

- (a) Any chief official, any subordinate officer and any superintendent or foreman in charge of municipal work may temporarily suspend any subordinate then under his direction for incompetency, neglect of duty or disobedience of orders, but shall within twenty-four hours thereafter report the facts in writing to the City Manager, Auditor or Board, as the case may be, and furnish a copy of the report to the subordinate suspended, upon his request therefor. The City Manager, Auditor or Board shall thereupon, if demanded by the subordinate suspended, hear evidence for and against him, and shall thereupon affirm or revoke such suspension according as he or it finds the facts to warrant. (Char. Sec. 81) In the case of a temporary suspension made in accordance with Section 81, paragraph 2 of the Charter, a copy of the report of the facts as therein required shall be transmitted to the Board forthwith.
- (b) When an employee has been suspended, ~~fined or~~ discharged from his position for any cause from which he has a right to appeal to the Civil Service Board, the appointing authority shall forthwith, upon the serving of the order of suspension, fine, discharge or removal upon the affected employee, transmit to the Board, upon forms approved by the Board.

- (1) A report of the suspension, fine or discharge, giving the date when the same takes effect;
- (2) A report setting forth the date, hours, and method of service of the notice of suspension, fine, or discharge;
- (3) Copies in triplicate of the full and complete specifications of the charges alleged to constitute the cause for suspension, fine, or discharge.

Section 2.10 - Procedures to be Used on Appeals and Hearings. Whenever a person who has been suspended, fined, or discharged desires appeal therefrom to the Board, the following order of procedure shall govern:

(A) Order of Procedure in Appeals:

- (1) The appeal must be filed in the office of the Board within ten (10) days from the date that notice of suspension, fine, or discharge was served upon the affected employee. Service of the notice of suspension, fine, or discharge shall be made in the manner provided by Section 11.06 of these rules. The effective date of service of the notice of suspension, fine, or discharge shall likewise be governed by the provisions of Section 11.06 of these rules.
- (2) The appeal must be submitted in writing, in triplicate, and if the appellant desires to waive a public hearing, such waiver must be in writing.
- (3) Upon the filing of an appeal, the appellant or his attorney shall be provided with copies of the specifications of charges, as provided in Section 2.09 (b)(3) of the rules.
- (4) Within seven days from the filing of this appeal, the appellant shall submit to the Board in writing his answer, in triplicate, to the specifications of the charges preferred against him, which answer shall state in full the reasons upon which the same is based. The time for filing an answer to the specifications of charges may be extended for a period not to exceed thirty days with written approval of the Personnel Director, the Civil Service Board, or the City Attorney.
(C.S. Res. 41926 - 4/10/73)
- (5) At the first meeting of the Board, after the filing of the appeal and the filing of the answer to the specifications of charges, the appeal shall be received and a date for the hearing shall be set, which shall be not less than seven days from the date such appeal was received by the Board.
- (6) Not less than five days before the date the appeal is scheduled for hearing, the Board shall send:
 - (a) A written notice giving the time and place of such hearing to the appointing authority, to the appellant or his attorney and to the City Attorney;
 - (b) A copy of the appeal and the appellant's answer to the specifications of charges to the appointing authority concerned.
- (7) After the hearing the Board shall render its decision, which may be (a) to sustain the action of the appointing authority concerned:

(b) to sustain the appeal; or (c) to modify or amend the penalty imposed.

(B) Information for Conduct of Hearings:

(1) All requests for appeal shall be directed to the President of the Civil Service Board and addressed to the department offices of the Board.

(2) Hearings on appeals may be open to the public. However, upon motion of a directly interested party, the President of the Board may exclude from the hearing room any witnesses not at the time under examination; except that a party to the proceeding and/or his counsel, or other persons conducting his case cannot be excluded.

(3) The Board shall determine the evidence upon the charges and specifications as set forth by the appointing authority, the appellant's answer, and shall consider any relevant evidence.

(4) The technical rules of evidence shall not apply. However, all testimony and exhibits offered must be relevant and bear upon the act of discharge or suspension, or other matter in contention. Any testimony or exhibits considered by the Board not to meet this criteria shall be excluded. The Board shall also consider the objection of either side to the introduction of evidence either oral testimony or exhibit. Competence and relevance shall be the primary test in ruling on such objections.

(5) The Board will make no assumptions of innocence or guilt, but will be guided in its decision by the weight of the evidence as it appears to it at the hearing.

(6) Good reason appearing therefor, hearings may be continued beyond the period originally scheduled or recessed until a future date agreeable to the Board and the parties (provided, however, that if such request is made by the appellant or his attorney of record and the Board shall sustain the appeal, the Board may rule that the appellant shall receive no pay for the period of time during which such continuance was granted).

RULE 3

CLASSIFICATION PLAN

Section 3.01 - Classified Service. The Board shall classify all places of employment now existing or hereafter created under the jurisdiction of the City Manager, in the office of the Auditor-Controller, in or under the Library, Museum, Park and Recreation Commissions, in and under the Board of Port Commissioners, under the jurisdiction of the Civil Service Board, in and under the jurisdiction of the City Attorney, excepting the place and officers specified in the Charter or otherwise excepted from the rules of Civil Service.

The places so classified by the Civil Service Board shall constitute the Classified Civil Service of the City, and no appointment to any such place shall be made, except according to the rules herein mentioned. (Char. Sec. 72 - Amen. 1931) (Also Sec. 54; Sec. 58; Sec. 65; Sec. 72a-72b; Sec. 88-88a; Sec. 89; Sec. 97c-97d-97e; Sec. 98; Sec. 99; Sec. 122.5; Sec. 219-219a.)

Section 3.02 - Definition of Classification Plan.

- (a) Classification of Positions: All positions in the classified service shall be grouped into classes, and each class shall include those positions sufficiently similar in respect to their duties, functions, and responsibilities so that similar positions may be assigned similar titles and embraced within the same class specifications, so that similar requirements as to training, experience, knowledge, skill, personal qualifications and same rates of pay are applicable. The purpose of such classification is to provide uniform standards, uniform pay scales and an orderly means of controlling and regulating the status of incumbents. It contemplates fixing titles of positions to their proper classes so that all positions with the same titles may be in the same class, and allocation of the classes or of positions to their respective salary grades or schedules according to a devised or designed pay plan.
- (b) Preparation and Content of Class Specifications: Class specifications defining the duties of all positions and the minimum qualifications for successful performance of such duties shall be prepared and maintained by the Personnel Director, subject to the approval of the Board. In addition to the qualifications as set forth in the class specifications, it shall be understood that all positions require ability to read, write, speak and understand the English language and to follow written and oral instructions, that all candidates possess sufficient physical and mental capabilities established by the Personnel Director, and that they must meet such medical standards as established by the City Physician; must have declared their intention to become United States Citizens; must be of a suitable age, and must possess loyalty and good moral character. (C.S. Res. 40661 - 11/19/68)
- (c) Interpretation of Class Specifications:
- (1) Purpose and Effect of Class Specifications: Each class specification describes the main characteristics and qualification requirements of positions in the class and gives examples of specific duties which employees holding such positions may properly be required to perform. The class specification is descriptive and explanatory, but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks of related kind or character or skills.
- (2) Performance of Higher Level Duties: When an employee is assigned to perform duties of a higher class for training purposes, the Personnel Director must be informed and such training is subject to his approval as to the individual working out of classification. The basis for approval shall be that benefit accrues to both the employee and the City as a result of this training. Such training shall not be of more than six months' duration. (C.S. Res. 38851 - 6/30/64)
- (3) Application of Specifications to Positions: In determining the class to which a position should be allocated, the specification of each class

shall be considered in its entirety and in relation to the specification of other classes in the classification plan; and the position shall be related to other positions of its kind in the City service.

(4) Statements of Minimum Qualifications: The statement of qualifications in a class specification is intended to be used in determining the admissibility of applicants to competitive examinations, as an aid in the preparation of such examinations, and for use in determining the relative value of positions in one class with positions in other classes. The Personnel Director, after consultation with the appointing authorities, shall recommend to the Board combinations of training and experience for the respective classes; and these recommendations, upon approval of the Board, shall become part of the class specification.

Section 3.03 - Titles of Positions. The class title of a position shall be used to designate such position in all budgets, payrolls, and other official records, documents, vouchers and communications in connection with all personnel transactions.

Section 3.04 - Official Copy of Classification Plan. The Personnel Director shall maintain a master set of all approved class specifications. Such class specifications as approved by the Board shall constitute the official class specifications of the classification plan.

The Personnel Director shall provide each appointing authority with a set of the class specifications. Such class specifications in the office of the Personnel Director or the department shall be open for inspection by the appointing authorities, the employees or the public under reasonable conditions during business hours.

Section 3.05 - Administration and Maintenance of the Classification Plan.

- (a) Responsibilities of the Personnel Director and the Board: The Board shall direct and the Personnel Director shall be responsible for the work of administering and maintaining the classification plan.

The Personnel Director shall recommend to the Board the reallocation of any position from one class to another class whenever a change in duties and responsibilities of such position makes the class to which the position is allocated no longer applicable. Any reallocation to be made shall be made with the knowledge of the employee concerned, his appointing authority, and the approval of the Board.

- (b) Reclassification of Positions: The Personnel Director shall have the right to initiate and conduct investigations of any and all positions in the classified service when he deems such investigation necessary, and shall recommend a change in classification where the facts are considered to warrant such action. In this connection the Personnel Director may at any time secure from any appointing authority or employees involved new statements of the current duties and responsibilities of positions under consideration. The appointing authority and employees concerned shall have reasonable notice and an opportunity to be heard by the Board before a change in classification becomes effective. Whenever any appointing authority proposes that a new position or new class shall be created, or that a significant change has been made in the duties, authority and responsibilities of an existing position, such appointing authority shall submit to the Personnel Director, the following information:

- (1) A full description of the duties and responsibilities of the position.
- (2) Suggestions as to the qualification requirements.
- (3) A suggested title.
- (4) A suggested salary schedule.
- (5) A statement regarding the duties and responsibilities of all positions in the department which may be affected by the creation of the new position.

In recommending the establishment of a new class, the Personnel Director shall submit to the appointing authority and to the Board, for its approval, a class title and specification for such classification. Upon the final adoption of the ordinance or resolution creating the position under the new classification, the Board shall thereupon classify the position by making the proper allocation.

If a position is reallocated to another class by reason of changed duties and responsibilities, the incumbent may, upon approval by the Board, continue in the position if the maximum rate of pay for the class of position to which the position is reallocated is not higher than the maximum rate of pay for the class of position to which it was formerly allocated. Any person whose position is so reallocated shall be placed upon the reinstatement list for positions of the same class as that from which he was so separated. In case a position, on account of additional duties and responsibilities, is reallocated to a class of position for which the maximum rate of pay is higher, it shall be filled by appointment from the reinstatement or eligible list for the class to which the position is reallocated. In the absence of such reinstatement or eligible list, the incumbent shall continue in the position until such time as a reinstatement or an eligible list shall have been created, from which the position can be filled.

- (c) Employee Requests for Classification Review: Any employee shall have the right to consideration by the Personnel Director of pertinent requests made by the employee, with respect to a change in the classification of his position. The employee shall make his request initially to the department head, who shall promptly seek to arrive at a solution consistent with the classification plan. Where the department head is unable to resolve such a request in a manner that the employee is willing to accept in writing, the matter shall then be submitted to the Personnel Director for review and such further action as he may deem appropriate.
- (d) Classification for Temporary Employment: Whenever temporary employment is provided for by the Council under Section 28-3 of the City Charter or by any board or commission, a copy of the resolution authorizing such temporary employment, and a statement of the duties and responsibilities and the salary schedule of the position shall be filed with the Board; and if immediate employment is urgent, a statement of

Section 3.06 - Provisional Rule for Treatment of Incumbents as Result of of Reclassification of Positions: In the event of a City-wide or department-wide classification study, the following treatment of incumbents of re-classified positions may take place:

- (a) Upgrading of Position: When a position is reallocated to a class of higher grade, the incumbent may be redesignated to the class of higher grade without examination providing he has performed the duties of the class for one year prior to the inception of the classification study. That he has performed these duties for a period of one year must be attested to by the Department Head and concurred in by the Personnel Director.
- (b) Downgrading of Position: When a position is reallocated to a class of lower grade, the incumbent may be redesignated to the position of a lower grade at no loss in benefits, including his salary at the time of the downgrading. The salary is "Y-rated" until such time as it becomes equivalent to the salary paid the class of work. The employee shall be placed on the laid-off list of his former class and shall have priority employment rights to the class of work from which he was downgraded for a period of two years from the date of the Board's action changing the classification.
- (c) Notification: When a position is reallocated to a class of a lower or higher grade, the incumbent shall be notified in writing at least two calendar weeks in advance of any action by the Civil Service Board.

(C.S. Res. 41201 - 12/15/70)

the reasons therefor shall also be filed, whereupon the Board may immediately classify such position of employment irrespective of the provisions of Section 3.05 of these rules.

- (e) Changes Requiring Formal Approval of the Board: The approval of the Board shall be obtained for the establishment of any new class, changes in class titles, and changes in minimum qualifications for current classes. Such changes shall take the form of amendments to the classification plan as provided under these rules.

(C.S. Res. 38851 - 6/30/64)

RULE 4

APPLICATIONS, EXAMINATIONS, AND ELIGIBLE LISTS

Section 4.01 - Applicants For Examinations. All applicants for places in the Classified Civil Service shall be subjected to examination, which shall be public, competitive and free. All applications for admission to entrance, restricted entrance or promotional examinations shall be made on blanks furnished by the Board. Applications or accompanying vouchers executed or dated more than thirty days before being offered for filing shall not be accepted. Application blanks of those who have received regular appointments shall be retained as permanent records. Application blanks of those whose names appear on an eligible list shall be retained during the life of the list.

(C.S. Res. 41714 - 8/29/72)

Section 4.02 - Names of Applicants Withheld. Names of applicants shall not be made public prior to examination, except by permission of the Board.

Section 4.03 - Eligibility To Compete In Examinations. The open competitive examinations shall, after public notice, be open to all applicants who meet the standards or requirements fixed by the Board, with regard to experience, age, education, physical condition, and such other factors as may relate to the ability of the candidates to perform with efficiency the duties of the position.

Standards of requirements shall be determined by the Board, upon recommendation of the Personnel Director, after conferences with the appointing authorities, with reference to education, experience, or physical condition which relate directly to the duties of the position to be filled. Candidates may be required, in filing their applications, to submit such certificates of general or special qualifications, conditions or attainment as the good of the service requires, consistent with the approved examination announcement.

SEE MOLL'S

Section 4.04 - Entry Level Examination Scores For City Of Oakland Residents. A City of Oakland resident competing in the Open and Entry Level examinations in the competitive service, except that of Police Officer, shall be given an additional five (5) percent on his/her score, provided he/she initially scores a passing grade on the examination. Residency shall be determined as of the date of certification of the Civil Service Eligible List for that examination, except where more stringent residency requirements are delineated by criteria for special programs funded by other than City funds.

(C.S. Res. 42896 - 8/24/77)

Section 4.04 - Information To Be Furnished On Application.

The applicant for original appointment shall answer and certify to the following on a form furnished by the Personnel Director: Full name, residence address, date of birth, history of health and physical capacity for the public service, education, and a complete employment history, and such other information as required on forms prescribed by the Personnel Director.

Section 4.05 - Age And Physical Requirements.

The Board may establish minimum and maximum age requirements for any examination, except as provided in Section 88 and 99 of the City Charter; which in the opinion of the City Physician and the Personnel Director must be met by all applicants for any examination, exclusive of promotional examinations.

Section 4.06 - Proof Of Age, Intent To Become Citizen, And Military Service.

- (a) Persons admitted to examinations may be required to submit satisfactory proof of age, residence, declaration of intent to become a citizen, military service, and such other proof of employability as the Personnel Director may request.

Section 4.07 - Basis For Rejection Of Applications.

The Personnel Director may refuse to examine an applicant, or after examination may refuse to certify an eligible who is found to lack any of the requirements as herein established for the position or employment for which he applies; or

- (a) Who does not come up to the physical standards required for the proper performance of the duties of the position to which he seeks appointment;
- (b) Who is addicted to habit-forming drugs, or to the habitual use of intoxicating beverages;
- (c) Who has been found guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct;
- (d) Whose past employment record is of such a nature that would indicate an unsuitability for public employment;
- (e) Who has resigned or been dismissed from public service for delinquency, incompetency, misconduct, or unsatisfactory service;
- (f) Who directly or indirectly shall give, render or pay, or promise to give, render or pay, any money, service, or other valuable thing to any person for, or in connection with his test, appointment or proposed appointment;
- (g) Who has practiced, or attempted to practice, any deception or fraud in his application, in his certificate, in his physical or mental examination, or in securing his eligibility or appointment;

- (h) Who has been certified for permanent appointment from an eligible list four times for the same or similar positions;
- (i) For such other reasons the Personnel Director may deem severe enough to render the applicant unsuitable for further public employment;
- (j) Whose personal and work performance as a City employee is below standard as indicated by formal City records. Upon one year of standard performance and upon recommendation of the appointing authority, the Civil Service Board may restore the employee's name to the eligible list for the remaining life of the list.

(C.S. Res. 42463 - 7/15/75)

(K) The Civil Service Board upon receiving recommendations from the Personnel Director shall have the right to accept or reject applicants for City of Oakland positions who have been convicted of felonious criminal activity. The Personnel Director may accept or reject applicants convicted of misdemeanors. In accepting or rejecting an applicant for a position with the City, the Civil Service Board and the Personnel Director shall take into consideration the following:

- (1) Whether or not the conviction is job related to the position the applicant is seeking;
- (2) The nature of level of the job he/she is applying for and the seriousness of the crime committed; and
- (3) Whether or not the applicant has demonstrated that he/she has changed their behavioral pattern for the better.

(C.S. Res. 42622 - 6/8/76)

Any false statement made by an applicant is cause for disqualification from the examination, or cause for discharge if employed. If such false statement does not come to the knowledge of the Personnel Director until the name of the applicant has been placed upon the eligible list, it shall at once be stricken therefrom. If, after he has been appointed to a position, such false statement shall be brought to the attention of the Personnel Director, he shall notify the appointing authority in whose department such person is employed, who shall, if said misstatement be on a material fact, summarily discharge the said person.

(C.S. Res. 38851 - 6/30/64)

Section 4.08 - Announcement of Examination For Promotional and Original Employment. Notice of examinations for promotion and original employment shall be given at least ten working days in advance of the last date for filing applications. Public notice of entrance examinations shall be posted in the office of the newspaper. Announcements of examinations for restricted entrance and promotion shall be supplied to each appointing authority, and he shall post such notices on the departmental bulletin boards. Dates for any examinations may be posted or canceled by order of the Board, if found desirable.

(C.S. Res. 41714 - 8/29/72)

Section 4.09 - Notice On Announcement Of Examination Parts. The announcement for examination shall list the separate parts of the examination, including written and/or oral, the competitive parts, the minimum education and experience required for application, and any other such information as is necessary to adequately inform prospective applicants. In any part of an examination, the minimum rating for which eligibility may be achieved will be established by the Personnel Director, in keeping with the provisions of Section 4.17 of these rules. All candidates shall be put on notice and may be required to attain at least the minimum rating in any such part in order to be placed on the appropriate eligible list.

Section 4.10 - Type and Scope of Competitive Tests. Original, restricted entrance and promotional tests may be assembled or unassembled, in part or in their entirety. (C.S. Res. 41714 - 8/29/72)

Such examinations shall be for the purpose of determining the qualifications of applicants for positions, and shall be practical and shall fairly test the fitness of the persons examined to discharge the duties of the positions to which they seek to be appointed. (Char. Sec. 74) Such tests shall take into consideration elements or requirements of education, experience, knowledge and skill, aptitude, character, personality, physical fitness and any other element or requirements pertinent to the job and the specifications, as determined by the Personnel Director. A personal interview may be given as part of any examination, for both entrance and promotional positions, to verify the evidence of the qualification requirement regarding the nature, duration, location, responsibility and compensation or any other information regarding past employment; and also as a basis for judgment of personal qualities, appearance, bearing, general adaptability, and any other such qualities or characteristics.

Section 4.11 - Scheduling of Promotional Examinations. The Board shall provide for promotion in the classified service on the basis of ascertained merit, seniority in the service, and standing upon competitive examination, and shall provide, in all cases where practicable, that vacancies shall be filled by promotion from among such members of the next lower rank established by the Board as submit themselves for such examination for promotion. The Board shall certify to the appointing power the names of not more than three applicants having the highest rating for each promotion. (Char. Sec. 77) Upon giving two days notice to his immediate superior and obtaining the consent thereof, any City employee otherwise qualified may be permitted to take any City Civil Service examination during working hours, if the examination is scheduled during such period, or to attend a meeting of the Board at which there is to be consideration of a matter specifically affecting his position, without deduction of pay or other penalty.

Section 4.12 - Eligibility for Promotional Examinations. In the case of a promotional examination, employees with permanent status who meet the requirements as set forth in the specification of the class for which examination is to be held, or who are employed in an appropriate class or classes of positions designated by the Board shall be considered eligible to compete in such examination; provided that any permanent employee whose position has been reallocated shall be eligible to compete in any promotional examination held to fill the allocated position. Applicants shall meet the following requirements:

- (a) They shall be employed in the classes of positions at the time of examination, or shall be upon the reinstatement list therefore, or shall be on leave of absence therefrom.
- (b) They shall have maintained a record clear of any disciplinary action for a period of one year prior to the date of examination; provided, however, the Board may declare that such disciplinary action may not bar the applicant from taking an examination.
- (c) Eligibility for promotion for members of the Police and Fire Departments shall be as follows:

RULE 4

Section 4.13 (a) - Seniority on Promotional Examinations

Credit for seniority shall be given candidates for promotional examinations, exclusive of sworn members of the Police and Fire Departments, as follows:

Electrical Employees

Credit shall be based upon the total time served in the City service based on the following:

Credit given for seniority shall be established on a minimum of 75 percent, to which shall be added the following percentages for years of service up to the maximum number of years as set forth:

For each year of the first 3 years of service	3.0
For each year of the next 6 years of service	1.5
For each year of the next 14 years of service	0.5

Other Non-Sworn City Employees

- (a) An employee who has completed ten (10) or more full years of City service and who successfully competes in a promotional examination shall receive an additional five (5) points maximum added to his/her final examination score.
- (b) An employee who has completed fewer than ten (10) years of City service shall receive an additional number of points, less than the five (5) point maximum cited in sub-section (a) above and prorated in accordance with his/her number of months of City service, added to his/her final score.

Section 4.13 (b) - Promotional Examination Scores for City of Oakland Residents

A City of Oakland resident, exclusive of sworn members of the Police and Fire Departments and electrical employees, who competes in a promotional examination in the classified service shall be given an additional five percent (5%) on his/her final examination score, provided that he/she initially scores a passing grade on the examination and has been a City resident for a minimum period of one (1) year as of the date of establishment of the Civil Service Eligible List for that examination.

- (1) Members of the Police and Fire Departments, holding appointments by assignment, shall be eligible for promotion from the position so held; provided that before or during their assignment tenure, (a) they have qualified within the range of certification, (b) they are on an eligible list for the position so held, and (c) they have, by continuity of appointment, completed the service period requirement provided for by these rules.
- (2) In computing the service period required for promotion in the Police and Fire Departments, both regular service and service on assignment, in the class of position from which promotion is to be made, shall be included if such service is continuous.
- (3) Promotional lines and periods of service for Police and Fire Department examinations are as follows:

LINES OF PROMOTION:

Law Enforcement (Police) Service

- 3 years as Patrolman - - - - - to Sergeant of Police
- 4 years as Patrolman or
- 4 years of any combination of service
- as Patrolman or Sergeant - - - - - to Inspector of Police
- 2 years as Inspector of Police,
- 2 years as Sergeant of Police, or
- 2 years of any combination of service
- as Inspector or Sergeant - - - - - to Lieutenant of Police
- 2 years as Lieutenant of Police - - - - - to Captain of Police

Firefighting Service

- 1 year as Hoseman - - - - - to Inspector,
Fire Prevention Bureau
- Combination of:
- 2 years as Hoseman, Chief's Operator and/or
Inspector, Fire Prevention Bureau - - - - - to Engineer
- 2 years as Hoseman, Engineer, and/or
Inspector, Fire Prevention Bureau - - - - - to Chief's Operator
- 3 years as Hoseman, Engineer, Chief's Operator,
and/or Inspector, Fire Prevention Bureau - - - to Lieutenant
- 2 years as Lieutenant - - - - - to Captain
- 3 years as Captain - - - - - to Battalion Chief
- 3 years as Battalion Chief - - - - - to First Assistant Chief
and/or Second Assistant Chief.

(C.S. Res. 40761 - 4/8/69)

Section 4.13 - Seniority on Promotional Examinations. Credit for seniority shall be given candidates for promotional examination, which credit shall be based upon the total time served in the City service based on the following formula:

Credit given for seniority shall be established on a minimum of 75 percent, (70 percent for Police and Fire (uniform)), to which shall be added the following percentages for years of service up to the maximum number of years as set forth:

Civilian:

For each year of the first 3 years of service. . . . 3.0%
For each year of the next 6 years of service 1.5%
For each year of the next 14 years of service. . . . 0.5%

For Police and Fire (uniform):

For each year of the first 5 years of service. . . . 1.0%
For each year of the next 10 years of service. . . . 2.0%
For each year of the next 5 years of service 1.0%

(C.S. Res. 38909 - 7/28/64)

Section 4.14 - Ascertained Merit on Promotional Examinations. All persons filing to compete in a promotional examination must have maintained an overall service rating of standard or above for a period of at least one year prior to the date of the examination. Such evaluation shall be performed as provided for in Rule 7.

The Board may make exceptions in such cases where the efficiency of an employee has been rated below standard and who has improved his performance within the year to the standards desired by the Department head. Such approval by the Board shall follow only upon the written recommendation of the department head.

Section 4.15 - Reordered Examinations. In the event all candidates in a promotional examination shall fail, the Board may order a re-examination, or it may order an entrance examination in place thereof, except for positions in the uniformed divisions of the Police and Fire Departments. Should less than three applicants file for any promotional examination, the Board may order an entrance examination in addition thereto.

Section 4.16 - Conduct of Examination. Each examination shall be conducted by the Personnel Director or by persons he may designate. Due diligence shall be used to secure fairness and to prevent all collusion and fraud. No person whose application has been accepted for any examination shall be entitled to take such examination at any date, time or place other than those stated in the announcement, except as the Personnel Director may otherwise authorize. The candidate shall mark all his written examination sheets with a number given him, which number shall remain unidentified in a sealed envelope until all written tests pertaining to said examination have been corrected and the envelope directed to be opened by the Personnel Director.

Section 4.17 - Ratings of Results of Examinations. The Personnel Director shall utilize appropriate modern techniques and procedures in rating the results of examinations and in determining the relative standings of the candidates.

The Personnel Director shall schedule the examinations so that the papers and other submitted materials of candidates are rated as soon as practicable after tests are held on the basis of a score or rating of 100 for the maximum possible attainment, and a score or rating of 70 as the passing score. Candidates shall be required to attain a score of not less than 70 on each part of the examination.

In all examinations the 70 percent used, representing the minimum passing score, need not be the arithmetic 70 percent of the total possible score, but will be an adjusted score based on a consideration of the difficulty of the test, the quality of the competition, and the needs of the service. Any such adjusted score shall be established before the identification of the candidates' examination papers.

The final earned rating of each person competing in any examination shall be determined by the weighted average of the earned ratings on all parts of the examination, according to the weights for each part established by the Personnel Director, in advance of the conduct of the examination and published as a part of the announcement.

On entrance examinations the Personnel Director may set minimum qualifying ratings for each phase of an examination, and may provide that candidates failing to achieve such ratings in any phase shall be disqualified from any further participation in the examination.

Section 4.18 - Veterans' Preference in Examinations. "Veteran" means any person who has served full time for 30 days or more in the armed forces in time of war; or in time of peace in a campaign or expedition or service in which a medal has been authorized by the government of the United States; or during the period September 16, 1940, to January 31, 1955, who has been discharged or released under conditions other than dishonorable; but does not include any person who served only in auxiliary or reserve components of the armed forces, whose service did not exempt him from the operation of the Selective Training and Service Act of 1940, nor those who have retired from the military service.

Such a veteran, competing in an open-competitive examination, who attains the passing mark established for the examination without reference to credit granted herein, shall be awarded additional credits amounting to five (5) percent of grade attained in such examinations; provided that such credits shall be awarded only during a period within five (5) years from the date of release from active duty.

(C.S. Res. 41374 - 7/20/71)

RULE 4

Section 4.22

In the event a promotional or entrance eligible list, exclusive of such lists for sworn Police and Fire classifications and Electrical classifications, has fewer than four (4) names to be certified to the appointing authority for one vacancy, the appointing authority may request that the list be cancelled and a new examination be held. Upon receipt of such request, the Director of Personnel and Employee Relations; subject to Board approval, shall proceed with the examination process and compile an eligible list with sufficient persons on the list in order to certify four names for one vacancy plus two names for each additional vacancy.

Section 4.19 - Disabled Veterans' Preference In Examination.

"Disabled Veteran" means a veteran who was disabled as a result of such service. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration. (Char. Sec. 74a - added 1947). Such veterans who become eligible for certification from eligible lists by attaining the passing mark established for the examination shall be allowed additional credits amounting to 7-1/2 percent on entrance examinations. Dates of military service shall be defined as those established in Section 4.18 of these rules.

Section 4.20 - Notice And Review Of Results Of Examinations.

All persons competing in any examination shall be given notice of their final score or rating, or their failure to attain a place upon the eligible list. Such records of ratings attained by candidates in any examination may be destroyed at the expiration of five years from the posting of an eligible list, at the discretion of the Personnel Director.

A promotional candidate may inspect his own papers and the grading thereof within a period of not to exceed 30 days after the Board, or its designated representative, has posted the eligible list. Information concerning the results of an examination shall not be made public until after the eligible list has been posted.

(C.S. Res. 42132 - 1/15/74)

Section 4.21 - Appeal Of Examination Results.

An appeal to the Board from the results of an examination or any of its parts may be had only if the party bringing the appeal demonstrates by clear and convincing evidence that:

- (1) A mechanical, non-judgmental error was made in grading, scoring, or computing.
- (2) An examination grade or rating was the result of fraud or bias on the part of an examiner or rater.

By "clear and convincing evidence" is meant proof that is so clear, explicit and unequivocal as to leave no substantial doubt in a reasonable mind.

Any appeal hereunder must be filed with the Board no later than thirty days after the posting of the eligible list resulting from the examination in question. No person previously appointed shall be displaced by reason of such correction. The decision of the Board shall be final.

(C.S. Res. 42132 - 1/15/74)

Section 4.22 - The Establishment Of Eligible Lists.

The Board shall provide for an eligible list, from which vacancies shall be filled, for a period of probation before employment is permanent, and for promotion on the basis of merit, experience and record. (Char. Sec. 72) From the reports of the scoring and rating of examination papers, the Personnel Director shall prepare or cause to be prepared an eligible list showing the names of candidates who have obtained ratings equal to or greater than the minimum required in any test or tests, whose final earned rating is 70 or more, and who have been accepted as meeting all other requirements for eligibility, arranged in order of their relative percentages; provided, however, that the Board may determine the total number of persons who shall constitute the list of eligibles. When two or more candidates have the same final earned rating, the tie shall be broken on the basis of ratings earned on the part of the examination given the greatest weight; and any remaining ties shall be broken on the basis of parts of the examination given progressively lesser weights.

In event of an emergency, the Personnel Director, subject to final approval of the Board, may post such eligible lists as needed.

Section 4.23 - Kinds of Eligible Lists. Eligible lists shall be of three kinds: (1) Laid-off (reinstatement) lists, consisting of employees who have been laid-off; (2) Promotional lists, from which promotions shall be made; and (3) Employment lists, from which original entrance appointments shall be made.

Section 4.24 - Names of Persons Which May be Placed on Eligible Lists. Each original entrance and promotional list shall consist of the names of all persons who have shown by examination that they possess the qualifications which entitle them to be considered for appointment or promotion to any position in the class for which such list is established.

The name of any employee with permanent status in the public service who is laid off shall be placed upon the Laid-off (reinstatement) list for the class of position in which the employee was serving at the time of layoff, in the reverse order of layoff, as prescribed in Section 9.02 of these rules. The name of an employee who is serving his probationary period and who is laid off or who resigns in good standing may be returned, upon request, to the appropriate list in the order of his original general average.

Section 4.25 - Declaration of Alternative Eligible Lists. Appointments shall be made from the appropriate eligible list, but if no such list exists, then the Board may designate other lists which they deem appropriate, from which the appointment shall be made.

Section 4.26 - Laid-off (Reinstatement) Lists. Laid-off lists shall consist of the names of persons who have occupied positions in the class beyond their probationary period and who have been laid off in accordance with Section 9.01 of these rules. Names shall be arranged on these lists in the reverse order of layoff as provided. The name of any permanent employee, which has been placed on a laid-off (reinstatement) list and has continuously remained thereon for a period of two years, shall be removed at the expiration of such period, and the person shall cease to retain any Civil Service standing. Employees whose names appear on these lists shall be given precedence for employment over persons whose names appear on regular eligible lists for the same class of position.

Section 4.27 - Return of Laid-off Probationary Employees to List. Probationary employees who have been laid off may have their names restored to the eligible list from which they secured appointment, in the order of their original general average on such list; provided, however,

- (1) If the eligible lists from which such persons received appointment have expired or been canceled, such privileges of restoration shall also be canceled;
- (2) Such persons whose names have been restored to an eligible list may have their names transferred to an appropriate list, from such date and in such order as the Personnel Director may determine.

Section 4.28 - Removal Of Names From Eligible Lists. Names of eligibles will be removed from any eligible list for any causes as set forth in Section 4.07, and may be removed for any of the following:

- (a) has been appointed through certification from any such list to fill a vacancy in any department;
- (b) has refused certification without giving a satisfactory reason;
- (c) has failed to report to the appointing power to whom he was certified within the time limit specified from the date of certification;
- (d) has refused to accept an appointment offered him, without giving a satisfactory reason;
- (e) has failed to complete the required medical examination;
- (f) has waived certification three times to a permanent position in any given class;
- (g) has failed to respond to correspondence regarding availability for employment.

Section 4.29 - Waiver Of Appointment. Eligibles may waive appointment under the following conditions:

- (a) filing of a waiver by the eligible that he is not willing to accept appointment from the eligible list; provided, however, that
 - (1) such waivers shall be filed within three working days of notification of certification, and satisfactory reason therefor shall be submitted;
 - (2) such waivers may be withdrawn upon the written request therefor;
 - (3) such waivers of certification from a promotional eligible list shall not be permitted where the vacancy occurs within the department in which the eligible is then employed;
 - (4) such waivers of certification from promotional eligible lists may be accepted when an employee is upon more than one eligible list and he has accepted appointment from one or the other of such lists.

Section 4.30 - Restoration Of Names To Eligible Lists. Names removed from any eligible lists may be restored thereto, for just cause, upon a request made in writing to, and with the approval of, the Civil Service Board.

Section 4.31 - Conditions For Accepting An Exempt Position Into The Competitive Service.

In the event that positions, which previously were exempted or part of an enterprise not under the jurisdiction of the Competitive Service, are to be included in the Service, the following provisions shall apply:

The Director of Personnel shall review the position or classification to determine that the organizational structure, job design, and compensation meet the standards established for other City positions. If these standards are met and the position is vacant, the position shall be placed in the competitive service in the same manner as is any new position or classification.

- A. In the event the position has an incumbent, the Director of Personnel shall review the position in the manner described above. If the incumbent meets the minimum requirements for the position, has served for at least one year in the position performing the same or similar duties, and has standard or above performance ratings, the Department Head in concurrence with the Director of Personnel may recommend to the appointing authority that the incumbent be granted permanent status in the Competitive Service.
- B. Should the incumbent not meet the minimum requirements as established in Section A above but has more than one year service in the position, such employee shall be placed in a probationary status for one year, during which time the employee's deficiencies in relation to the minimum requirements and/or job performance shall be corrected. Failure to meet these requirements, based on a quarterly performance review, shall be cause for termination from the position occupied. If in a promotional position, the incumbent may be returned to the previously occupied position upon recommendation of the Department Head, assuming he is qualified for the lower position.
- C. If an employee has performed satisfactorily in a position for less than one year, and more than eight months, and possesses the minimum qualifications, upon recommendation of the Department Head and the Director of Personnel, the employee shall be placed in a probationary status for a period not to exceed 120 days. The employee shall be evaluated monthly and upon a period of satisfactory performance not to exceed 120 days, the Department Head with concurrence of the Director of Personnel shall recommend to the appointing authority that the employee be granted permanent status in the Competitive Service.
- D. If an incumbent has occupied a position for a period of at least 120 days and less than eight months and possesses the minimum qualifications, such employee shall be treated in the same manner as described above except that the probationary status and period of evaluation shall extend from the 120-day period to the end of one year of satisfactory service. Should the employee not perform in a satisfactory manner, based on a monthly evaluation program, such employee shall be terminated.
- E. Should a position be occupied by an incumbent whose service is less than 120 days and/or does not possess the minimum qualifications, such employee shall be declared a provisional employee and may continue in that status for a period not to exceed 120 days from date of such declaration. The position shall then be treated as being vacant and open to competitive examination. Upon appointment of a candidate from an eligible list, the position shall be deemed classified and the incumbent placed in a probationary status for a period of one year. Should the position be promotional by nature, the probationary period shall be for six months.

Any such action relating to position review, allocation and assignment of any individual to a position and/or classification shall be the determination of the appointing authority based on a recommendation of the Department Head and the Director of Personnel.

SEE
MOU'S

RULE 5

CERTIFICATION AND APPOINTMENT

Section 5.01 - Power of Appointment and Types of Appointments. All appointments to positions in the classified service shall be made by the respective appointing authorities of the City government, under and in conformity with the provisions of the City Charter and these rules, by original appointment, provisional appointment, limited duration appointment, reinstatement, re-employment, transfer or promotion.

Section 5.02 - Certification of Eligibles to Fill Vacancies. Whenever a position in the classified Civil Service is to be filled, and no Laid-off (reinstatement) list exists therefor, the Board shall, as soon as possible, certify to the appointing power three times the number of persons necessary to fill such position; provided that said Board shall always certify the persons having the highest standing on the eligible list for the position to be filled; and provided further, that a less number may be certified when there is not the required number on the eligible list. All persons not appointed shall be restored to their relative positions on the eligible list. (Char. Sec. 76). In case of combined open and promotional examinations, the Board may certify the names of those candidates having the highest general average on the original entrance examination, provided that there are insufficient names on the promotional list to afford the appointing authority a choice of three.

Section 5.03 - Procedure for Certification to Fill Vacancies. Whenever a vacancy is to be filled other than by transfer, demotion or re-employment, the appointing authority shall make a written requisition on the Board's prescribed form for certification of the names of the persons eligible for reinstatement or appointment to the class of position for which the vacancy exists.

Upon receipt of each certification for appointment from an appointing authority, the Personnel Director shall make certification from the list for the appropriate class in the following order: (1) Laid-off (reinstatement) list; (2) promotional list; (3) original entrance list.

Appointment shall be made from the appropriate eligible list, but if no such list exists, then the Personnel Director may, with approval of the Board, certify from such other list as he deems most appropriate.

In case of certification from a Laid-off (reinstatement) list, the Personnel Director shall certify the name of the person which is first on the list.

In the case of certification from open or promotional lists, the Personnel Director shall certify a number of names equal to the number of vacancies to be filled, and two names in addition; provided, however, that a less number may be certified when there is not the required number on the eligible list. No person shall be certified from a promotional eligible list who has been permanently separated from the service of the City. Employees, in good standing, who are on restricted entrance eligible lists, and are terminated due to lack of funding for their positions, may retain their place on the eligible list for the duration of the life of the list.

RULE 5CERTIFICATION AND APPOINTMENTSection 5.02 - Certification of Eligibles to Fill Vacancies

Whenever a position in the classified Civil Service is to be filled, and no laid-off (reinstatement) list exists therefore, the Director of Personnel and Employee Relations shall, as soon as possible, certify persons to the appointing power so that the position(s) may be filled; provided that said Director of Personnel and Employee Relations shall always certify the persons having the highest standing on the eligible list for the position to be filled. All persons not appointed shall be restored to their relative positions on the eligible list. In case of combined open and promotional examinations, the Director of Personnel and Employee Relations may certify the names of those candidates having the highest general average on the promotional list to afford the appointing authority a choice of full appointment range as defined in Rule 5.03 below.

Section 5.03 - Procedure for Certification to Fill Vacancies

Whenever a vacancy is to be filled other than by transfer, demotion or re-employment, the appointing authority shall make a written requisition for certification of the names of the persons eligible for reinstatement of or appointment to the class of position for which the vacancy exists.

Upon receipt of each certification for appointment from an appointing authority, the Director of Personnel and Employee Relations shall make certification from the list for the appropriate class in the following order: (1) Laid-Off (reinstatement) list; (2) promotional list; (3) restricted entrance list; (4) original entrance list.

Appointment shall be made from the appropriate eligible list, but if no such list exists, then the Director of Personnel and Employee Relations may, with approval of the Board, certify from such other list as he deems most appropriate.

In case of certification from a Laid-Off (reinstatement) list, the Director of Personnel and Employee Relations shall certify the name of the person which is the first on the list.

In the case of certification from open, restricted or promotional lists, exclusive of such lists for sworn Police and Fire classifications and Electrical classifications, the Director of Personnel and Employee Relations shall certify to the appointing authority four (4) names for any single vacancy to be filled. In the case of multiple vacancies, the appointing authority shall receive a list of four (4) names plus two (2) names for each additional vacancy to be filled; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

In the case of entrance and promotional lists for Electrical employees, all names on the list shall be certified, irrespective of the number of vacancies to be filled.

In the case of sworn Police Department classifications, five (5) names shall be certified for one vacancy. For multiple vacancies, the number needed to fill the vacancies plus four (4) additional names shall be certified; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

In the case of sworn Fire Department classifications, three (3) names shall be certified for one vacancy. For multiple vacancies, the number needed to fill the vacancies plus two (2) additional names shall be certified; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

No person shall be certified from a promotional eligible list who has been permanently separated from the City. Employees, in good standing, who are on restricted entrance eligible lists and are terminated due to lack of funding for their positions, may retain their places on the eligible list for the duration of the list.

Section 5.04 - Selective Certification. The eligibles certified shall be the highest ranking eligibles willing to accept employment; provided, however, that the appointing authority may list additional and special qualifications and experience or the nature of special assignments for the position, in specific departments. The reasons for such qualifications shall be stated, together with the notice that the appointing authority desires to pass over for appointment any eligibles who do not possess such qualifications. Such statement and notice must be approved by the Board and will be considered only when the reasons are sufficiently valid, and when other methods of certification would not be in the best interests of the City.

Section 5.05 - Limit on Certifications. No person shall be certified from an eligible list more than four times for the same or a similar position, except at the request of an appointing authority, provided that certification for temporary services shall not be counted as one of such certifications.

Section 5.06 - Certification to Position in Lower Class. An eligible on an entrance or Laid-off (reinstatement) list may, with the approval of the Personnel Director, be certified to a class of position lower than that for which he was examined, provided such position is one having similar duties and responsibilities and provided further, that no eligible list exists for the lower class; but acceptance of such position shall not defeat his rights to be certified to the class of position for which he was originally examined.

Section 5.07 - Provisional Appointments. The Civil Service Board shall have the power to provide for provisional employment, without examination, in the absence of an eligible list, for any position in which a vacancy may occur; but no such provisional employment shall continue after the establishment of an eligible list, nor for more than one hundred and twenty days in any event. (Char. Sec. 803 - 1968) (C.S. Res. 40885 - 9/30/69).

Upon receipt of a request for certification of eligibles to fill a position, and where no eligible or Laid-off (reinstatement) list has been established, upon the approval by the Personnel Director, the appointing authority may provisionally appoint any person whose qualifications comply with the specifications for the class. Such appointment shall otherwise be in compliance with pertinent sections of these rules.

In cases where the appointing authority desires to fill a vacancy by provisional appointment of a City employee having permanent status, such employee may be so appointed, provided that he is eligible to compete in the examination.

Section 5.08 - Limited Duration Appointments. Whenever a department requires emergency assistance because of a special project, sick leave or vacation relief, or temporary increase in the workload, appointments of a limited duration may be made from an appropriate eligible list for the duration of such unusual work. If a permanent employee is off duty without pay and needs to be replaced, a limited duration appointment may be made during the time of the leave of absence. The acceptance or rejection by an eligible of this type of appointment shall not affect his standing on the eligible list.

The request and certification shall specifically state the date beyond which such appointment shall not extend, insofar as is known; and on such date, the employment of the person shall cease, unless sooner terminated. Appointments of over a year are construed as being of a permanent nature, and as such, the rules affecting permanent appointments will apply.

Section 5.09 - Transfer of Employees. An appointing authority may at any time assign any employee under his jurisdiction from one position to another position in the same class. The appointing authority may also, with the approval of the Personnel Director, transfer an employee to a position of a similar class for which the maximum rate of pay is the same.

The transfer of a classified employee from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority may be made with the consent of the employee and the approval of the Personnel Director and the consent of the appointing authorities concerned, provided the positions are in the same or similar class.

Any transfer of an employee from a position in a lower class to a position in a class carrying a higher maximum salary shall be deemed a promotional appointment, and shall be accomplished only in the manner provided in these rules for making promotional appointments.

Any transfer from a position in a higher class to a position in a class carrying a lower maximum salary shall be deemed a demotion, and may be effected only in the manner provided in these rules for making demotions.

Any permanent classified employee may initiate his own transfer from one department to another, provided the conditions listed in the second paragraph of this section are followed.

The transfer of an employee from Extra Positions to various other divisions or departments for temporary performance of services, and the transfer of a member of the Police or Fire Department to a temporary vacancy in a higher rank as provided for a Charter Section 91 and 97 shall be called an "Assignment"; and each such assignment shall be reported to the Personnel Director in writing.

A transfer list may be maintained and employees may, upon written application to the Personnel Director, have their names made available to department heads for consideration of appointment to vacancies for which they would be eligible as defined by these rules. Names of employees may also be placed on the transfer list with the knowledge of the employee, upon request of the department head concerned. Vacancies may, with the consent of the department head, be filled from the transfer list.

Section 5.10 - Re-employment Of Former Employee.

Any permanent employee who has resigned from service in good standing shall, upon his written request, be considered for re-employment to a position in the same or similar class in the classified service, within two years of the date of such separation. A longer period of time from separation date to re-employment may be approved by Civil Service Board and appointing authority, for highly qualified former employees and for positions wherein recruitment is difficult. (C.S. Res. 40272 - 8/15/67)

Such re-employment shall be made without benefit of additional examination, and must have the approval of the appointing authority and the Personnel Director. Re-employment as herein defined, may take precedence over eligible lists; but in no way shall it be made mandatory for any appointing authority to re-employ former employees should he desire not to do so. Appointment shall otherwise be made in the manner as for original employment as defined in other sections of these rules.

Former employees of the City who are currently non-residents, but who otherwise would be eligible for re-employment under the "two-year rule," may be eligible for re-employment, subject to relocation of permanent residence within the City within 90 days of date of re-employment. Failure to become permanent residents within the stipulated time, and to remain so, shall be cause for termination of employment. "Residence" as used here in defined in Section 4.03. (C.S. Res. 42141 - 1/22/74)

Employees who have served satisfactorily in season employment after appointment from an eligible list may be eligible for re-employment without further examination in the class of position in which they have served.

If a season eligible fails to work for two consecutive seasons, his name shall automatically be removed from the list.

Section 5.11 - Medical Examination Prior To Appointment, Reinstatement, Or Re-employment.

Prior to any appointment, reinstatement or re-employment, with the exception of promotional appointments, or unless otherwise provided for in other sections of these rules, every person shall be examined by the City Physician, who shall submit a medical report certifying that such person is medically eligible for appointment to the City service.

RULE 6

PROBATIONARY PERIOD

Section 6.01 - Probationary Period. Every person appointed or promoted to a permanent position in the classified service, after certification from an eligible list, shall serve a period of probation while occupying such position, which shall be considered as part of the test of fitness. Former employees who are re-employed under the provisions of these rules shall be required to serve a period of probation of six months from the date of re-employment.

In all cases the appointing power shall notify the Board of each separate position to be filled, and shall fill such place by the appointment of one of the persons certified by the Board therefor. Such appointment shall be on probation of a character and for a period to be fixed by the rules of the Board, but not to exceed one year.

The probationary period shall be an essential part of the examination process, and shall be utilized for the most effective adjustment of a new employee and for the elimination or demotion of any probationary employee whose performance does not meet the required standard of performance.

Section 6.02 - Duration Of Probationary Period. For entrance appointments the duration of such probationary period shall be for a period of nine consecutive months of active service, with the exception of the rank of Police Officer whose probationary period shall be for eighteen months. The probationary period for persons appointed on a promotional basis shall be six months.
(12 MTHS FOR ALL EXCEPT 390 - 9 MTHS)

An employee accepting a regular entrance appointment who has served on a limited duration appointment in the same class immediately prior to his regular appointment shall have that period of time counted as part of his probationary period. Rights and privileges shall accrue from the beginning date of limited duration appointment and shall be considered the original appointment date.
(C.S. Res. 38851)

Section 6.03 - Interruption Of Probationary Period. If an employee is laid off during the probationary period and subsequently reappointed to the same class of position, he shall be given credit for the portion of probationary service previously completed.

If an employee is transferred during his probationary period from one position under one appointing authority to a position under another appointing authority, the second appointing authority shall grant credit for the portion of the probationary period previously completed.

Section 6.04 - Performance Rating During Probationary Period. Department heads shall file an approved report of performance at the end of the third and fifth month of employment for each employee serving a six-month probationary period. For probationary employees who have been required to serve a twelve-month probationary period, the department head

FOR 390 - 2ND, 5TH & 8TH MONTHS.

shall file with the Personnel Director a report of performance for each employee at the end of the third, fifth, eighth, and eleventh month of employment. This section does not preclude the filing of additional reports at any other time during the employment of any individual.

Upon a favorable report, the appointment of the employee shall be deemed to be complete at the expiration of the probationary period. In the event of an unfavorable report, the appointing authority shall notify the Personnel Director and the employee, at least five working days in advance, that his services will be terminated no later than the final date of the probationary period.

Section 6.05 - Removal Or Demotion Of Employee During The Probationary Period:

At any time during the probationary period (entrance appointment to a classified position - one year; police officer - 18 months; entrance and restricted entrance appointment to a higher or equal classification - one year; or a promotional appointment - six months) an employee may be removed from his/her current position by the appointing authority, providing that:

- a. Upon removal by the appointing authority, such probationer's name shall be removed from the eligible list from which he/she was certified, and he/she shall be considered permanently separated from that position without right of appeal to the Board except as set forth in Section 6.06.
- b. If the employee has served in the City in another position in the competitive service, the employee shall be notified by the Personnel Department within five working days of removal and in writing, that he/she may be reinstated to the prior classification from which promotion was made. The employee has five working days from date of notification to respond in writing, his/her wish to be so reinstated.
- c. Reinstatement to the former classification will be based on the circumstances of the removal from the most recent appointment during the probationary period and the employee's work record as determined by the appointing authority.
- d. If reinstatement is effected by the appointing authority, the employee shall be appointed to a vacant position in the former classification. If none is immediately available, it shall be the responsibility of the appointing authority to provide such a vacancy as expeditiously as possible without violating the rules of any applicable Memorandum of Understanding or the Personnel Manual concerning layoffs and without the necessity of creating an additional position.

C.S.A 42789

2-15-77

Section 6.06 - Limited Right By Employees During Probationary Period.

The right of an employee to appeal to the Board because of his permanent separation from his position during the probationary period shall be limited to the following:

- (a) Failure of the appointing authority to comply with Section 6.04 of the Laws and Rules of the Civil Service Board;
- (b) Failure of the appointing authority to comply with Section 6.05 of the Laws and Rules of the Civil Service Board;
- (c) Discrimination against an employee during such probationary period because of race, creed, color, religion, or sex.

Section 6.07 - Procedure To Be Used On Appeals And Hearings Under Section 6.06:

Whenever an employee who has been permanently separated from his position during the probationary period desires appeal therefrom under the provisions of Section 6.06, the following order of procedure shall govern:

A. Order Of Procedure In Appeals:

- (1) The appeal must be filed in the office of the Board within five (5) days from the date that notice of removal was filed upon the affected employee. Service of the notice of removal shall be made in the manner provided by Section 11.06 of rules. The effective date of service of the notice of removal shall likewise be governed by the provisions of Section 11.06 of these rules.
- (2) The appeal must be submitted in writing, in triplicate, and if the appellant desires to waive a public hearing, such a waiver must be in writing.
- (3) The appeal shall state the sub-section of Section 6.06 of these rules upon which it is based and a statement of the facts upon which such appeal is based.
- (4) Within seven (7) days from the filing of this appeal, the appointing authority shall submit to the Board in writing its answer, in triplicate, to the charges preferred against it, which answer may be in the form of a general denial, or state facts controverting the allegations of the appeal, or may allege new matter.
- (5) The appeal shall be set for hearing in the manner set forth in Section 2.10 (a)(5) of these rules.

- (6) Not less than five (5) days before the date the appeal is scheduled for hearing, the Board shall send:
 - (a) A written notice giving the date, time, and place of such hearing to the appointing authority, to the appellant or his attorney and/or representative, and to the City Attorney;
 - (b) A copy of the appeal to the appointing authority and the City Attorney; a copy of the answer of the appointing authority to the appellant or his attorney or representative.
 - (7) After the hearing the Board shall render its decision which may be:
 - (a) to sustain the action of the appointing authority concerned;
 - (b) to sustain the appeal and reinstate such probationary in accordance with subsection (8) hereof.
 - (8) The words "probationary period" as defined in Section 6.01 of these rules shall be construed to mean a period of probation consistent with the letter and spirit of these rules; if an appeal is sustained hereunder, the Board may determine that there has been an interruption in the probationary period from the date of the cause giving rise to the appeal hereunder, to the date of the decision by the Board, and the probationary period of the appellant may be extended by the length of such interruption.
- (B) Burden Of Proof: In any appeal under this section, the burden of proof shall be upon the appellant, and the evidence in support of the allegations made in such appeal must be clear and convincing.
- (C) Information For Conduct Of Hearings:
- (1) The Board shall determine the evidence upon the charges and specifications set forth in the appellants' appeal, and the appointing authority's answer thereto, and shall consider any relevant evidence.
 - (2) The provisions of Section 2.10 (b)(1), (2), (4), (5), and (6) shall apply.

RULE 7

EMPLOYEE SERVICE RATINGS AND REPORTS

Section 7.01 - Establishment of System of Employee Service Ratings and Reports. The system of employee service ratings and reports is established to provide a fair, impartial, and objective means for rating and reporting the service and performance of each employee in the classified service.

The employee service rating plan, embodying significant factors and factor degrees for the various classes of positions, shall have reference to the quality and quantity of work done, and other characteristics which shall be considered in rating and reporting the ability, performance and efficiency of the respective employee and the value of the employee to the City service.

The following rules and the supplemental manual of procedures and factors define the service rating standards and procedure which shall be used in connection with eligibility for advancement, layoff, re-employment, promotion, demotion, dismissal from the service, or as a recommendation for reduction in pay within the salary range for the classification, and in other decisions relating to the status of employees. Such plan shall primarily be a means, whereby individual employees may regularly review their performance with their supervisors, and for ascertaining and encouraging the improvement in service by the employees, and in providing effective supervision of employees.

Section 7.02 - Official Copy of Employee Service Rating Plan. The system of employee service rating, as approved by the Board, shall be maintained in separate manual form.

The Personnel Director shall provide each appointing authority with copies of the employee service rating plan and shall prescribe the forms to be used.

The service rating plan in the office of the Board shall be open for the inspection of the employees during business hours.

Section 7.03 - Participants in Employee Service Rating Procedure. The service ratings and reports for permanent employees in the classified service shall be made annually by a rating supervisor and a reviewing supervisor in each organizational unit or division within each department, as designated by the appointing authority of each department. (C.S. Res. 40326 - 10/24/67)

Each rating supervisor, designated by the department head of each department, shall be the person who is immediately responsible for the work of the employee; that is, the first person in authority who has supervisory responsibility and who either regularly oversees, reviews and checks the work of the employee or who is most closely acquainted with his daily performance during the period of time for which the service ratings are made.

The reviewing supervisor, designated by the department head, shall be the next higher supervisor in line of authority above the rating supervisor, who has personal knowledge of the work and performance of the employee in the unit or division to which the employee is assigned.

Section 7.04 - Assistance By The Personnel Director. The Personnel Director shall be responsible for distributing employee service rating forms, instructing the rating and reviewing supervisors regarding the service rating procedure, recording final service ratings for individual employees on the appropriate records, and obtaining widespread understanding among the employees of the objectives and characteristics of the service rating procedures.

Section 7.05 - Open Records Of Employee Service Ratings. The service rating reports and records of the respective employees in each department shall be open at all times to said employees for review of their own file and for the inspection by the Personnel Director.

The service rating records of employees as maintained by the Personnel Director respecting each department likewise shall be open to the respective employees for review of their own file and to the appointing authority and to the superior officers in the department. Any employee shall be entitled to be informed by the Personnel Director only as to the service ratings recorded for himself and those employees who work under his supervision.

RULE 8

VACATIONS AND LEAVES OF ABSENCE

Section 8.01 - Vacation Leave, Authority For: The following rules shall govern vacations and leaves of absence, in accordance with the provision of Ordinance No. 8546 C.M.S., passed by the City Council May 16, 1972:

"The Civil Service Board is hereby authorized to make rules and regulations governing leaves of absence and vacations for all employees in the Classified Civil Service whose leaves of absence and vacations are not otherwise provided for by ordinance or resolution of Council. Unless otherwise provided for by ordinance or resolution of Council, those employees not in the Classified Civil Service shall be allowed the rights and privileges granted to the employees in the Classified Civil Service."

- (a) Purpose. The purpose of annual vacation leave is to enable each eligible employee to return to his duties mentally and physically refreshed. All employees in the Classified Service, other than those excluded in Section (b) shall be entitled to earn annual vacation leave. (C.S. Res. 41664 - 6/6/72)
- (b) Exclusions. The provisions of this section do not apply to the following:
- (1) Employees who are covered by Charter provision.
 - (2) Employees who work on a temporary, intermittent, or seasonal basis.
 - (3) Employees who work on an exempt part-time basis.
- (c) Specific Inclusions.
- (1) City employees: Persons employed on an exempt part-time basis who have worked a reasonably fixed pattern and who have worked at least 1040 hours in the preceding anniversary year.
 - (2) Port employees: Persons who are employed on an exempt part-time basis and who have worked at least 1,730 hours in the preceding calendar year, and not less than 140 hours in any month during the year.
 - (3) Employees who work on a permanent part-time basis in a classified position and who have worked at least 50 percent or more of each normal work week during the preceding calendar year.

Vacation and sick leave credits should be determined on a pro-rated basis according to the time spent in part-time work, in relation to the normal work-week for the class.

(d) Times At Which Vacation Leave Shall Be Taken.

- (1) The times at which an employee shall take his vacation leave during the calendar year shall be determined by his department head, with due regard for the wishes of the employee, and particular regard for the needs of the department. If circumstances are such that a department head cannot permit an employee within his department to take an annual vacation leave or any part of such leave within a particular calendar year, the employee shall have the right to take the deferred vacation during the following calendar year, in addition to his then current vacation.

City employees must take vacation leave in units of not less than one day at a time.

Port employees must take vacation leave in units of not less than one week at a time, provided that under special circumstances the department head may grant a lesser unit of leave, subject to approval by the Personnel Director.

(C.S. Res. 41934 - 4/24/73)

- (2) All vacations shall be computed and taken on a calendar year basis.
- (3) Employees shall be allowed to take vacation according to the following schedules, with the approval of their department head. The time of which shall be determined with due regard for the employee's wishes and particular regard for department needs. Provided, however, that no employee shall take vacation leave before such leave has been earned.

- (a) After his fifth calendar year of continuous service, 15 working days.
- (b) After his fifteenth calendar year of continuous service, 18 working days.
- (c) After his twentieth calendar year of continuous service, 20 working days.

CONSULT
APPLICABLE M.P.A.
OR BENEFIT BOOK

(e) Rate At Which Vacation Leave Shall Accrue For Full-Time Employees.

- (1) For employees during their first four calendar years of service with the City of Oakland, vacation leave shall accrue at the rate of ten-twelfths working days per month.
- (2) For employees who have completed four calendar years of service with the City of Oakland, vacation leave shall accrue at the rate of one and one quarter working days per month.

- (3) After completion of fourteen calendar years of service, leave shall accrue at the rate of one and one-half working days per month; after completion of nineteen calendar years of service, leave shall accrue at the rate of one and two-thirds working days per month.
 - (4) For purposes of computing the rate of accrual of vacation leave, a break in service of less than two years shall have no effect. A break in service in excess of two years shall mean that the employee so re-employed shall, for purposes of computing vacation leave, be treated as a new employee.
 - (5) For the purpose of computing length of service in determining eligibility for vacation at the higher accrual rate, time spent on extended military leave shall be counted as time spent in the service of the City.
 - (6) An employee who works under the four-day workweek plan shall accrue vacation leave on the same basis as he would accrue vacation leave under the five-day workweek schedule. All vacation time used shall be charged by the actual hours taken.
(C.S. Res. 42204 - 5/14/74)
- (f) Deferred Vacation. Each employee who is entitled to ten or more working days vacation in any calendar year may, with the approval of his department head, defer such vacation to the succeeding calendar year.
(C.S. Res. 41799 - 12/12/72)
- (g) Effect Of Leaves Of Absence Without Pay Upon Vacation. No employee who shall take a leave of absence without pay for a period in excess of fifteen working days shall earn vacation credits for such period.
- (h) Computation Of Vacation Leave Upon Termination Or Extended Military Leave.
- (1) Compensation For Unused Vacation For Terminated Employee.
If, after six months or more of continuous service, an employee terminates or is terminated, such employee, or his estate, shall be paid for earned vacation leave which he has accumulated.
 - (2) Method Of Payment For Unused Vacation.
Upon termination of City service or commencement of extended military leave, an employee shall be paid in a lump sum for such unused vacation time as he has accrued. Payment shall be made on the following basis: For purposes of computation it shall be assumed that there are 250 working days in a year. The employee's actual annual salary divided by 250 determines the daily workday rate multiplied by the actual number of working days of vacation due the employee at termination shall be the amount paid to the employee.
- For the purpose of computing the number of working days of vacation due an employee upon termination, an employee shall be allowed credit for one full day if he has served one-half or more of the total number of calendar days in the month in which he terminates, plus the credit earned before that month; but no allowance shall be granted for service of less than this amount.

(3) Limitation Upon Payment. No employee, or his estate, shall be paid for unused vacation in excess of forty-seven working days.

(1) Supplemental Vacation Benefits.

- (1) Sick leave credits may be accrued up to a maximum of one hundred and fifty days for sick leave use.
- (2) Employees who accrue and maintain this maximum are eligible to earn supplemental vacation based on the following scale:
 - (a) Employees who accrue six (6) additional days of sick leave credit over and above the maximum during a calendar year are eligible for one additional day's vacation.
 - (b) Employees who accrue twelve (12) additional days of sick leave credit over and above the maximum during a calendar year are eligible for two (2) additional days of vacation.
- (3) Determination of eligibility for supplemental vacation will be made at the end of each calendar year, and any sick leave credits above one hundred and fifty days will be reduced to zero at that time. Supplemental vacation shall be taken as a part of the employee's next scheduled vacation.
- (4) Employees who are or become eligible for supplemental vacation on the basis of accrual of one hundred and twenty days sick leave pursuant to Section 8.01(1) as it was on June 30, 1969, shall continue to be eligible to earn supplemental vacation at that rate for a period of three years from July 1, 1969; effective July 1, 1972, an employee must have accumulated one hundred and fifty days sick leave in order to be eligible for supplemental vacation under Section 8.01(i) as hereby amended. (C.S. Res. 40835 - 7/15/69)

Section 8.02 - Sick Leave - General. Each full-time employee, other than those whose sick leave is governed by Charter, shall be entitled to take sick leave, with full pay, in case of his illness or disability, or serious illness within his immediate family, in accordance with the provisions contained in Section 8.02 (a) through 8.02 (k) of this rule. In addition, Port employees shall be entitled to use accumulated sick leave in case of urgent personal business, in accordance with the provisions set forth in Section 8.02 (1) of this rule.

(a) Purpose of Sick Leave. It is the purpose of this rule to establish provisions which will enable the ill employee to remain off his job until he is well enough to work, and to avoid subjecting coworkers to illnesses which might be contagious. Sick leave, under this rule, is a privilege which the employee can exercise only in the event of his bona fide illness or disability, or serious illness within his immediate family, except that Port employees only may be allowed additional use of sick leave as outlined in Section 8.02 (1) of this rule. (C.S. Res. 41687 - 7/11/72)

(b) Rate At Which Employees Shall Earn Sick Leave.

- (1) Each employee, upon completion of three months of service with the City, shall be credited with three working days of sick leave credits with pay.
- (2) When the original sick leave credit has been granted, as provided in Section (1) above, each employee shall thereafter be credited with one working day of sick leave credit with full pay for each month of service.
- (3) For the purpose of this rule, a month of service shall mean thirty calendar days.

(c) Accumulation Of Sick Leave Credits. Such sick leave with pay, as provided for in Section (b), which is not used shall be cumulative. Sick leave credits may be accumulated, not to exceed one hundred and fifty working days. When the maximum of one hundred and fifty working days has been accumulated and a portion of it is subsequently used, it may be re-accumulated at the applicable earning rate provided in Section (b). (C.S. Res. 30835 - 7/15/69)

SEE
APPLICABLE
M.O.U. OR BENEFIT
BOOKLET

(d) Disposition Of Sick Leave Credits Of Terminated Employees.

Except as hereinafter set forth, if an employee terminates or is terminated for any reason whatsoever, all accumulated sick leave shall be cancelled; provided, however, that such employee who returns to work with the City of Oakland within one year of such termination shall be again credited with the amount of accumulated sick leave he had at the time he terminated. An employee who is re-appointed or reinstated in this manner shall earn sick leave at the rate of one working day per month, unless his previous service with the City of Oakland amounted to less than three months service.

EMPLOYEES
CAN BUY BACK
S.L. - BY DOING
SO 1/4 of ANNUAL
SALARY.

If an employee with not less than ten years total City of Oakland employment, uninterrupted by an single period of absence in excess of one year, terminates or is terminated for any reason, he shall be paid a lump sum on the basis of 33-1/2% of accumulated sick leave credit. For this purpose, a day's pay will be computed in the manner set forth in Section 8.01 (h) (2) of these rules.

(e) Family Illness - Immediate Family Defined.

(1) Each employee who is otherwise eligible to take sick leave may, in the event of serious illness in his family, take a maximum of five working days family sick leave in any calendar year. Such family sick leave shall be charged against the employee's accumulated sick leave credits.

In extreme or unusual circumstances, the appointing authority, with the approval of the Civil Service Board, may grant additional family sick leave time against earned sick leave credits and may, under extreme or unusual circumstances, authorize family sick leave for other than members of the immediate family.

(2) The immediate family of an employee shall include: wife, husband, mother, father, child, sister, brother, grandfather, and grandmother.

(f) Limitations on Sick Leave. Sick leave shall not be granted to an employee who is absent from duty due to an injury incurred while regularly working for an employer other than the City of Oakland.

(g) Leave Without Pay: Effect Upon Sick Leave Credits. An employee who is granted a leave without pay for a period of thirty calendar days or more shall not earn sick leave credits for such time, except as elsewhere noted.

(h) Verification of Illness - Abuse of Sick Leave. A department head may require of any employee under his jurisdiction, who has been on sick leave for one or more working days, a doctor's certificate or other authoritative verification, certifying that the illness was bona fide. He also may require that the employee be examined by the City Physician for the purpose of determining whether he is, in fact, well enough to return to his regular duties. The employee concerned shall be considered on sick leave status until the City Physician releases him for duty.

Obvious abuses of the sick leave privilege will result in suspension of those privileges for a period of six months. Determination of abuse and the suspension of privileges will be made by the Civil Service Department and the City Physician, and any such suspension shall be by order of the Civil Service Board. Further disciplinary action by the appointing authority may be taken where deemed appropriate.

(i) Required Method of Reporting Illness: In order to receive compensation for the period in which he is on sick leave, the employee shall notify his immediate supervisor or a higher supervisor prior to or within one hour after the employee's regularly scheduled time for reporting to work. If the circumstances involved clearly are such as to make this impracticable, the employee shall report his illness at the earliest possible time. Failure to do so is cause for denying sick leave with pay.

- (j) Compulsory Sick Leave. If, in the opinion of the appointing authority an employee is unable to perform his work properly due to illness, he may direct that the employee be examined by the City Physician. If the City Physician finds that the employee is physically or mentally unfit to properly perform his duties, the appointing authority may, subject to the approval of the Board, compel such employee to take sufficient leave of absence as will enable him to recuperate or regain his health so that he may again properly perform his duties.
- (k) Return to Duty from Extended Sick Leave. In all instances employees returning to duty after extended sick leave (ten days or more), or when due to the nature of injury or illness, it is in the best interest of the City service, medical clearance must be obtained from the City Physician prior to return to duty. Persons on sick leave may be called in by the City Physician for review and evaluation of their anticipated return to duty date.

(C.S. Res. 38851 - 6/30/64)

- (l) Personal Leave for Port Employees. Up to four (4) days of accumulated sick leave per year may be used by Port employees for urgent personal business. These four (4) days are not accumulative. However, if not used, this time will be counted as sick leave, in which case it can be carried from year to year. Using sick leave for personal business is subject to the approval of the department head. Urgent personal business is defined as necessary transactions that might affect an employee's economic well-being, or personal welfare, and which cannot be carried out during off-duty hours. At least forty-eight (48) hours prior notice shall be given, except in case of extreme emergency.

(C.S. Res. 41678 - 7/10/72)

Section 8.03 - Maternity Leave. An appointing power may grant a maternity leave without pay to any employee under his jurisdiction, subject to the following regulations:

1. No leave may be granted for a period exceeding one year.
2. A department head may require an employee to take a leave of absence at any time during her pregnancy for reasons of health and safety, upon recommendation of the City Physician; or for reasons of unsatisfactory work performance due to the employee's physical condition.
3. Before returning to duty following a maternity leave, an employee shall present to the City Physician a statement from her own physician stating that she is physically able to return to work.

(C.S. Res. 43473 - 10/11/79)

SEE APPLICABLE M.O.U.
OR BENEFIT BOOKLET.

Section 8.04 - Injury On Duty.

(a) Combining Benefits of Workmen's Compensation Act and Sick Leave.

(1) When an employee is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, he shall become entitled to leave of absence while so disabled, for a period not exceed ninety (90) days, including Saturdays, Sundays, and holidays, and such leave shall not be deducted from his accumulated sick leave; provided, however, that such sick leave for said period of not to exceed ninety (90) days including Saturdays, Sundays, and holidays, shall not be at full pay, but shall be in such amount as, when added to his disability indemnity under the Workmen's Compensation Act of the State of California, will result in a payment equal to his full salary or wage; and provided further, that such leave, if interrupted by return to duty, shall in no event exceed in the aggregate ninety (90) days, including Saturdays, Sundays, and holidays, for each injury or illness.

(2) If the specific disability continues with or without interruption for a period in excess of ninety (90) days, including Saturdays, Sundays, and holidays, such employee may thereafter take as much of his accumulated sick leave as, when added to his disability indemnity payments, will result in a payment to him of not more than his full salary or wage. His accumulated sick leave shall be reduced in proportion to the amount of salary or wage paid in excess of the indemnity payments and shall be computed on a working-day basis.

(3) If an employee whose disability continues, with or without interruption, beyond ninety (90) days, including Saturdays, Sundays, and holidays, elects to receive thereafter only the disability indemnity payments provided for in the Labor Code, he must so advise the City Attorney's office (or the Port Attorney's office if he is an employee of the Port of Oakland) within seven (7) days before the first payment of salary chargeable to his accumulated sick leave is made. If he does not so elect, he shall receive his full salary to the extent of his accumulated sick leave, and his accumulated sick leave will be reduced in proportion to the amount of salary or wages paid in excess of disability indemnity. When his accumulated sick leave is exhausted, he still is entitled to receive disability indemnity as provided in the Labor Code.

(b) Reports to Board. When an employee has been injured in the line of duty and he receives compensation in accordance with the provisions of any Workmen's Compensation Act of the State of California, the appointing power shall submit reports to the Board giving the following information: (1) The date such employee was taken out of service; (2) The date such employee returned to duty, with a brief statement as to the extent of disability, if any; (3) If the employee is unable to return to duty and is awarded a permanent total disability, the date of such award, with a report of termination of appointment.

Section 8.05 - Leave of Absence on Disability Retirement. Every employee retired by the Board of Administration of the Oakland Municipal Employees' Retirement System because of disability, in accordance with Section 33 of the Charter and the provisions of Ordinance No. 713 C.M.S., shall be granted a leave of absence during the period of his disability. Such leave shall be reported to the Civil Service Board, but shall not require approval by the Board. If the disability for which such employee was retired ceases to the extent that he is able to perform the duties of the position held by him when retired for disability, and he is otherwise qualified for employment by the

City, such employee shall have the definite and absolute right to be returned to a position in the same class as that occupied by him at the time of his retirement; and he shall be entitled to such other privileges as are provided for in these rules.

Section 8.06 - Family Death Leave. Leaves of absence with pay due to a death in an employee's immediate family is allowed, and such leave shall not be charged against vacation or sick leave to which an employee may be entitled, but shall be in addition thereto.

(a) Eligibility for Family Death Leave.

In order to be eligible for family death leave, an employee must have worked full-time for the City of Oakland for a period of time in excess of three months.

SEE APPLICABLE
M.O.U. OR
BENEFIT
BOOKLET

(b) Schedule of Allowances.

In the event of a death within his immediate family, an employee may be permitted to remain absent from duty with pay for such time as hereinafter specified:

- (1) If the service is within the Bay Area, three working days with pay will be allowed.
- (2) If the service is outside the Bay Area but within 300 miles of Oakland, not to exceed four working days with pay.
- (3) If the service is more than 300 miles but less than 600 miles from Oakland, not to exceed five working days with pay.
- (4) If the service is more than 600 miles from Oakland, not to exceed eight working days with pay.

(C.S. Res. 38851 - 6/30/64)

(c) Exceptional Cases.

In special or unusual cases the department head, with the approval of the Civil Service Board, may grant a family death leave to allow an employee to attend funeral or memorial services for someone other than those included within the definition of the immediate family under Section 8.02 (e) (2) of the Sick Leave Rule. It is the intent of this provision to cover the kind of situation in which someone other than immediate kin has raised the employee, or due to unusual circumstances has a very close relationship with the employee.

(d) Procedure for Requesting Leave.

In order to qualify for Family Death Leave, the employee shall obtain the approval of his immediate supervisor or a higher supervisor prior to going on leave of absence. If the circumstances are such as to clearly make this impracticable, he shall notify his supervisor at the earliest possible time. Failure to do so may be cause for denying leave with pay.

Section 8.07 - Miscellaneous Leaves of Absence. Miscellaneous leaves of absence other than vacation and sick leave may be granted by the appointing authority, subject to the approval of the Civil Service Board, unless otherwise provided. Department heads may grant leaves of absence without pay for periods not in excess of three working days; provided, however, that no employee shall be granted a total of more than five working days of such leave without pay in any one calendar year.

(a) Procedure for Granting Leaves of Absence. An employee may be granted a leave of absence only if...

(1) The employee makes a written request to his department head at least five working days prior to the effective date of the request, stating his specific reasons for the request.

(2) The appointing authority recommends the request and forwards it to the Civil Service Board prior to the effective date of the requested leave.

Leaves of absence without pay of three working days or less need only be reported to the office of the Civil Service Board in writing. No other steps are necessary for this type of leave.

(b) Limitation Upon Leaves of Absence Without Pay. No single leave of absence without pay, other than leaves to accept exempt positions in the City service or classified positions in the City service or classified positions in the City service financed in whole or in part by Federal or tax exempt foundations, may be granted for a period in excess of one year. Leaves of absence to fill exempt positions in the City service or classified positions in the City service financed in whole or in part by Federal or tax exempt foundations shall be granted for the entire period, during which the employee serves in such positions. . .

(C.S. Res. 39635 - 11/30/65)

A leave of absence may be extended, upon the recommendation of the appointing authority and the approval of the Civil Service Board.

(c) Reasons for Which Leaves of Absence Without Pay May Be Granted. Leaves of absence without pay may be granted for reasons which, in the opinion of the appointing authority and the Civil Service Board, appear to be proper and in the best interest of the City, such as...

(1) To permit the employee to receive additional education of such nature that will improve the employee's job performance and increase his worth to the City.

(2) To permit the employee, because of his particular abilities or his outstanding competence, to assist another governmental jurisdiction, and which in a direct way will enhance the prestige of the City of Oakland.

(3) To permit the employee to take care of urgent or most important personal business which cannot feasibly be accomplished by someone else.

(4) To permit the employee to settle domestic problems.

(5) To permit the employee to take an exempt position in the City service.

(6) To permit the employee to retain promotional and seniority rights to his permanent position upon accepting appointment to a classified position in the City service under a program financed in whole or in part by Federal or tax exempt foundations.

(C.S. Res. 39653 - 11/30/65)

(d) Leaves of Absence With Pay. In addition to those leaves of absence with pay which are provided for elsewhere in these rules, a leave of absence with pay may be granted to an employee under special or unusual circumstances which, in the opinion of the appointing authority and the Civil Service Board, make it to the best interests of the City to do so. In no case shall leave with pay be granted in excess of three working days in any calendar year. Requests for such leave must be received in the Civil Service Office in time for it to be considered at a regular meeting prior to the effective date of the leave.

Leave of absence with pay may be granted to an employee who has been selected for jury duty, and from which he cannot be excused. Leave with pay for unexcused jury duty is not subject to the time limitation expressed above. Leave of absence with pay for jury duty may be approved by the appointing authority without reference to the Civil Service Board, and will not be counted as regular leave with pay. An employee who serves on jury duty shall be paid his regular salary for the period of such duty but shall be required, under the provisions of the Charter, to turn over to the City Treasurer all fees which he receives as payment for such jury duty.

To be eligible for a leave of absence with pay for other than jury duty, the employee must have served the City continuously for a period of not less than six months and his services must have been thoroughly satisfactory.

Section 8.08 - Return to Duty Following Leave. Every leave of absence shall be upon the condition that the employee taking the leave shall, subject to these rules, have the definite and absolute right, upon his return to his employment on the termination of his leave, to be reinstated to a position in the same class as that occupied by him at the time of the commencement of such leave, and he shall be entitled to such other privileges as are provided for in these rules. Any employee who fails to return to perform his regular duties by the date indicated in his leave, provided such leave has not been extended by action to the Civil Service Board, may be terminated.

An employee whose probationary period is interrupted as a result of taking a leave of absence shall, upon return, be given credit for the portion of probationary service previously completed. (C.S. Res. 43473 - 10/11/79)

Section 8.09 - Authorization to Approve Leaves. The Personnel Director is authorized to act for the Civil Service Board in approving sick leaves, family death leaves, and all leaves of absence without pay, not exceeding 30 days.

Section 8.10 - Military Leave of Absence. Military leave of absence shall be granted City employees in accordance with the Military and Veteran's Act of the State of California, a copy of such act to be found in the office of the Board.

RULE 9

SENIORITY, LAYOFF, CHANGE IN STATUS, RESIGNATIONS

Section 9.01 - Layoffs. Whenever there shall be need for a layoff, the staff shall be reduced in accordance with the procedure set forth in Section 9.02 of these rules.

Layoffs shall be on a City-wide basis by prescribed classification. The criteria applied in determining the particular employee(s) to be transferred or Laid off from the initiating or directly affected department or commission shall be those as specified in Section 9.02 (a & b).

Employees who are laid off shall have their names placed on the appropriate Laid-off (reinstatement) list in reverse order of dates of layoff; and they shall be entitled to reappointment to positions in the same classes where such positions are to be refilled during the period of their eligibility on the Laid-off (reinstatement) list, or to similar classes for which no Laid-off (reinstatement) lists exist.

Section 9.02 - Layoff Procedure. Whenever it becomes necessary to reduce a staff under the provisions of Section 9.01 of these rules, no permanent employee in the affected class shall be laid off while there are employees without status in the same class. Employees without status in the class of position involved shall be terminated in the following order: emergency, seasonal, temporary, and probationary. By the provisions of Charter Section 97, the rules on layoff do not apply to the Fire Department.

In making layoff, the appointing authority shall first communicate with the Personnel Director regarding the class of position to be considered. The appointing authority shall then obtain from the Personnel Director a list of the employees, compiled on City-wide basis, who will be affected by the layoff, together with the combined score for efficiency and seniority of each permanent employee to be laid off; copies of same shall be provided to those other appointing authorities whose employees may be involved. A permanent employee shall be notified in writing and by direct submission at least ten working days prior to the date of layoff, and the notice shall contain the reason therefor. The appointing authority shall immediately thereafter render a written report to the Personnel Director on such form as he may prescribe, such report to state the name or names of the employees so laid off and reasons therefor.

The method for computing layoff points shall be as follows:

- (a) Seniority Credit: Credit in the class of layoff shall be granted at the rate of one point for each month of service in that class. Credit in a class that has been abolished, combined, divided or otherwise altered shall be granted at the same rate when the Personnel Director determines that such class was equal to or higher in level than the class of layoff, otherwise credit for service in such class shall be computed at the rate of one-half point per month. Service that is less than full-time shall receive seniority credit on a pro-rata basis.
- (b) Efficiency: For failure to maintain an acceptable standard of performance, there shall be computed in the layoff or demotion score of an employee with an "overall" performance rating of "Unacceptable," any time within the preceding twelve months, a minus thirty-six points. A rating of "Below Standard," any time within the preceding twelve months, minus twelve points.

- (c) Order of Layoff When Combined Scores are Equal: As between two or more employees having the same combined score for efficiency and seniority, at their last evaluation, the order of layoff shall be determined by giving preference for retention in the following sequences: (1) employee with highest overall report of performance rating; (2) employee with greatest actual time in the class in which the layoff is being made and in classes with the same or higher maximum salary; (3) employees with greatest total time in City service.
- (d) Reversion to Former Classification: City employees who possess permanent status in one classification and who, either through open or promotional examination, are appointed to a position in another classification, in the event of layoff from that class, shall have the right to be reinstated to a position in their former classification. This right shall extend to both personnel with tenure in a class so affected, and to individuals serving probationary periods in such class at the time of layoff.

To implement the foregoing, that employee in the lower classification with the least number of seniority and efficiency points shall be laid-off.

Section 9.03 - Resignations. When an employee desires to resign from the classified service, the employee shall submit to his department head, two weeks in advance where possible, a formal resignation in writing. The department head shall forward one copy of such resignation to the Personnel Director, along with a report of separation and performance evaluation of such employee. The receipt of such formal resignation and separation report and an exit interview with the employee, where deemed desirable by the Personnel Director, shall constitute, when the facts so indicate, resignation from the classified service in good standing.

Upon receipt of the resignation, the Personnel Director shall conduct such investigation as he shall deem proper and necessary to determine that the resignation was submitted in good faith by the employee and free from undue pressure or threat.

The date of such resignation and the findings of the investigation shall be incorporated in the personnel record of the employee.

No form of resignation may be filed with any department head undated or with a future date.

Whenever resignations with any organizational unit are, in the opinion of the Personnel Director, excessive, it shall be his duty and he shall have the power to investigate the causes of such resignations and to report the same to the appointing authority and the Board.

Section 9.04 - Retirement. Any person who is in regular full-time employment in the City service who shall become eligible to retire, and who shall be retired or pensioned under the provisions of any present or subsequent retirement laws shall be deemed, for the purposes of these rules, to have been separated from the City service in good standing; provided that a person who shall be so retired of disability and at an earlier date than the specified service retirement period shall be reinstated to a position in the same or similar class, provided that the disability for which he was retired ceases to exist, to the extent that he is able to perform the duties of the position held by him prior to his retirement.

Section 9.05 - Demotion on Account of Physical Incapacity. When an employee comes physically incapacitated for the performance of the duties of his position, he may, upon request of the appointing authority or upon his own initiative and with the approval of the City Physician, be transferred to a vacant position in a class

of position having less difficult duties. Complete information regarding any such change shall be reported by the appointing authority to the Personnel Director and the affected employee and shall not become effective until approved by the Board.

Section 9.06 - Incompatible Activity of City Employees. A City officer or employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with his duties as a City officer or employee, or with the duties, functions or responsibilities of his appointing authority or the agency by which he is employed.

Each appointing authority shall determine and prescribe those activities which for employees under his jurisdiction, will be considered inconsistent, incompatible or in conflict with their duties as City officers or employees. In making this determination, the appointing authority shall give consideration to employment, activity or enterprise, which:

- (a) Involves the use for private gain or advantage of City time, facilities, equipment and supplies, or the badge, uniform, prestige or influence of one's City office or employment or
- (b) Involves receipt of 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 an act, would be required or expected to render in the regular course or hours of his City employment, or as a part of his duties as a City officer or employee or
- (c) Involves the performance of an act in other than his capacity as a City officer or employee, which act may later be subject direct or indirectly to the control, inspection, review, audit or enforcement by such officer or employee or the agency by which he is employed.

Each City officer and employee shall, during his hours of duty as a City officer or employee and subject to such other laws, rules or regulations as pertain thereto, devote his full time, attention and efforts to his City office or employment

Section 9.07 - Investigations by the Board. The Board, or its designated representative, may, upon its own initiative, make such inquiries and investigations as it may deem to be warranted regarding the administration and effect of the provisions of the City Charter as related to matters of personnel management, and of the rules adopted in accordance therewith, and make such recommendations to the appropriate authorities as in its judgment may be warranted.

RULE 10

DICIPLINARY ACTIONS, APPEALS AND HEARINGS

Section 10.01 - Disciplinary Action. All persons holding positions in the Classified Civil Service shall be subject to suspension, fine and also to removal from office or employment by the City Manager, or, in case of persons employed in the office of the Auditor-Controller, or any Board, by the Auditor-Controller or Board, for misconduct, incompetency, or failure to perform their duties under or observe the rules and regulations of the department, office, or Board; but subject to the appeal of the aggrieved party to the Civil Service Board as herein provided.

Any chief official, any subordinate officer, and any superintendent or foreman in charge of municipal work may temporarily suspend any subordinate then under his direction for incompetency, neglect of duty or disobedience of orders, but shall within twenty-four hours thereafter report the facts in writing to the City Manager, Auditor-Controller, or Board, as the case may be, and furnish a copy of the report to the subordinate suspended, upon his request therefor. The City Manager, Auditor-Controller or Board shall thereupon, if demanded by the subordinate suspended, hear evidence for and against him, and shall thereupon affirm or revoke such suspension according as he or it finds the facts to warrant. (Char. Sec. 81)

Employees in the classified service may be dismissed, demoted, fined, or suspended without pay for just cause.

When an employee in the classified service has failed or fails to perform the duties of his position in a satisfactory manner, or has committed any act or acts to the prejudice of the public service, or has failed to perform any act or acts it was his duty to perform, or whose service rendered is below satisfactory standards, or who otherwise has become subject to disciplinary or other corrective measures, the appointing authority or his designated department heads shall have the power and it shall be their duty to take action, subject to the provisions of the Charter and these rules, in one of the following ways:

- (1) To reprimand the employee and record such reprimand in his service rating report.
- (2) To suspend the employee without pay.
- (3) To demote the employee to a lower class of position than that currently filled by him.
- (4) To fine the employee.
- (5) To discharge the employee from the public service.

Section 10.02 - Procedure in Disciplinary Actions. The appointing authority shall consider any reprimand that is subject to a written report, as opposed to departmental recording of reprimands, as a part of the report on the employee's service rating.

The department head shall notify the Personnel Director, in the manner and form prescribed by him, whenever any employee is suspended without pay, indicating the reasons therefor and the duration of the suspension. In case of any suspension, the employee shall have the right of hearing or investigation by the appointing authority or the Board, in accordance with the procedures described in the Charter and these rules.

RULE 11

RECORDS, REPORTS AND NOTICES

Section 11.01 - Notice to Board of Appointments, etc. Immediate notice in writing shall be given by the appointing power to the Board of all appointments, permanent or temporary, made in such classified service, and of all transfers, promotions, resignations, suspensions, fines or vacancies from any case in such service, and of the date thereof; and a record of the same shall be kept by the Board. When any place of employment is created or abolished, or the compensation attached thereto altered, the power making such change shall immediately report the fact in writing to the Board. (Char. Sec. 75)

Section 11.02 - Official Roster. The Personnel Director shall provide and maintain a complete official roster of employees, showing for each employee his name, address, class title, rate of pay, changes in any of these, and such other information as he may deem desirable. The form and manner in which such information shall be maintained shall be determined by the Personnel Director. All persons employed in the classified service and all persons whose names appear on eligible lists shall notify the Board of any change of address and telephone number; otherwise any notice sent by United States mail to the address of record shall be deemed to have been sufficiently given.

Section 11.03 - Access of Department Records. The Personnel Director shall arrange with the respective departments for the keeping and maintenance by each department of such personnel records as may be deemed necessary for carrying out the provisions of these rules.

The officers and employees shall make available to the Personnel Director all department reports, records and documents dealing with personnel matters, the examination of which will aid him in the discharge of his duties.

Section 11.04 - Records Open to the Public. With the exceptions indicated in these rules, the records of the Civil Service Department, the minutes of the meetings of the Board, annual and special reports, the classification and compensation plans, and the official roster are hereby declared to be public records, and shall be open to public inspection at the Civil Service offices under reasonable conditions during business hours. However, the Personnel Director shall have the authority to withhold information dealing with employee personal records and special reports which would be detrimental to the employee and to the functions and operations of the City service or the Civil Service Department.

Material used or to be used in tests, confidential reports regarding applicants or eligibles, and the names and identity of special examiners who may be temporarily employed by the City and whose usefulness would be impaired if their identity were disclosed, shall be considered confidential and not open to the public.

Section 11.05 - Disposition of Records. Personnel roster cards, position cards, and minutes of Board meetings shall be kept permanently. All other non-permanent records pertaining to examinations or personnel transactions, or any other records or reports no longer required, may be destroyed at the discretion of the Personnel Director in accordance with applicable laws.

Exhibits submitted in the cases of appeal to the Board may be destroyed one year after the decision of the Board, unless recovered by the persons concerned.

Section 11.06 - Official Written Notice by Board. Any written notice required by the provisions of these rules to be given to any employee may be given either by personal service or by mail. In the case of service by mail, the notice must be deposited in the United States Post Office or a mailbox, sub-post office, substation or mail chute, or other like facility regularly maintained by the Government of the United States, in a sealed envelope, with postage prepaid, addressed to the person on whom it is to be served at his last address as the same appears on the records of the Board. The service is complete at the time of the deposit.

RULE 12

CERTIFICATION OF PAYROLLS

Section 12.01 - Certification to Auditor-Controller. The Board shall certify to the Auditor-Controller all appointments to places of employment in the classified Civil Service, and all vacancies occurring therein, and all fines and suspensions made under the provisions of this article. (Char. Sec 79)

The Personnel Director shall establish procedures for sending copies of reports and notices to the Auditor-Controller of any new positions, new employees, changes in pay, classification, or status, and attendance and absence of employees and of his approval or disapproval of such actions for use in auditing and approval of payment of any salaries or wages to employees in the City service. The Personnel Director shall, if so requested by the Auditor-Controller, make available the official roster for the purpose of making such audits.

Whenever it is brought to the attention of the Personnel Director that any person is employed or is proposed to be paid as an employee in the classified service in any amount not provided for, he shall so notify the Auditor-Controller. After such notice, the Auditor-Controller shall not approve any payment of such person, except in accordance with such provisions.

Section 12.02 - Effect of Classification and Allocation on Payment. No person shall be employed or paid in any position until the class of such position has been determined through allocation of the position to the appropriate class by the Board.

No employee shall be appointed, employed, or paid under any title other than that of the class to which the position occupied by him has been so allocated.

RULE 13

PROHIBITIONS AND PENALTIES

Section 13.01 - Frauds Prohibited. No person shall willfully or corruptly by himself or in cooperation with any other person or persons:

- (a) Willfully and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified pursuant to the City Charter or these rules pertaining to the classified service, or the service ratings of any employee, or aid in so doing, or shall willfully make any false representation concerning the same, or concerning any person examined;

- (b) Impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination, appointment, or application or request for examination;
- (c) Defeat, deceive, or obstruct any person in respect to his or her rights in relation to any examination or appointment in the classified service;
- (d) Furnish any person any special or secret information for the purpose of either improving or injuring the prospects or chances of such person in connection with any examination or appointment;
- (e) Directly or indirectly give, render, pay, offer, solicit or accept money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

Section 13.02 - Penalty. Any person violating any of the provisions of this Article or any rule hereunder shall be deemed guilty of a misdemeanor, and for such offense may, upon conviction thereof, be suspended, reduced in grade, or dismissed from the service. (Char. Sec. 86)

RULE 14

EMPLOYEE-MANAGEMENT RELATIONS

Section 14.01 - Objectives of Employee-Management Relations Program.
The objectives of the employee-management relations program are primarily threefold in character as follows:

- (a) To recognize the need for handling suggestions and complaints from employees in the public service through provision of a continuing operating committee to receive, consider and make recommendations of such matters as relate to personnel administration, Civil Service procedures, and satisfactory employee-management relations in the public service.
- (b) To provide the means for encouraging the submission of and obtaining the suggestions and constructive criticisms from employees and supervisors through their representatives on any matters of personnel policy or Civil Service procedures being considered for adoption or change.
- (c) To provide lines and means of communication and disseminating information to employees in the public service.

Section 14.02 - Establishment of Employee-Management Committee.
(Rule 14 should be made effective after the membership of such a committee is decided upon.

Section 14.03 - Functions of Employee-Management Committee. The employee-management committee may serve in an advisory capacity to the various boards, commissions, the Auditor-Controller, City Manager, and department heads with respect to matters of Civil Service procedures, personnel administration and employee relations, excepting matters of formal appeals and hearings, or other procedures which fall within the jurisdiction of the Civil Service Board.

The general functions of the committee shall include such as the following:

- (a) Assisting and developing information with respect to the administration of the classification program;
- (b) Assisting and developing information with respect to the administration of the recruitment, examination, and certification program;
- (c) Assisting in the development of a proper employee service rating program and the administration of a training program;
- (d) Regular review of Civil Service policies, rules, and regulations and developing constructive suggestions for their improvement;
- (e) Dissemination of information regarding significant features of adjustments in the Civil Service program.

RULE 15

SAVINGS CLAUSE

Section 15.01 - Savings Clause. If any section, sentence, clause or phrase of these rules shall be held, for any reason, to be inoperative or unconstitutional, void or invalid, the validity of the remaining portion of these rules shall not be affected thereby, it being the intention of the Civil Service Board in adopting these rules, that no portion thereof, or provision herein, shall become inoperative or fail by reason of the unconstitutionality or invalidity of any other portion or provision; and the Civil Service Board does hereby declare that it would have severally passed and adopted the provisions contained herein separately and apart one from the other.