



RULES
OF THE
BOARD OF CIVIL SERVICE
COMMISSIONERS
CITY OF LOS ANGELES



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**The Rules of the Board of Civil Service Commissioners
City of Los Angeles**

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RULE 1 - DEFINITIONS

- Sec. 1.1. These Rules shall be known as "The Rules of the Board of Civil Service Commissioners of The City of Los Angeles."
- Sec. 1.2. ALLOCATION means the official assignment of a position to a class.
- Sec. 1.3. APPLICANT or CANDIDATE means a person who has filed an application to take an examination.
- Sec. 1.4. APPOINTING AUTHORITY or APPOINTING OFFICER or APPOINTING POWER means any person or group of persons, including any board, general manager, or other officer, having the power by law to make an appointment to a position.
- Sec. 1.5. APPOINTMENT:
- a) EMERGENCY APPOINTMENT or TEMPORARY APPOINTMENT means an appointment made in accordance with Charter Section 1013 (a) & (b) and which must be terminated when a regular appointment can be made.
 - b) INTERMITTENT APPOINTMENT means an appointment from an eligible list to an intermittent position.
 - c) LIMITED APPOINTMENT means an appointment from an eligible list to a limited position or to substitute in a permanent position for an incumbent temporarily absent.
 - d) REGULAR APPOINTMENT means an appointment from a reserve list to any position or an appointment from an eligible list to a permanent position of half time or more. ORIGINAL REGULAR APPOINTMENT means an employee's first appointment to a permanent position of half time or more from an eligible list or his/her first regular appointment after his/her last break in service, whichever is the more recent.
- Sec. 1.6. BOARD or COMMISSION means the Board of Civil Service Commissioners of the City of Los Angeles.
- Sec. 1.7. CALENDAR YEAR means any twelve-month period beginning January 1 and ending December 31.
- Sec. 1.8. CERTIFICATION means providing to an appointing authority the names and addresses of persons who are legally qualified for consideration for appointment.
- Sec. 1.9. CHARTER means the Charter of the City of Los Angeles.
- Sec. 1.10. CITY means The City of Los Angeles.
- Sec. 1.11. CLASS means a position or a group of positions sufficiently similar in duties and responsibilities that they are grouped under a common title pursuant to Charter Section 1003. HIGHER CLASS means a class that has been determined by the Commission to be of higher level than another class for purposes of Charter Section 1015 based on a comparison of the duties, responsibilities, requirements, and compensation.

- Sec. 1.12. CLASS GROUP includes all the positions in a class in a department. THE CLASS GROUP for an employee being laid off includes all positions determined by the Board to have been created from such class group subsequent to his/her original regular appointment therein.
- Sec. 1.13. CLASSIFICATION PLAN means an orderly arrangement of classes to which positions are allocated and for which there are written specifications describing the duties, responsibilities, and qualifications of each class.
- Sec. 1.13.5 DEMOTION OR DEMOTED pursuant to the provisions of Charter Section 1017 means an involuntary change from one class to a lower class.
- a) DEMOTION IN LIEU OF DISCHARGE pursuant to the provisions of Charter Section 1019(b) means movement of an employee from one class to another class in accordance with the Rules of the Board of Civil Service Commissioners.
- Notwithstanding the definitions contained in this Rule, the City Charter does not provide for demotion by an appointing authority.
- Sec. 1.14. DEPARTMENT means an office or a department created by, or pursuant to the provisions of the Charter. Where a department of the City is divided into major divisions in accordance with the provisions of Charter Section 1015, DEPARTMENT means a major division. (See Appendix D for list of departments.)
- Sec. 1.15. DISPLACE means the act of replacing an employee with another employee who has greater displacement seniority pursuant to Charter Section 1015 (b).
- Sec. 1.16. ELIGIBLE means a person whose name is on an eligible list as the result of qualifying by examination.
- Sec. 1.17. EMPLOYEE means a person occupying a position in the classified civil service.
- a) EMERGENCY EMPLOYEE means one who is appointed in accordance with Charter Section 1013 (a) & (b) and who must be terminated when a regular appointment can be made.
- b) EXEMPT EMPLOYEE means one who is exempted or who occupies a position exempted from the civil service provisions of the Charter.
- c) INTERMITTENT EMPLOYEE means a person appointed from an eligible list to an intermittent position.
- d) LIMITED EMPLOYEE means a person appointed from an eligible list to a limited position.
- e) REGULAR EMPLOYEE means one who is appointed to any position from a reserve list or to a permanent position of half time or more from an eligible list or who has been granted regular status in accordance with the Charter.

Sec. 1.17.5 ENTRANCE LEVEL or ENTRY LEVEL means a class which is the beginning class in any series of classes, and which requires either no experience or experience which cannot be obtained in the City service.

Sec. 1.18. EXAMINATION means a test or a combination of tests which determine the relative capacity of candidates to discharge the duties and responsibilities of the class in which they are seeking appointment.

a) CONTINUOUS EXAMINATION means an examination which is open for filing for an indefinite period of time and which is held on a periodic basis.

b) OPEN COMPETITIVE EXAMINATION means an examination open to any person who meets the requirements as specified in these Rules and the examination announcement.

c) PROMOTIONAL EXAMINATION means an examination open to any employee in the classified service in a lower rank who meets the requirements specified in these Rules and the examination announcement and who:

- (1) has received a regular appointment or an appointment under Section 5.30 of these Rules to a temporary position or temporary training position and has not had a subsequent break in service as defined in Section 1.34 of these Rules or has been reactivated as a member of the Fire or Police Department in accordance with Section 1306 or 1410 of the City Charter.

(Amended 1-10-84)

Limited or intermittent appointments from a list or exempt or temporary (emergency) appointments do not qualify under this section.

(Amended 10-14-77)

- (2) is on a reserve list or on leave of absence.

(Amended 4-27-63)

- (3) has received an appointment under Section 5.30 of these Rules to a temporary position and has been separated from the City service for lack of work within the past five years.

(Amended 12-17-76)

- (4) PROMOTIONAL EXAMINATIONS may be announced on an INTERDEPARTMENTAL PROMOTIONAL basis or on a DEPARTMENTAL PROMOTIONAL basis. A DEPARTMENTAL PROMOTIONAL EXAMINATION restricts competition to employees of a particular department.

(Amended 9-26-60)

An employee shall be deemed to be in a lower rank if appointment from the eligible list resulting from an examination could result in increased promotional opportunity or a higher maximum salary.

(New 6-21-63)

- Sec. 1.19. EXAMINATION ANNOUNCEMENT OR BULLETIN means the official public written notice of an examination.
- Sec. 1.20. EXAMINING PHYSICIAN means any physician who is authorized by the General Manager to conduct medical examinations.
- Sec. 1.20.5 EXAMINING PSYCHOLOGIST means a psychologist who is authorized by the General Manager to conduct psychological examinations.
(Amended 9-01-84)
- Sec. 1.21. FINAL GENERAL AVERAGE means the final score of a candidate in an examination, as computed according to Section 4.4 of these Rules, including any promotional seniority credit or veterans' credit allowed. (Amended 11-28-91)
- Sec. 1.22. GENERAL MANAGER means the General Manager of the Personnel Department. (Amended 6-28-68)
- Sec. 1.23. LAYOFF means separation resulting from lack of work, lack of funds, or abolishment of position.
- Sec. 1.24. MEDICAL REVIEW PANEL means the independent committee of physicians appointed by the Commission to consider appeals from medical findings or assigned limitations in medical examinations by the Commission's Examining Physician.
(Amended 7-20-84)
- Sec. 1.25. POSITION means any office or employment requiring the full or part-time services of one person.
- a) CLASSIFIED POSITION means a position not specifically excepted by the Charter from the Civil Service provisions requiring competitive tests of fitness for appointment.
 - b) HALF TIME POSITION means a position of half time or more but less than full time.
 - c) INTERMITTENT POSITION means a position of the duties of which are performed on a recurrent basis. Positions of less than half time are considered to be intermittent positions.
 - d) LIMITED POSITION means a position the duties of which are expected to terminate in less than the length of the probationary period.
 - e) PERMANENT POSITION means a position which is expected to last longer than the length of the probationary period.
- Sec. 1.25.5 PROMOTION, for purposes of transfer under Charter Section 1014, means the placement of an employee in a different class which is at a higher level than the employee's current class as determined by a comparison of the duties, responsibilities, requirements, and compensation.
(Effective 8-14-75)

Sec. 1.25.5, (Continued)

When the class to which transfer is requested is found to be at a higher level than the employee's current class, a transfer shall not be considered a promotion if it does not result in an immediate pay increase (excluding general pay increases). If the transfer is to a class with multiple pay levels, some of which exceed the employee's current pay level, advancement within that class to a higher pay level shall not be made for at least six months, or until an eligible list is established for the new class, whichever occurs first. However, Charter Section 1014 transfers for the purpose of allowing employees who are "legally employed" because of a class consolidation to obtain status in a new class will not be considered a promotion.

(Amended 12-22-98)

Sec. 1.26. PROBATIONARY PERIOD means the working test period during which an employee is required to demonstrate his/her fitness by the actual performance of the duties and responsibilities of his/her position and during which he/she may be terminated without right of appeal to the Board of Civil Service Commissioners.

Sec. 1.26.5 PSYCHOLOGICAL REVIEW PANEL means the independent committee of psychologists appointed by the Commission to consider appeals from disqualifications in psychological evaluations by the Commission's Examining Psychologist.

(Amended 7-20-84)

Sec. 1.27. REALLOCATION means the official reassignment of a position from one class to a different class.

Sec. 1.28. REGISTER OF ELIGIBLES or ELIGIBLE LIST for a class means the list of names of those persons who have qualified by examination and who are ranked in the order of their final general averages. Persons with the same final general average will have the same rank on the list.

(Amended 11-28-91)

Sec. 1.29. REPORT OF EXAMINATION means the report made to the General Manager of the results of an examination.

Sec. 1.30. RESERVE LIST means the list by class of the names in order of layoff seniority as of the time of layoff of those persons who have completed the probationary period and have been laid off.

- a) DEPARTMENT RESERVE LIST means the reserve list by class for a specific department.
- b) GENERAL RESERVE LIST means the list by class resulting from the merger, in the order of the greatest amount of layoff seniority, of the reserve lists for all departments except the department to which certification is being made.

Sec. 1.31. RESIGNATION means the voluntary separation, other than retirement, of an employee from his/her position.

- Sec. 1.32. REVERSION means the change of an employee from one class to another class in which the employee formerly had a regular appointment or an appointment from an eligible list to a temporary training position as defined in Section 5.30 of these Rules. (Amended 5-19-78)
- Sec. 1.33. SENIORITY:
- a) DISPLACEMENT SENIORITY is the length of service in a class group and in all higher classes since original regular appointment to such class, after deducting all absences without seniority credit.
 - b) LAYOFF SENIORITY in a class means the length of continuous service in that class and all higher classes since original regular appointment to that class, after deducting all absences without seniority credit.
(Amended 8-9-73)
 - c) PROMOTIONAL SENIORITY CREDIT means the credit given in promotional examinations for continuous service.
 - d) RESERVE LIST SENIORITY is the amount of LAYOFF SENIORITY at the time of layoff.
- Sec. 1.34. SERVICE or CITY SERVICE or SENIORITY means service in a class or position as the result of having received a regular appointment or having been granted regular status in accordance with Charter provisions.
- a) BREAK IN SERVICE means a separation from City employment caused by abandonment of position, resignation, retirement, or discharge for cause. (Amended 1-10-84)
 - b) CONTINUOUS SERVICE means service in the classified civil service since original regular appointment, excluding all time prior to a break in service and all periods of absence without seniority credit.
- Sec. 1.35. STATUS CLASS means the class in which an employee was examined, certified, and appointed to a position or in which he/she was granted status in accordance with the Charter.
- Sec. 1.36. SUSPENSION when used in these Rules means a suspension without pay under Charter Section 1016 involving personal delinquency. Suspension as used in Charter Section 1015, for the purposes of these Rules, is designated as LAYOFF.
- Sec. 1.37. TEST means one of the parts of an examination, such as written test, performance test, or evaluation of general qualifications.
- a) PERFORMANCE TEST means a test consisting of a standard task or series of tasks used to measure the relative skill or abilities of candidates.
 - b) PHYSICAL ABILITIES TEST means a test used to measure the capacity of a candidate to do the physical tasks of the class involving strength, stamina, and/or coordination.
(Amended 3-23-79)
 - c) QUALIFYING TEST means a test in which a minimum standard of performance is required as a condition of eligibility to compete in the examination or as a condition to appointment.
(Effective 8-14-68)
 - d) WRITTEN TEST means a test composed of multiple choice or essay questions or problems.
(Amended 6-20-60)

- Sec. 1.37. e) INTERVIEW means a personal meeting with candidates to evaluate their training, experience, and personal qualifications. (Amended 9-12-67)
- Sec. 1.38. TRANSFER:
- a) REGULAR TRANSFER means the change of an employee from one department to a position to which he/she may be legally assigned in another department.
 - b) TENTATIVE TRANSFER means the change, on a trial basis for a maximum of six months, of an employee who has completed his/her probationary period, from one department to a position to which he/she may be legally assigned in another department.
 - c) TENTATIVE TRANSFER UNDER CHARTER SECTION 1014 means the change, on a trial basis for a maximum of six months, of an employee from one class to another class under provisions of Charter Section 1014. (Amended 2-15-79)
- Sec. 1.39. VETERANS CREDIT or MILITARY CREDIT means the credit given for military service to an applicant in an open competitive examination in accordance with Charter Section 1006 provided that the five year period of eligibility defined under Charter Section 1006 and elsewhere in these Rules refers to the time during which the application for employment in the affected class must be received by the Personnel Department.
- Sec. 1.40. REVIEW PERIOD means the time during which a candidate can review appropriate test materials and submit claims against certain portions of an examination. The Rules provide for up to three review periods during an examination.
- a) PROTEST means a supported written statement disagreeing with the content or conduct of a test. Unsupported claims, late claims, and claims against the judgment of the raters shall not be considered to be protests.
 - b) SUPPORT for a protest on the written test content, grading criteria or answer key means citing an authoritative independent source, either a document or expert that agrees with the protest.
 - c) SUPPORT for a protest on the administration or conduct of a test means citing specific circumstances that occurred which were inappropriate and that clearly indicate a reference to the alleged impropriety. (Effective 3-23-79)

RULE 2
CLASSIFICATION PLAN*

- Sec. 2.1. The classification plan shall serve as a guide in the handling of all personnel activities and transactions. It shall be considered as an administrative tool and not a part of the Commission's Rules.
- Sec. 2.2. The classification plan may be amended by the Commission at any meeting. Action leading to such amendment may be initiated by the Commission or the General Manager or upon request of any person.
- Sec. 2.3. Whenever a new position is created or whenever the General Manager determines that any position is not allocated to its proper class, he/she shall, subject to the approval of the Commission, allocate or reallocate such position to one of the classes established in accordance with Charter Section 1003.

See Sections 4.49, 4.50, 4.54, and 4.131 of the Los Angeles Administrative Code, Ordinance Number 138,300, as amended, for procedure affecting Council-controlled departments.

- Sec. 2.4. Whenever the General Manager believes there is urgent necessity for establishing a new class, he/she may add such new class tentatively to the classification plan. Such action shall be subject to the Commission's approval at its next regular meeting, and, if approved, shall be effective as of the time of the General Manager's action.
- Sec. 2.5. Class specifications are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of positions that should be allocated to the various classes and shall not be construed as declaring to any extent or in any way what the duties and responsibilities of any position shall be, or as limiting or modifying the power of any appointing authority to assign duties to, and to direct and control the work of, employees under its supervision. Provided, however, that except for training purposes or to maintain essential operations no employee shall regularly be assigned to perform duties which differ substantially from those that were included in the class for which the employee was examined and appointed. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of similar kind. (Amended 2-20-76)

See Section 2.11

* See Charter Sections 1003 and 1020; Sections 4.49 to 4.57, and 4.131 of the Los Angeles Administrative Code, Ordinance Number 138,300, as amended; and Sections 4 to 12 of the Salary Standardization Ordinance for Firefighter's and Police Officer's, Ordinance Number 89,935 as amended.

- Sec. 2.6. In determining the class to which any position should be allocated, the specification of each class shall be

considered in its entirety. Consideration shall be given to the general duties, specific tasks, responsibilities, qualifications desired, and relation to other classes, as affording together, a picture of the kind of employment that the class is intended to include.

Sec. 2.7. Qualifications commonly required of all employees, such as the physical, mental, and emotional ability to perform the essential duties of their positions without threat of hazard to themselves or others, a legal right to work, respect for and awareness of sexual and cultural differences, honesty, sobriety, and industry shall be implied as requirements for each class even though they may not be specifically mentioned in the specification. (Amended 7-3-79)

Sec. 2.8. The statement of qualifications in the class specification shall be a guide for the establishment of minimum requirements for admission to examinations, for the tests to be included in the examinations, for the evaluation of the qualifications of applicants, and for other purposes.

Sec. 2.9. Class titles shall be used when referring to positions, for all records and communications of the Commission, the Controller, and the Treasurer and in all reports and payrolls providing for the payment of personal services. Any other title desired by the appointing power may be used to designate any position for purposes of internal administration.

Sec. 2.10. It shall be presumed that each employee is entitled to the position which he/she holds unless the Commission finds that he/she been illegally appointed to the position or that, after appointment, he/she been assigned duties contrary to Charter provisions or these Rules.

See City Attorney Opinion to the Personnel Committee of the City Council, November 26, 1945.

Sec. 2.11. Whenever the Commission finds that any regular employee is performing duties or responsibilities for which he/she not been examined, certified, and appointed, the Commission shall withhold payroll approval of that employee.

See City Attorney Opinion to the Civil Service Commission, March 12, 1942.

Sec. 2.12. Increase or decrease in the compensation of any position shall not affect the right of the incumbent to continue in the position, unless the Commission finds that such change involves a change in duties or responsibilities for which the incumbent has not been examined, certified, and appointed.

RULE 3
APPLICANTS AND APPLICATIONS FOR EXAMINATION*

- Sec. 3.1. In order to qualify for examination, an applicant must:
- a) Have a legal right to work as required by state and federal laws. (Amended 2-1-75)

See City Attorney Opinion to the Civil Service Commission, August 20, 1974.

- b) File an application on the form furnished by the Commission on or before the date established for that examination as the last date to file. (Amended 9-25-82)
- c) Deleted 7-1-67.
- d) Meet all the requirements specified in these Rules and in the examination announcement.

See City Attorney Opinion to the Civil Service Commission, December 16, 1940.

1. Experience gained while working out of class will not be accepted as qualifying. However, credit may be given for experience gained through a training program approved through the Personnel Department or obtained through the temporary performance of duties outside the employee's status class as a result of unique operational needs. (Added 9-25-82)
2. Appropriate types of job-related experience and/or education will be established as meeting examination requirements. Experience at certain levels within multiple pay level classes may be designated as qualifying. (Added 9-25-82)

- Sec. 3.2. Applicants need not be residents of the City except when residence is stated as a qualification in the examination announcement.

See City Attorney Opinion to the Civil Service Commission, April 25, 1940.

- Sec. 3.3. Applications shall be marked with the date and time filed. (Amended 9-25-82)

*See Charter Sections 1005 and 1019(c).

- Sec. 3.4. Applications shall not be accepted unless an examination is open for filing, except from persons to be employed on emergency appointments.

Sec. 3.5. Any applicant or eligible candidate may be rejected or disqualified at any time prior to appointment who: (Amended 9-25-82)

a) Lacks any of the published examination requirements.

See City Attorney Opinion to George M. Ulh, M.D., Health Department, March 11, 1947.

b) Is physically or mentally unfit for the type of employment for which the eligible is being examined.

c) Practices or has attempted to practice any deception or fraud in making application or in securing eligibility or appointment.

See City Attorney Opinion to the Civil Service Commission, September 27, 1956.

d) Has a history of poor work performance or experience which would interfere with or prevent effective performance in the type of employment sought.

e) Has committed any act which constitutes a crime and which is of such a nature that it would interfere with or prevent effective performance in the type of employment sought.

f) Has engaged in conduct which would interfere with or prevent the individual's effective performance in the type of employment sought. (Amended 3-22-74)

Sec. 3.6. Any applicant who is rejected shall be advised of the reasons for the rejection. (Amended 08-16-07)

Sec. 3.7. Promotional applicants who are rejected for not filing applications within prescribed times may request late acceptance of their applications. These requests must be made timely and may be granted for good and sufficient reasons provided the applicant is without personal negligence. Requests for review will not be accepted after the first test administration in a regular examination or the last administration of any portion of a continuous examination. (Amended 08-16-07)

Sec. 3.8. Applications will be evaluated and processed for examinations in an equitable and consistent manner. (Added 9-25-82)

Sec. 3.9. Promotional Applicants who have been rejected for not filing applications within prescribed times or failing to meet minimum examination requirements may request the General Manager or designee to conduct a final review of their rejection. (Amended 09-13-18)

Sec. 3.10. The Commission shall not entertain requests to review the General Manager or designee's actions on late or lacking minimum qualifications applications unless there are supported claims of failure to comply with the provisions of the Civil Service Commission Rules or Personnel Department Policies. (Added 09-13-18)

RULE 4
EXAMINATIONS*

- Sec. 4.1. The type of examinations are Open Competitive, Departmental Promotional, and Interdepartmental Promotional. Examinations may be postponed by the Commission or the General Manager. (Amended 8-7-67)
- Sec. 4.2. The General Manager may announce an examination, provided there is no limit placed on the number of applicants tested nor any change in the requirements or tests of fitness from the last approved by the Commission. When any of these occur, the General Manager may announce the examination, subject to approval by the Commission at its next regular meeting. In announcing examinations, public notice must be given for a period of not less than two weeks. (Amended 10-27-2011)
- Sec. 4.3. Examinations shall include one or more tests to which weights are assigned. Examinations shall include tests such as, but not limited to, multiple-choice tests, essays, training and experience questionnaires, interviews, physical abilities tests, performance tests, and program performance tests that assess an employee's performance in the on-the-job training portion of the official City employment program, such as the Targeted Local Hire Program, Bridge to Jobs Program or approved apprenticeship programs. Each test shall assess only job-related factors, such as the knowledge, skills, abilities, and other characteristics needed to perform the job. The weight assigned to each test shall be stated in the examination announcement and shall represent its relative value in determining the fitness of the applicant. When its purpose is stated in the examination announcement, an unweighted test may be used.
- Sec. 4.4. Each test shall be graded independently; the resulting grade shall be multiplied by the weight assigned to each test; the sum of the resulting products rounded to the nearest whole score shall be the final general average except where promotional seniority credit or veterans' credit is added. Promotional seniority credit will be added prior to rounding the final score. Veterans credit will be added to the final general average of passing Open Competitive candidates. (Effective 11-28-91)
- Sec. 4.5. The passing mark in an examination shall be seventy percent. (Amended 5-19-61)
- Sec. 4.6. An applicant whose test score or scores make it impossible for him/her to attain a final general average of at least seventy percent, including promotional seniority credit, may be excluded from the remaining tests and shall be considered as having failed the examination. (Amended 4-27-63)

*See Charter Sections 1005 and 1007.

Sec. 4.7. In all open competitive examinations, veterans' credit shall be given to each person passing the examination who has served in the armed forces of the United States during a period identified below and who presents for inspection satisfactory proof of honorable discharge. Veterans credit shall be added to the passing score during the five years following release from active military service, provided that the five-year period may be extended for the time during which the veteran is engaged as a full-time student or vocational trainee, or is hospitalized due to service-related injury or illness. Veterans' credit shall be added to the passing score of the spouse of a person killed or unable to work due to disabilities resulting from military service as identified below. The credit shall be added to the passing score of such spouse during the five-year period following the death of the person or during the five year period following the date on which the person was determined to be unable to work, such determination to be made by the Board. (Effective 2-15-79) (Amended 11-13-03)

A lifetime veterans' credit shall be added to the passing score of a person who served during a period identified below and who has been certified by the Veterans Administration as disabled. (Effective 2-15-79)

Such evidence of military service may be presented with an application or at any time thereafter. An eligible who presents evidence of his/her military service after the Report of Examination has been adopted by the Board shall have the final general average on this Report adjusted and reported to the Board. Credit will be given for military service only if it meets the following criteria: (Amended 11-13-03)

Service during December 7, 1941 to December 31, 1946 (World War II); June 25, 1950 to July 27, 1953 (Korean War); January 1, 1964 to August 15, 1973 (Vietnam Operations); August 2, 1990 to April 11, 1991 (Persian Gulf War). (Amended 11-13-03)

OR

Service during periods in which the City Council grants continued employee benefits for City employee reservists called to active duty. (Effective 11-13-03)

See Charter Section 1006 and City Attorney Opinion to the Civil Service Commission, August 20, 1974.

Sec. 4.8. If passing a qualifying test is to be a condition of eligibility, it shall be stated in the examination announcement. If such qualifying test can be rated competitively, the Commission may use the ratings of those candidates who meet or exceed the minimum standard in determining their final general averages, provided that such use of the ratings and the weights assigned thereto are stated in the examination announcement. (Effective 8-14-68)

Sec. 4.9. Deleted 6-21-63.

Sec. 4.10. In promotional examinations, promotional seniority credit for each year of continuous service shall be allowed for service in classes from which promotion is limited and shall be computed as follows:

- a) Seniority credit in examinations for classes designated by the Board as management classes shall be granted at a rate of 0.10% for each year of continuous service. Said seniority shall be granted only for service in those classes in which the candidate has obtained the experience required to qualify to compete in the examination in question; and the maximum amount of seniority credit which may be granted to any candidate in such examinations shall be 1.00%. (Amended 11-4-86)
- b) In promotional examinations for all other classes, seniority credit of 0.25% for each year of continuous service shall be allowed for service in classes from which promotion is limited.

Upon original regular appointment an employee shall be credited with that percentage of such seniority credit that bears a relation to the numbers of days remaining in the calendar year. Thereafter, on the first of each calendar year each employee shall be credited with additional seniority credit at a rate as appropriate above. Deductions from such credit shall be made for all absences of six months or more except leaves of absence with seniority. (Amended 8-30-85)

See Charter Section 1009 and City Attorney Opinions to Joseph W. Hawthorne, Civil Service Department, November 1, 1945, and August 26, 1947; to the Civil Service Commission, July 24, 1940, and June 23, 1942; to the City Librarian, August 12, 1941; to G. Vernon Bennett, City Councilman, October 31, 1941; and to Arthur Eldridge, Harbor Department, December 17, 1945.

Sec. 4.11. The minimum score for a weighted written test shall be 65%, including promotional seniority credit. The General Manager may establish a minimum score other than 65%, subject to approval by the Board at its next regularly scheduled meeting. Any candidate who fails to attain the minimum score shall be considered as having failed in the entire examination. (Amended 2-13-03)

Sec. 4.12. No applicant shall be admitted to a written test after any candidate who has seen the questions has left the examination room. However, if an applicant is unable to take a written test at the scheduled time and place because of extended active duty in the armed forces or because of circumstances not involving negligence on his/her part, the General Manager may approve later administration of the written test to the applicant. Each applicant taking a written test under the provisions of this section must state in writing under oath or affirmation that he/she did not, prior to taking the test, either see or have knowledge of any of the questions used.

Sec. 4.13. The identity of candidates in written tests shall not be revealed until after the test papers of all candidates are scored except where the General Manager authorizes the identification of a candidate suspected of cheating or other

improper practices during a test. Each time the General Manager authorizes such identification, he/she shall submit a report and a recommendation thereon to the Board within thirty calendar days following such identification. Any candidate in a written test who discloses his/her identity in any manner may be disqualified in the examination. (Amended 5-16-60)

- Sec. 4.14. In administering a written test, all necessary explanations shall be made to all the candidates. No written test question shall be explained to any individual candidate separately
- Sec. 4.15. Unauthorized communication between candidates during a test shall be strictly prohibited.
- Sec. 4.16. During a test, no candidate shall be permitted to leave the room except in case of necessity and with the permission of the person in charge.
- Sec. 4.17. The time limit, if any, prescribed for each test shall be announced at the beginning of the test.
- Sec. 4.18. Unless specifically stated in advance, no help of any kind shall be allowed during any test. Any unauthorized material that might be of aid in a test must be handed in before the test begins.
- Sec. 4.19. The Board may authorize the publication of keyed written tests, or any portion thereof, after the written test has been administered.
- Sec. 4.20. The four working days specified on the cover page of a written test shall be a review period for the written test and the tentative answer key or grading criteria for the test questions. During this period a candidate who took the written test may inspect a copy of the question booklet at locations designated by the General Manager, and may submit a protest against any part of the written test. Candidates may copy only such test material, as is needed for the protest submitted, but no copied test material may be removed from the examination review room. After this review period no further appeals on the content, correctness of the key, grading criteria or the administration of the written test shall be accepted. However, when so indicated on the cover page of the test booklet, the ten working days immediately following the end of the review period may be used by candidates to submit additional support for the protests submitted during the review period. After this time, no further information shall be accepted. Standardized tests, written tests used in continuous examinations, and written tests for entrance level classes held on an open competitive basis for which standard keys have been established through expert review and through a candidate review period, shall not be subject to inspection.

Sec. 4.30, (Continued)

Written tests for which test content has been shown to be job related on the basis of a systematic, documented content or criterion-related validation study may be withheld from inspection with the approval of the General Manager by notice given on the examination announcement. (Amended 3-23-79)

Sec. 4.21. All protests received during the review period (designated in Section 4.20) shall be reviewed by staff, with the assistance of a competent authority when necessary. Unsupported claims, late claims and claims not submitted in writing shall not be reviewed. The resulting answer key or grading criteria for the test questions which is established as a result of this review shall be the final scoring key or grading criteria for all candidates' papers. Any disagreements with staff's analysis of the protests which concern individual test questions will be submitted to a review panel of from one to three mutually agreed upon subject matter experts for a final resolution prior to the establishment of the final scoring key or criteria. The recommendation of the review panel shall be accepted by the General Manager as final. The Civil Service Commission shall not entertain any subsequent appeals on the review panel's recommendation. All such actions taken by the General Manager shall be periodically submitted to the Commission for approval. Any disagreements with staff's analysis of protests which concern the administration of the written test or the job-relatedness of the entire test may be appealed to the Commission. (Amended 3-23-79)

Sec. 4.22. The two working days immediately following a candidate's interview, physical abilities test, performance test, or pre-employment polygraph tests shall be designated as a review period during which the candidate may submit a protest against the conduct of his/her test or the competency of the raters. After this review period, no further appeals on the conduct of the interview/physical abilities test/performance test or competency of the raters shall be accepted, except as specified in Sec. 4.23. (Amended 01-10-02)

Protests received during this review period shall be reviewed by staff. Any disagreements with staff's analysis of these protests may be appealed to the Commission. Unsupported claims, late claims and claims not submitted in writing shall not be reviewed. (Amended 3-23-79)

Sec. 4.23. After all the tests in an examination have been scored, candidates shall be notified of a review period of four working days during which they may check their test papers for scoring accuracy. Question booklets shall not be provided for review during this period, nor shall candidates be allowed to copy any test material. Candidates who believe there is clerical error in the scoring of their answer sheets; or who believe there has been fraud, or prejudice in the conduct of any part of the examination process, may file a protest during this period.

- Sec. 4.23, (Continued)
Unsupported claims, late claims and claims not submitted in writing shall not be reviewed. (Amended 3-23-79)
All protests received during this review period shall be reviewed by staff. Any disagreements with staff's analysis of the protests concerning the conduct of the examination may be appealed to the Commission. (Amended 3-23-79)
- Sec. 4.24. Unsupported claims of misconduct and all claims against the judgment of the raters in assigning scores for essay, interview, physical abilities, performance, or pre-employment polygraph tests shall not be grounds for a protest under Sec. 4.20, 4.22 or 4.23. The General Manager or designee shall have the authority to make final determination on all claims. The Commission shall not entertain any subsequent appeals on the General Manager or designee's decision.

The Commission may, upon advance notification to candidates, combine the review periods specified in Sec. 4.20, 4.22 and 4.23 of this Rule. The examination results finally established after consideration of any appeals thereto shall contain the names of the candidates on a list to be adopted by the General Manager as the Report of Examination. (09-13-08)
- Sec. 4.25. The name of each candidate who attains a passing mark in a continuous examination shall be placed on the register of eligibles as soon as his/her final general average is computed.

Candidates may not inspect a copy of the question booklet and answer key but may inspect their scored answer sheets in any written test in a continuous examination and may file a protest, as provided in these Rules, against any part of such examination only during the first four working days beginning the second day after notices are mailed. Any changes in scores made as a result of protests filed against a continuous examination shall not affect appointments already made.
- Sec. 4.26. Amendments to Reports of Examinations resulting from corrections of clerical errors, administration of postdate tests or granting of veterans' credit may be made during the period that names on said Reports appear on the register of eligibles, but such amendments shall not affect appointments already made.
- Sec. 4.27. The examinations papers of each candidate shall be kept on file until the adoption of the Report of Examination by the General Manager, after which time they may be destroyed, except that the examination papers of those candidates who have filed protests against any part of the examination shall be kept on file for six months from the date of the adoption of the Report of Examination after which they may be destroyed.

- Sec. 4.28. Whenever an examination includes an interview or a performance test and a candidate is unable to appear at the time scheduled, he/she may, at the discretion of the General Manager, be given a postdate interview or performance test, provided, however, that such postdate interview or performance test shall not affect or delay the adoption of the Report of Examination.
- Sec. 4.29. If a candidate is unable to complete an open competitive examination because of active duty in the armed forces of the United States, he/she may, within ninety days after his/her honorable release, at the discretion of the General Manager, be given an opportunity to complete the examination. Upon approval by the General Manager of the report of such candidate's completed examination, if his/her final general average is seventy percent or higher, his/her name shall be placed on the eligible list for a two-year period unless sooner removed in accordance with these Rules. (Amended 6-11-60)
- Sec. 4.30. Any attempt on the part of an applicant or others, with his/her knowledge, to influence or induce any officer, employee, or assistant of the Personnel Department to give said applicant an advantage or to accord him/her a special rating in an examination, shall be cause for his/her disqualification. (Amended 6-26-68)
- See Charter Sections 1019(c) (2) and 1019(c) (3).
- Sec. 4.31. No officer, employee, or assistant of the Personnel Department shall furnish to any person prior to an examination, questions, answers, sources from which questions have been or will be obtained, or any other information pertaining to an examination that could give any candidate an advantage. (Amended 6-26-68)
- Sec. 4.32. No officer, employee, or assistant of the Personnel Department shall recommend, furnish the name of, or in any way publicize any school or individual offering coaching or other preparation for civil service examinations except public schools or other recognized education institutions which do not specialize in coaching persons for civil service employment. (Amended 6-26-68)

RULE 5
REGISTER OF ELIGIBLES, CERTIFICATION, AND APPOINTMENT*

*See Charter Sections 1008, 1009, 1010(a) & (c), and 1015(d).

Sec. 5.1. Upon the adoption of the Report of Examination, the names of all candidates whose final general average is not less than seventy percent, and who are otherwise eligible, shall be placed upon the register of eligibles for the class for which the examination was given. (Amended 6-11-60)

See City Attorney Opinion to the Civil Service Commission, February 21, 1939.

Sec. 5.2. The names of eligibles shall take rank upon the register of eligibles in the order of their final general average without reference to the date of the examination.

Sec. 5.3. Eligibles in an examination with the same final general average (whole score) will have the same rank on the register of eligibles. When certifying the list, all persons within the same whole score will be certified in random order. (Effective 11-28-91)

Sec. 5.4. Deleted 4-29-83

Sec. 5.5. Following adoption of the Report of Examination, names shall remain on the register of eligibles for two years unless sooner removed in accordance with these Rules. Names of candidates on open competitive eligible lists established as a result of continuous examinations may be stricken after they have remained thereon for six continuous months. The General Manager may continue names on an eligible list for entry-level classes for not more than an additional two years. See City Attorney Opinion to the Civil Service Commission, November 20, 1935, and to L. Plitt Smeltzer, Department of Water and Power, February 13, 1945.

Sec. 5.6. Whenever a position is to be filled by certification, the appointing authority shall make requisition upon the form prescribed by the Commission. All requisitions shall be investigated to assure conformance to Board policies and Rules. If the requisition is approved, certification shall be made from the reserve list or register of eligibles for the class to which said position is allocated. See City Attorney Opinion to the Civil Service Commission, July 24, 1944.

Sec. 5.7. When certification is from the reserve list for the department in which the vacancy exists, only the name of the person with the greatest amount of reserve list seniority shall be certified for each position to be filled.

See City Attorney Opinion to Joseph W. Hawthorne, Civil Service Department, January 14, 1946.

Sec. 5.8. If there is no name on the reserve list for the department in the class to be filled, the General Manager shall certify in order of standing the names of persons in the top three whole scores from the register of eligibles or general reserve list next in order as specified in Charter Sections 1015(e) and 1009. The General Manager shall certify no less than five names more than the number of positions to be filled, and shall certify such additional whole scores as are necessary to provide sufficient eligibles. Notwithstanding the above requirement, where there are remaining on the eligible list less than five available eligibles over and above the number of positions to be filled and the General Manager finds that it is for the good of the service, the names of all available eligibles may be certified and appointments may be made from those available eligibles.

The General Manager may certify the names and addresses of all available eligibles within a range of one or more whole scores whenever such certification is requested by the appointing authority and there are at least five eligibles within such range over and above the number of positions to be filled.

Appointments can be made only from among the persons in the whole scores that are certified to provide three whole scores or five more than the number of vacancies filled. If fewer than the initially intended vacancies are filled, then appointments can be made only from those whole scores that would have been certified for the fewer number of vacancies. (Effective 11-28-91)

Sec. 5.9. If a person declines appointment or fails to report as the result of certification within the time stated on the notice of certification, then upon notification to the General Manager by the appointing officer, the name of the next person on the reserve list or register of eligibles shall be certified.

Sec. 5.10. Whenever a person requests to have his/her name withheld from certification to certain departments or for certain types of employment, his/her name shall not be certified to said departments or for such types of employment until he/she notifies the General Manager in writing of his/her availability for such employment.

Sec. 5.11. If an eligible who is certified for employment from an open eligible list to permanent positions declines appointment a total of three times, his/her name shall thereafter be withheld from certification. Failure to report to the appointing officer for interview shall constitute a declination of appointment. Upon the written request of an eligible whose name has been withheld from certification by reason of declination, the General Manager may make such eligible's name available for certification if he/she finds such action to be for the good of the City service.

Sec. 5.11, (Continued)

Declination of appointments by eligible certified from promotional eligible lists shall not result in the withholding of the eligible's name from later certification. (Amended 5-12-88)

Sec. 5.12. If an eligible agrees to accept an appointment, but fails to report for duty as directed, he/she shall be notified in writing that his/her name has been removed from the eligible list. If within fifteen calendar days after such notification, he/she proves to the satisfaction of the General Manager that his/her failure to report was excusable, his/her name shall be returned to its place on the eligible list.

Sec. 5.13. If a person has been appointed to and is serving in a position described in the requisition as permanent full time, his/her name shall not be certified further to any position from the eligible list for that class. If so appointed and while serving in such position, his/her name shall not be further certified from a reserve list for that class except to that department from which he/she was laid off. (Amended 8-11-61)

See City Attorney Opinion to Lloyd Aldrich, City Engineer, March 12, 1937.

Sec. 5.14. Names of probationers shall be removed from the register upon completion of the probationary period, upon termination, upon abandonment of position, or upon resignation to avoid termination. If a probationer has been terminated, has abandoned his/her position, or has resigned to avoid termination, the General Manager may reinstate such probationer's name to the register if his/her request for reinstatement is on file with the Personnel Department within five calendar days after submitting his/her resignation or receiving notice of his/her termination and if after discussion with the appointing authority of the terminating department, it appears that the candidate would be a fit and suitable City employee. If a probationer, through no negligence on his/her part, fails to file his/her request within the specified time, the General Manager, on his/her own initiative, may reinstate such probationer's name to the register if after discussion with the appointing authority of the terminating department, it appears that the candidate would be a fit and suitable City employee. The candidate may be certified to the department from which terminated only upon the written request of the appointing authority. (Effective 10-8-71)

See City Attorney Opinions to E.F. Scattergood, Department of Water and Power, February 18, 1938; and to the Civil Service Commission, April 7, 1938.

- Sec. 5.15. A position is considered by the Board to be a limited position if the appointing authority states on the request for certification that the probable duration of employment is less than the length of a probationary period. If such employment subsequently proves to be longer, the employment of a limited employee in such position shall not exceed two months beyond the length of the probationary period. The Board shall withhold payroll approval of any limited employee whose employment in a limited position exceeds the limits specified in this Rule.
- See Charter Sections 1004 and 1013(c)
- Sec. 5.16. A person appointed from an eligible list to a limited position cannot complete a probationary period, accumulate seniority, appeal a suspension or discharge, or be retained if persons who received appointments to permanent positions in the same class group are being laid off.
- Sec. 5.17. An eligible appointed to an intermittent, halftime, or limited position shall remain on the eligible list for certification to permanent full-time positions during the life of that list except that if he/she is discharged, abandons his/her position, or resigns to avoid discharge, his/her name shall be withheld from certification. The General Manager may make such eligible's name available for certification in the same manner as that prescribed in Section 5.14 of these Rules for terminated probationers. (Amended 11-27-61)
- Sec. 5.18. When an appointment is made to an intermittent or half-time position, such appointment shall not be made permanent full-time without the consent of the Commission.
- Sec. 5.19. A person appointed from an eligible list to an intermittent position cannot complete a probationary period, accumulate seniority*, or appeal a suspension or discharge.
- * Seniority as used in Sec. 5.19 relates only to seniority for civil service purposes, namely layoff and displacement, and does not affect any department policy related to vacation, salary, reemployment, or placement on a seniority basis.
- Sec. 5.20. Deleted 9-11-68.
- Sec. 5.21. Deleted 9-11-68.
- Sec. 5.22. An eligible whose name is withheld from certification for any reason may appeal to the Commission.
- Sec. 5.23. The period during which an eligible's name is withheld from certification shall be counted as part of his/her term of eligibility.
- Sec. 5.24. No appointment to any position shall in any manner be influenced by political or religious opinions or affiliations.

Sec. 5.25. No appointing officer shall appoint a person from a promotional eligible list who is not at time of appointment employed by the City or on leave of absence or on a reserve list, or has been separated for lack of work from a position designated as a temporary position under Section 5.30 within the past five years. However, this section shall not prohibit the appointment of a person whose name has been restored to such eligible list. Promotional eligibles who are on military leave shall be considered as available for appointment, and may not be considered as having failed to report, nor may they be reported as having declined appointment unless they so state in writing. (Amended 9-26-75)

See City Attorney Opinion to Althea Warren, City Librarian, April 20, 1945.

Sec. 5.26. The probationary period for persons appointed in the class of Police Officer, Police Specialist, Airport Police Officer, Airport Police Specialist, Municipal Police Officer, Port Police Officer, or Port Police Specialist, shall be eighteen months of service in that class, except for persons who have previously completed a probationary period as a Police Officer, Police Specialist, Airport Police Officer, Airport Police Specialist, Municipal Police Officer, Port Police Officer, or Port Police Specialist and return to the City of Los Angeles in their former class in which case probation shall be six months of service; and in the class of Firefighter it shall be twelve months. (Amended 01-11-18)

The probationary period for persons appointed to all other entry-level classes shall be six months of service in one class in one department following a regular appointment, unless a different period, not to exceed twelve months, is established by the Board for a specific entry-level class.

The probationary period for persons appointed in management classes designated in the examination announcement or by the Board shall be twelve months of service in one class in one department after receiving a regular appointment.

The probationary period for persons appointed to all other non-entry level classes shall be six months of service on one class in one department following a regular appointment unless a shorter period is established by the Board for a specific non-entry class.

Sec. 5.26, (Continued)

However, service in any class in a restricted duty capacity that exceeds seven calendar days as required by a physician, after receiving a regular appointment in that class shall be excluded in computing the period of probation. In computing the period of probation, the following shall be excluded...

- a) The entire period or periods of any absence or absences whether on leave or not, if such period or periods, in the aggregate, exceed seven calendar days.

See City Attorney Opinion to the Finance Committee of the City Council, August 24, 1950.

- b) Service in the class prior to discharge, layoff, or resignation to leave the City service or to return to a former position. (Amended 10-17-07)

See City Attorney Opinion to Lloyd Aldrich, City Engineer, September 18, 1941.

Sec. 5.27. In order to prevent the stoppage of public business or to meet extraordinary exigencies, emergency appointments may be made by the appointing authority except that:

- a) An appointment can be made only after the General Manager has approved the applicant's qualifications as stated in his/her written application. The General Manager may waive this requirement when in his/her opinion an emergency occurs in the conduct of City business.
- b) All emergency appointments must be approved by the General Manager in order to be effective. Provided however, that if the General Manager tentatively determines that an appointment is not necessary to prevent the stoppage of public business or to meet an extraordinary exigency, the General Manager shall within 10 working days after receiving the emergency nomination present a report to the Board regarding the need for the emergency appointment. (Effective 11-1-74)
- c) If the Board determines, after a full investigation, that an emergency appointment is not necessary to prevent the stoppage of public business or to meet an extraordinary exigency, the Board may disapprove the emergency appointment. (Effective 11-1-74)
- d) If approved by the General Manager, a position may be filled by an emergency appointment until an eligible list is established but not exceeding one year.

(Amended 02-05-12)

See City Attorney Opinions to Civil Service Commission, March 15, 1938, June 28, 1939, and July 17, 1952; and to Joseph W. Hawthorne, Civil Service Department, August 9, 1955.

Sec. 5.28. A City employee who has been discharged after completing a probationary period shall not thereafter be approved for any

emergency appointment except by approval of the General Manager.

Sec. 5.30. The Board may designate, as temporary training positions, those positions which are authorized for the express purpose of training persons for a limited period of time. The period of time for which any position is designated as a temporary training position under this section of the Rules may be extended by the General Manager for a maximum period of six months. The General Manager may also extend the training period if during the time limit no promotional examinations are held for which the employee would otherwise qualify. The extension for this reason would be for the duration of the new eligible list.

The General Manager may terminate an employee's extension if the employee is not successful in the examination or otherwise removed from the eligible list. The Board may also designate as temporary positions those which are authorized in connection with a major change in the operation of a department which change will require the temporary utilization of personnel, or those authorized to employ personnel as a result of grant-funded employment programs. In accordance with the provisions of Charter Section 1013(c), a person shall not complete a probationary period, accumulate seniority, or appeal a suspension or discharge while serving in any position so designated.

No person appointed to a temporary position under this Rule shall be transferred to a permanent regular position in the same class unless his or her final general average in the examination from which he or she was appointed would entitle him or her to be certified to the permanent regular position if his or her name were on the eligible list for the class.

(Amended 8-29-12)

Sec. 5.31. When an appointing authority requests certification to fill positions that require special skills, licenses, language proficiency, or specialized training, the appointing authority may request that only those eligibles will be certified who have been identified by the Personnel Department as having the requisite special skills, licenses, language proficiency, or specialized training. The nature of any such special skills, licenses, language proficiencies, or specialized training shall be identified on the bulletin issued for that class or by subsequent action of the Board. If identified by a subsequent action of the Board, advance written notice shall be provided to all current eligibles. Before such names may be certified, the appointing authority must affirm that there are no employees in the class in the department available to fill the position who possess the requisite special skills, licenses, language proficiency, or specialized training. Such certification shall be in order of standing and shall follow the requirements in Section 5.8. (Amended 11-28-91)

- Sec. 5.32. A person who is appointed to a position in accordance with the provisions of Rule 5.31, shall not be transferred to a position which does not require special skills, licenses, language proficiency, or specialized training unless approved by the Personnel Department and:
- a) He/she has completed a probationary period in the class in which transfer is requested, or
 - b) His/her final general average in the examination from which he/she received his/her appointment would entitle him/her to such employment if his/her name were on the eligible list. (Effective 3-27-75)
- Sec. 5.33. Certifications from eligible lists must be acted on by the appointing authority within sixty days from the date of issuance except when final action is delayed pending receipt of the results of a medical examination. However, any person appointed from an eligible list or reserve list may, at the discretion of the appointing authority, report for duty at any time within 120 days from the date of certification except in cases where the certification is an administrative process constituting the completion of administrative process constituting the completion of a milestone or phase of an official employment program approved by the City of Los Angeles:
- a) Appointment offered to current City employees from certifications from eligible lists that constitute the completion of a milestone or phase of an official employment program approved by the City may be effective before or after the date of certification but shall not exceed one year from the original completion date based on the City employees hire date within the program. (Effective 6-1-2023)

RULE 6
TRANSFER* AND REVERSION

* See Section 7.13 of these Rules; Charter Section 1004; and City Attorney Opinion to Harold L. Hamill, City Librarian, 4/21/55.

- Sec. 6.1. The General Manager may approve the regular or tentative transfer of an employee from a position in one department to a position in another department if (Amended 3-28-66):
- a) The employee requests transfer on the form prescribed by the General Manager. (Amended 3-28-66)
 - b) The appointing officer of the department to which transfer is requested approves in writing.

See City Attorney Opinions to L. Plitt Smeltzer, Department of Water and Power, October 21, 1947, and to the Police Commission, November 16, 1951.

- c) The appointing officer of the department from which transfer is requested approves in writing. The General Manager may waive this requirement unless the transfer is tentative. (Amended 3-28-66)
- d) The employee is eligible to be assigned to the position to which transfer is requested.

- Sec. 6.2. An employee transferred under Section 6.1 shall not be required to serve another probationary period if he/she has completed the probationary period prior to the transfer. If he/she has not completed his/her probationary period, he/she shall not be transferred unless his/her final general average in the examination from which he/she received his/her appointment would entitle him/her to be certified to the position to which transfer is requested if his/her name were on the eligible list. If he/she has not completed the probationary period prior to the transfer, he/she shall start a new probationary period.

- Sec. 6.3. The appointing officer of the department to which transfer is requested under Sections 6.1 or 6.7 may stipulate, with the written approval of the transferring employee, that the transfer shall be tentative for a period of six months after its effective date. During this period, upon written notice given by such appointing officer to the employee, the General Manager, and the appointing officer of the department from which transfer was made, the transferred employee shall be returned to the department and class from which he/she came. If he/she is not returned within six months after the effective date, the transfer is final. (Amended 6-1-78)

- Sec. 6.4. A person who is appointed to a position which is out of the City or has other than regular day hours shall not be reassigned to a position in-town or on regular day hours unless:

Sec. 6.4, (Continued)

- a) The probationary period has been completed in the class in which reassignment is being considered, or
- b) The employee's final general average in the examination from which appointment was received would entitle certification to such position if the employee's name were on the eligible list.

NOTE: The provisions of this section shall not apply when reassignments are necessary for layoff avoidance. (Amended 4-20-83)

REVERSION

Sec. 6.5. At the written request of an employee, the General Manager may approve the employee's reversion from a position in one class to a position in another class in the same or different department if (Amended 3-28-66):

- a) The appointing officer of the department to which reversion is requested states in writing that there is a vacant position to which it will assign the employee if the request is approved.
- b) The employee had received a regular appointment in the class to which reversion is requested and the employee's seniority in that class and higher classes is greater than that of any person on the reserve list of the department to which the employee is requesting reversion; or the employee had received an appointment from an eligible list in the class to which reversion is requested in a temporary training position as defined in Section 5.30 of these Rules and was employed less than the maximum time specified for training.

Note: A reversion to a temporary training position as defined in Section 5.30 of these Rules will be approved only for the training time remaining from the requestee's original appointment to such position. The appointing officer of the department to which reversion is requested must certify that the requestee will be trained for and appointed if eligible to a permanent position within the specified training time remaining or returned to the class from which the requestee reverted. The appointing officer should specify the training program to which the requestee will be assigned and the probable duration of training. (Effective 5-19-78)

- c) The employee was not separated from the class to which reversion is requested either by discharge, probationary termination, or action taken by the employee or the department as a result of unsatisfactory performance in the class. (Effective 1-08-72)

Sec. 6.5, (Continued)

Note: Section 6.5 (c) shall not apply for purposes of returning a sworn member of the Police Department to his or her former civil service class subsequent to a demotion imposed in accordance with Section 1070 of the City Charter. (Amended 7-21-94)

Sec. 6.6. If the employee has completed the probationary period in the class to which reversion is requested, he/she shall not be required to serve another probationary period in that class. If the employee has not completed the probationary period in the class to which he/she is reverting, he/she shall start a new probationary period.

TRANSFER UNDER CHARTER SECTION 1014*

*See Section 7.14 of these Rules

Sec. 6.7. The General Manager may approve the transfer without competitive examination of any employee to a vacant position in a different class in the same or different department if (Amended 9-28-67):

- a) The employee requests the transfer in writing,
- b) The appointing officer or officers approve in writing,
- d) The General Manager finds: (Amended 9-28-67)
 - 1) The employee is incapable of performing satisfactorily the duties of his/her position because of injury or sickness or disability or the employee has completed a probationary period in the City service; and (Amended 9-28-67)
 - 2) The employee has the minimum qualifications for the class to which transfer is requested and is capable of performing the duties of the position and (Amended 3-28-66)
 - 3) The position to which transfer is requested does not result in promotion. (Amended 8-14-75)
- e) When a transfer is requested by an employee who is capable of performing his/her present duties, the General Manager further finds: (Amended 9-28-67)
 - 1) The employee's seniority in the class to which transfer is requested and higher classes is greater than that of any person on the reserve list for the class and department to which he/she is requesting transfer; and
 - 2) The transfer is for the good of the service.

Sec. 6.8. An employee transferred under Section 6.7 of this Rule shall not be required to serve a probationary period in the class to which he/she is transferred unless he/she is serving a probationary period at the time of his/her transfer (Amended 10-10-63)

Sec. 6.9. A tentative or regular transfer, reversion, or a transfer under Charter Section 1014 shall be deemed canceled if it is not consummated within thirty days from the date of approval. If it is thus consummated, the effective date shall be the date as reported by the payroll document sent to the Personnel Department. (Amended 6-26-68)

Sec. 6.10. The Civil Service Commission may approve the use of Charter Section 1014 transfers to allow employees who are "legally employed" because of a class consolidation the opportunity to obtain status in a new class. The General Manager may also approve the use of Charter Section 1014 transfers for employees who have been affected by class consolidations in the past, who did not obtain status in the consolidated class at the time of the consolidation. Charter Section 1014 transfers approved under this Section will be in accordance with Section 7.14(b). (Added 12-22-98)

RULE 7
LEAVES OF ABSENCE AND SENIORITY*

*See Charter Section 1004 and
City Attorney Opinion to John F. Fisher, Civil Service Department,
August 5, 1941.

- Sec. 7.1. No employee in the classified civil service shall absent himself/herself from duty without leave except in case of sickness or great emergency.
- Sec. 7.2. An employee who is absent without a valid leave of absence for seven consecutive calendar days shall be deemed to have abandoned his/her and to have resigned from the service unless within thirty calendar days from the last day he/she worked or the last day he/she was on a valid leave of absence, he/she proves to the satisfaction of the Board that such failure was excusable. However, nothing in this section shall prevent an appointing authority from suspending or discharging an employee on account of unauthorized absence. (Amended 3-28-66)
- Sec. 7.3. An appointing authority may grant a leave of absence without pay to an employee for a period not exceeding fifteen calendar days without obtaining the consent of the General Manager. The total leaves granted under this section shall not exceed fifteen calendar days in one calendar year. (Amended 8-10-59)
- Sec. 7.4. An appointing authority may grant a leave of absence without pay to an employee upon the employee's written request, for a period not exceeding one year, subject to the approval of the General Manager. The employee's request shall be made upon the form prescribed by the General Manager and shall state the length of time for which leave is requested and the reason for requesting it. No retroactive leave of absence shall be granted unless the failure to grant it causes undue hardship to the employee. (Amended 3-28-66)
- Sec. 7.5. At the expiration of his/her leave of absence, the employee shall report for duty to the department from which he/she was on leave of absence.
- Sec. 7.6. An employee shall not report for duty prior to the expiration of his/her leave of absence without the permission of his/her appointing authority, unless he/she is on leave pursuant to the provisions of Section 7.7 of this Rule.
- Sec. 7.7. Whenever a regular employee who has completed a probationary period receives another regular, limited, intermittent, or emergency appointment or an appointment to a temporary training position, he/she is considered automatically on leave of absence from his/her former position while serving the probationary period; limited, intermittent, or emergency appointment; or while serving in the temporary training position.

Sec. 7.7, (Continued)

If he/she resigns or is failed on probation from his/her new position, he/she shall, unless otherwise disqualified, be returned to the position from which he/she is on leave. (Amended 12-14-07)

See City Attorney Opinions to Civil Service Commission, July 19, 1937, and to Dan O. Hoyer, Controller, May 26, 1949.

Sec. 7.8. In computing seniority, credit shall be given for all continuous service. Layoff and displacement seniority shall be allowed for any absence from a position in the classified civil service only in the following cases: (Amended 12-25-73)

See City Attorney Opinions to Joseph W. Hawthorne, Civil Service Department, August 26, 1947, and to the Board of Public Works, September 8, 1948.

a) Absence with pay, except that seniority for any such absence resulting from disability not incurred in the line of duty shall be limited to a maximum of one year.

b) Absence without pay not exceeding seven calendar days. See City Attorney Opinion to the Finance Committee of the City Council, August 24, 1950.

c) Absence on leave for active service in the armed forces of this State or of the United States or in other forces or services of this State or the United States which satisfy the requirements of Selective Service.

See Charter Section 17 and Sections 395 and 395.1 of the California State Military and Veterans Code.

d) Absence on leave to accept an emergency, exempt, intermittent, or limited appointment or an appointment to a temporary training position. (Amended 9-14-62)

See Section 7.7

e) Absence on leave while serving a probationary period. However, upon completion of the probationary period, this seniority shall be deleted.

f) Absence on leave made necessary by disability incurred in the line of duty.

g) Absence on leave for the purpose of loaning the employee to another governmental agency or a private agency engaged in work of interest to the City. The loan must have been requested by the agency, the employee must intend to return to City employment, and the General Manager must find that the City will benefit from the specific experience to be obtained.

h) Absence on leave to receive veterans' educational benefits under the provisions of federal or state law.

i) Absence on leave to serve on a trial jury.

j) Absence on leave while serving in the Merchant Marine. Employees requesting a leave of absence under this subsection must present proof that they have a valid license issued by the United States Coast Guard prior to the approval of such leave. (Amended 10-27-67)

k) Absence on leave while serving in the United States Peace Corps Program. (Amended 10-26-67)

- Sec. 7.9. Every employee retiring from City service on disability or voluntary service retirement shall be considered as being on leave of absence with seniority from the effective date of his/her retirement, as designated in his/her application for such retirement, to the date upon which the board of administration acts upon such application.
- Sec. 7.10. Service in a class during a probationary period shall not be credited to that class if the probationary period is not completed because of discharge or resignation from that class.
- Sec. 7.11. Service in a class during a probationary period shall be credited to that class if the probationary period is not completed because of a layoff or termination to accept another City position.
- Sec. 7.12. Seniority shall not be credited for any period during which an employee is retained in error out of seniority order. Seniority shall be credited for any period that an employee is laid off if it is found that he/she should have been employed during that time.
- Sec. 7.13. During the six months' period after the effective date of a tentative transfer, the transferee shall accumulate seniority simultaneously in the class groups from which, and to which he/she is transferred. If the transfer becomes final, seniority accumulated after the effective date of the tentative transfer shall be credited only in the class group to which he/she is transferred. If the transfer does not become final, such seniority shall be credited only in the class group from which tentative transfer was made.
- Sec. 7.14. a) An employee transferred under the provisions of Charter Section 1014 to a permanent position shall be credited in the class group to which the employee is transferred with all the seniority in the class from which the employee is transferred. Any employee transferred under the provisions of Charter Section 1014 shall be considered automatically on leave of absence from his or her last class. If the employee is transferred to a permanent position because of injury or sickness and becomes capable of performing satisfactorily the duties of the class from which he or she was transferred, or return to the former class is for the good of the service, the employee may, with the approval of his or her former appointing authority and the General Manager, return from leave of absence. In the event of the return of an employee from a permanent position, the employee shall be credited in the class group to which the employee returns, with all seniority credited to him or her while on leave of absence. Seniority accumulated prior to the employee's transfer to the permanent position shall be credited as if the transfer had not occurred.

Sec. 7.14, (Continued)

- a) If the employee is transferred to a temporary training position as defined under Section 5.30 of these Rules and does not promote to another class within the specified training period, the employee automatically shall be returned to his or her former class. (Amended 6-1-78)
- b) Employees transferred in accordance with Section 6.10, under the provision of Charter Section 1014, shall not be credited with any seniority for layoff and displacement purposes from their prior class. Employees not on probation at the time of the transfer will not be required to serve a new probation. Employees who are on probation at the time of the transfer will be required to begin a new probationary period. (Added 12-22-98)

Sec. 7.15. An employee shall accrue seniority only in his/her status class even though the Board has found that such employee is legally employed in a position in a different class than his/her status class.

Sec. 7.16. Deleted 3-20-64.

Sec. 7.17. Any employee who is by competent City authority certified off duty for temporary total disability because of injury or illness arising out of and in the course of his/her employment with the City shall be automatically on leave of absence for the period he/she is so certified, unless such employee is terminated under other provisions of these Rules or the City Charter. (New 4-27-63)

Sec. 7.18. Deleted 1-1-80

Sec. 7.19. An employee who is eligible for transfer under Charter Section 1014, but is unable to transfer because there is no vacant position in his/her department for which he/she is qualified shall be considered automatically on leave of absence without pay from his/her former class or position for a maximum of two years. An employee shall not be placed on automatic leave by his/her appointing authority without a written request from the employee and a report from a City physician stating that the employee cannot do the work of his/her position. An employee placed on automatic leave of absence under this section shall have the right at any time to request the General Manager to terminate his/her leave and return him/her to his/her position or transfer him/her in accordance with Charter Section 1014. However, nothing in this section shall prevent an employee from retiring or resigning if he/she desires, or prevent an appointing authority from suspending or discharging an employee for cause. (New 8-2-63)

RULE 8
LAYOFF*

*See Charter Section 1015

- Sec. 8.1. The first person laid off within a class shall be the one in the department in which layoff is being made with the least layoff seniority. The order of layoff of intermittent and limited employees is determined by the appointing authority.

See City Attorney Opinions to the Civil Service Commission, July 24, 1940, and June 23, 1942; to Althea Warren, Library Department, August 12, 1941; to Lloyd Aldrich, Bureau of Engineering, September 19, 1941; to Joseph W. Hawthorne, Civil Service Department, January 9, 1945, November 1, 1945, and August 26, 1947; to Arthur Eldridge, Harbor Department, December 17, 1945; and to the Board of Public Works, September 8, 1948.

- Sec. 8.2. If two or more employees have the same layoff seniority, the order of layoff shall be determined by the appointing authority.

- Sec. 8.3. The person laid off shall be entitled to displace to a position in a class group in which he/she formerly held a regular appointment and in which there is an employee with less displacement seniority. The employee with the least displacement seniority shall be displaced by the person who is laid off. The employee displaced shall be considered as laid off for the same reason as the person who displaced him/her and shall in the same manner be eligible to displace to a position in a class group in which he/she formerly held a regular position. If two or more employees have the same displacement seniority to a position in a class group, the order of displacement shall be determined by the appointing authority of that class group. (Amended 1-19-59)

See City Attorney Opinion to Bernard J. Caughlin, Harbor Department, June 4, 1957.

- Sec. 8.4. An employee may elect to displace in any class and in any department in which he/she has displacement rights or may waive any or all of his/her rights. In the absence of an election by the employee, he/she shall displace in the highest class in which he/she has displacement rights. If he/she has displacement rights in two or more classes at the same level, he/she shall displace in the class in which he/she has the greater displacement seniority. If he/she has displacement rights in his/her highest class in more than one department, he/she shall displace in the department in which he/she has the most displacement seniority. If his/her displacement seniority is equal in two or more classes or departments, he/she shall displace in that class or department in which the employee with the least displacement seniority is working.

See City Attorney Opinion to Burton L. Hunter, Civil Service Department, October 3, 1940.

- Sec. 8.5. All elections and waivers of displacement rights by employees shall be made in writing.
- Sec. 8.6. When a function is transferred from one department to another department, the incumbents of all positions transferred shall remain in the original class group for purposes of layoff and reemployment under Charter Section 1015.
- Sec. 8.7. If because of inclement weather or unforeseen reason, work is temporarily interrupted, it is not necessary that layoff seniority order be followed in assigning employees. The interruption of work must be known to be temporary, the appointing authority must act in good faith, and an employee must not be deprived of his/her rights or gain an advantage with respect to his/her employment in the classified civil service.
- Sec. 8.8. Whenever simultaneous layoffs occur in a class series, the layoff will occur first in the higher class, followed by displacement to the lower class. When displacements in the lower class have been completed, the layoff in the lower class will occur. (Effective 11-16-72)

RULE 9
RESTORATION TO REGISTER OF ELIGIBLES*
*See Charter Section 1012(c)

- Sec. 9.1. The General Manager may restore the name of a person to the register of eligibles for the class from which the person was appointed in accordance with the person's final general average if: (Amended 3-28-66)
- a) The person has completed a probationary period in this class.
 - b) The person has been reduced in rank or separated from City service without personal delinquency. The period of separation must have been three years or less at the time the person makes his/her request in writing to the appointing authority of the department in which he/she served in this class or to the General Manager. In computing this period of separation, time served on active duty in the armed forces of the United States during this period shall not be included. (Amended 3-28-66)

Note: A person whose name is on a reserve list is not considered to be separated from City service.

- c) The appointing authority of the department in which the person had served in this class recommends his/her restoration, and he/she is eligible for appointment in that department. This requirement shall not apply after July 1, 1964 to those persons who would otherwise require a recommendation for restoration from the Health Department. (Amended 7-17-64)

See City Attorney Opinions to the Board of Public Works, January 18, 1943; to the Civil Service Commission, July 26, 1945; and to Chief Alderson, Fire Department, July 30, 1942.

Restoration under this section shall be to the Open eligible list for entrance level classes, and to the Promotional eligible list for all other classes after first deducting any military credit. (Amended 4-3-64)

- Sec. 9.2. A person whose name appeared on an open competitive eligible list and who entered into active duty with the armed forces of the United States prior to appointment from such list, may upon his/her request have his/her name restored or his/her period of eligibility extended by the General Manager from the date of his/her release from active duty or expiration of the list, whichever is later, for a period equal to the time spent on active duty but not to exceed two years. Request for extension may be made at any time after honorable release from active duty. (Amended 3-28-66)
- Sec. 9.3. The name of a person restored to the register of eligibles under this Rule shall remain thereon for two years unless sooner removed.
- Sec. 9.4. If a person is restored to the register of eligibles and appointed, he/she shall serve a new probationary period.

RULE 10
ADMINISTRATION

- Sec. 10.1. The President of the Board shall preside at all meetings. The President may vote on all questions before the Board.

See Charter Section 503 and City Attorney Opinion to the City Council, August 13, 1953.

- Sec. 10.2. A special meeting may be called at any time by the President, or, if the President is absent from the City or is otherwise unable to act, the Vice President, or by a majority of the members of the Board, by delivering personally or by mail, written notice to each member of the Board and to each local newspaper of general circulation and radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Board.

See City Attorney Opinion to the City Council, August 13, 1953, and Chapter 1588, State Statutes 1953.

- Sec. 10.3. The Secretary shall prepare and deliver such written notice above provided upon order of the President, the Vice President, or a majority of the Members of the Board, as the case may be.

- Sec. 10.4. During the absence of the President, the Vice President shall have the powers of the President.

- Sec. 10.5. During the absence of the President and Vice President, a temporary chairman may be elected to have all the powers of the President.

- Sec. 10.7. Any action taken or decision made by the General Manager pursuant to Sections 6.1 (transfer), 6.5 (reversion), 7.4 (leave of absence), and 9.1 (restoration to list) of these Rules which is adverse to a department or appointing authority or an employee shall be reported to the Board by placing notification thereof in its next regular agenda. Pursuant to Charter Section 1004, any action taken or decision made by the General Manager pursuant to these Rules, the written Policies of the Board, or any other authority may be appealed to the Board. However, where specifically indicated in the Rules and in the Personnel Department's Policies, the Board shall refuse to entertain inappropriate appeals. (Amended 3-23-79)

- Sec. 10.8. In order to keep proper personnel records, each appointing officer shall immediately report on forms prescribed by the Board:
- a) Every position created or abolished.
 - b) Every declination of appointment or failure to report on the part of an eligible.
 - c) Every appointment made
 - d) Every change in the compensation for any position.
 - e) Every suspension of an employee.
 - f) Every leave of absence granted an employee.
 - g) The return of an employee to duty on the expiration of a leave of absence or disciplinary suspension.
 - h) Every layoff of an employee
 - i) Every termination and its cause.
- Sec. 10.9. When a new position is created or when the duties or responsibilities of an existing position are significantly changed, the appointing officer shall send to the Board a written statement outlining the duties and responsibilities and the qualifications for filling such position.
- Sec. 10.10. The Board shall keep a record of each employee's service by department and class.
- Sec. 10.11. The Board shall have the power to change, amend, revoke, or modify these Rules after ten days' notice of the proposed change.
- See Charter Section 1004.
- Sec. 10.12 A motion to reconsider may be made by any commissioner on any item on the agenda, provided said member making the motion to reconsider originally voted on the prevailing side of the matter. The motion to reconsider shall only be in order before the meeting is adjourned, or at the beginning of the next regular meeting. However, the motion to reconsider at the next regular meeting is only proper and in order if it relates to a matter where the Civil Service Commission acted on a matter where the Appellant him/herself or the Department representative was not present, and where good cause is provided for the prior absence at the time the motion to reconsider is made. A motion to reconsider is not debatable and shall require an affirmative vote of three (3) members of the Commission. (Added 6-9-2005)
- Sec. 10.13. If any section, subsection, sentence, clause, or phrase of these Rules is found to be illegal, such findings shall not affect the validity of the remaining portions of these Rules.

RULE 11

POLICE AND FIRE SERVICE

- Sec. 11.1. Applicants for Firefighter shall have reached their 18th birthday and applicants for Police Officer and Police Specialist shall have reached the age of 20 by the date of application. Applicants for Police Officer must be at least 21 years of age at the time of appointment. (Amended 7-13-17)
- Sec. 11.2. (Deleted - Effective 8-9-73)
- Sec. 11.3. (Deleted - Effective 7-13-17)
- Sec. 11.4. (Deleted - Effective 7-13-17)
- Sec. 11.5. (a-d Deleted - Effective 7-13-17)
(e Deleted - Effective 5-2-97)

RULE 12
DISCIPLINARY HEARINGS

- Sec. 12.1. Any person in the classified civil service of the City, who has been removed, discharged or suspended in accordance with Charter Section 1016(a) - (e) may make written application to the Board of Civil Service Commissioners that it investigate the grounds for such removal, discharge or suspension. The written appeal must be filed within five calendar days after the notice of removal, discharge or suspension has been served upon the person. The following rules are adopted to provide information as to the procedure which will be followed. Their purpose is to insure an expeditious and fair investigation and hearing, that all parties concerned shall have full opportunity to be heard and the merits of their causes determined.
- Sec. 12.2. The employee's written application to the Board must include, over the signature of the employee or the employee's representative, the address to which notices and such other information pertinent to the investigation shall be mailed. Proof of mailing any letter by the United States mail, with proper postage affixed, addressed to the employee or employee representative at the address so given, shall constitute prima facie evidence of the receipt of such letter by the employee or employee representative in the ordinary course of mail.
- Sec. 12.3. Hearings shall be conducted by hearing examiners pursuant to these Rules, Los Angeles Administrative Code Sections 19.29 through 19.35, and Personnel Department Policy 24. The following Rules 12.4 through 12.11 shall be a procedural guide for the hearing examiner in the conduct of a hearing.
- Sec. 12.4. Any disciplinary hearing conducted pursuant to Charter Section 1016(a) - (e) shall include, as the first order of business, a factual determination by the hearing examiner relating to the extent to which the appointing authority taking the action complied with the provisions of Personnel Department Policy 33.1DE and 33.1E3. The hearing examiner's determination shall be incorporated in the first section of the hearing examiner's report to the Board.
- If the hearing examiner determines that the appointing authority has so complied, the appellant shall be requested to stipulate to this fact. Such stipulation, which should be included in the hearing examiner's report, is intended to expedite the substantive discussion of the merits of the disciplinary action. (Amended 07-19-07)
- Sec. 12.5. Oral evidence shall be taken only under oath or affirmation and shall be reported verbatim.

- Sec. 12.6. Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; and to impeach any witness regardless of which party first called the individual to testify. An employee who does not testify may be called and examined as if under cross-examination.
- Sec. 12.7. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded.
- Sec. 12.8. The hearing examiner may direct any person present to testify in a hearing whether or not such person was subpoenaed to testify.
- Sec. 12.9. The hearing examiner shall require the maintenance of order in the hearing room, may order the exclusion of witnesses, and may expel anyone who disturbs the hearing.
- Sec. 12.10. The hearing examiner shall rule on objections raised by either party of the hearing.
- Sec. 12.11. The order of proof in the hearing shall be as follows:
- a) The appointing authority or designee shall present evidence in support of the charges, including material required pursuant to section 12.4 hereinabove.
 - b) The employee or employee representative shall present evidence in support of the employee.
 - c) Any party may then offer rebuttal evidence.
 - d) Any evidence relative to the fitness and suitability of the employee may be introduced with evidence in support of the charges or after such evidence has been presented.
- Sec. 12.12. The hearing examiner's report to the Board shall include findings and recommendations relating to the appointing authority's compliance with Policy 33.1D and 33.1E.3, the adequacy of the evidence submitted in support of the charges, the sufficiency of the grounds for removal, discharge, or suspension. (Amended 07-19-07)
- Sec. 12.13. Board hearing-investigations on appeals from disciplinary action shall be open to the public unless otherwise ordered by the Board.

- Sec. 12.14. If exceptions to the hearing examiner's report are filed, the presiding officer of the Board shall state for the record that the written exceptions have been received as part of the record and shall be considered by the Board in connection with its evaluation of the report. Failure of any person to file exceptions within the time prescribed by Board Policy shall be deemed an admission of the facts stated in the report unless the Board, for good cause shown, relieves the person from such failure and permits the individual at or before the hearing to take exception to all or any part of the report.
- Sec. 12.15. At the time the hearing-investigation is held before the Board, the first order of business shall be the Board's determination relating to the appointing authority's compliance with Personnel Department Policy 33.1D and 33.1E.3. If the Board finds compliance, no further review of the procedural issue will be allowed. If the Board does not find compliance, the appeal may be remanded to the hearing examiner or the Board may proceed with its hearing-investigation. (Amended 07-19-07)
- Sec. 12.16. No former member of the Board or former employee of the Personnel Department shall serve as representative for the employee within a period of one year from the date of the termination of office or employment.
- Sec. 12.17. It is not necessary for the Board to make separate findings on each charge laid against the employee or to find that each charge has been proved. The Board shall take one of the following actions:
- a) Find that: (1) All of the charges or certain of the charges are sufficient and sustained, and (2) the discharge or suspension is sustained; or
 - b) Find that: The charges are not sufficient and/or are not sustained; or
 - c) Initiate action to determine if the appointing authority would consent to (1) a reduction in the length of the suspension,
 - (2) substitution of a suspension for a discharge, or
 - (3) consideration of remedies acceptable to the appellant, the appointing authority, and the Board. Such remedies include, but are not limited to, resignation, transfer, reassignment, leave, voluntary reversion, and Charter Section 1014 transfer.
- If the appointing authority consents to a reduction or substitution, the Board will so order. If any other remedy acceptable to the Board is recommended, the Board shall require that the employee withdraw the appeal. The Board shall make such withdrawal a matter of record and shall authorize that the remedy be affected.
- Where a reduction, substitution or other remedy is not obtained under this subsection, the Board shall make one of the findings identified in subsections a) and b) above. (Amended 07-19-07)

Sec. 12.18. An employee in the classified civil service who has been removed, discharged or suspended in accordance with Charter Section 1016 and appealed, and who subsequent to such action shall have retired from City service as provided in Article XI of the Charter, **or who has died**, shall not thereby lose the right to appeal such action under the provisions of Rule 12 inclusive.

Any remedy for such persons who have retired **or died** and appealed a disciplinary action as referenced in paragraph (a) above shall be limited, notwithstanding City Charter Section 1016 (d) & (e), as follows:

- (1) Where one or more charges and the proposed penalty are not sustained by the Board, a remission of salary and benefits lost as a consequence thereof shall be ordered, or, a lesser remission, in the instance where a lesser penalty is ultimately sustained or agreed to by the parties **or their representatives**; provided, however, in the case of a discharge or suspension, any remission shall be calculated from the date of the discipline to no later than the effective date of the retirement **or death**. In no case shall the Board order restoration for an Appellant who has retired.
Amended 08-10-17)

RULE 13
MEDICAL GUIDES AND EXAMINATIONS

- Sec. 13.1. The Board recognizes that persons entering City employment must meet medical and psychological standards for the positions to which they apply. The medical and psychological evaluations shall be conducted after a conditional job offer is made. The Board shall delegate to Medical Services Division the responsibility for establishing and applying medical and psychological guidelines for prospective City employees. These guidelines are to be established in accordance with all federal, state and local laws, regulations and guidelines, utilizing recognized, sound medical and psychological practices. Medical Services Division's determinations will be based on complete, factual information regarding work conditions, hazards, and essential characteristics of individual positions, ascertained by investigation and examination of the essential duties of the individual position.
- Sec. 13.2. The purpose of these medical / psychological guidelines and the medical / psychological examinations conducted under them is to:
- a) Establish a medical basis to determine a person's ability to safely and satisfactorily perform the essential functions of a job.
 - b) Ensure that each employee is able to perform the essential duties of the position to which the employee is assigned without undue hazard to the employee or others.
- Sec. 13.3. Medical* examinations under this rule shall be conducted by licensed physicians and/or psychologists of the Personnel Department, or physicians and/or psychologists designated by the Board to serve in that capacity within limits prescribed by the designation.
- *Unless otherwise specified, "medical" subsumes both medical and psychological.
- Sec. 13.4. The General Manager may require an open competitive applicant to complete a medical examination in order to determine the applicant's placement potential. Said examination may be conducted prior to certification or prior to appointment, or when stated on the bulletin announcing the examination, prior to being placed on the eligible register. The limitation of any applicant shall not affect the certification of other applicants who are not medically limited with respect to the position in question.

Sec. 13.5. If a current City employee receives medical or psychological work restrictions from the Medical Services Division, the person may appeal the restrictions in writing.

If a post-offer job applicant is medically or psychologically disqualified or receives medical or psychological work restrictions from the Medical Services Division, the person may appeal the results in writing. The appellant shall provide appeal documents from a qualified medical professional or mental health professional or other written documents as desired that support the non-application of the disqualification to the position in question. Notice of intent to appeal shall be filed with the Medical Services Division of the Personnel Department within fourteen calendar days after the appellant receives notice of the results. Supporting documentation shall be submitted no later than sixty days from the date results are received. Failure to submit the supporting information within the established time period may result in the appeal being denied. The Medical Services Division will review and process the appeal according to Personnel Department Policy 1.1. (Amended 10-17-07)

Sec. 13.6. If an open competitive eligible is certified and appointed prior to medical examination and thereafter takes a medical examination, any limitations on the person's placement shall be promptly reported to the appointing authority. To the extent that such limitations are inconsistent with continued placement in the position, that fact may be sufficient reason for probationary termination, provided that the appointing authority has no reasonable means to accommodate said limitations.

Sec. 13.7. The General Manager may waive medical examination for open competitive eligibles who are already working for the City if the physical demands of the class for which they are eligible are less or substantially the same as the class in which they are already working and for which they have been approved medically.

Sec. 13.8. No City employee shall be required to complete a medical examination as a condition of a promotion or transfer unless the appointing authority requesting the examination can demonstrate:

- a) that the duties of the position to which the person would be assigned are more arduous than the duties to which the person is currently assigned; or
- b) that the person has previously been assigned medical limitations which may limit the person's ability to perform the duties of the position to be filled.

Sec. 13.9. An appointing authority, who has reasonable cause to believe that an employee has a medical condition which impairs job effectiveness or may endanger the health, safety, or welfare of the employee, other employees, or the public, may require the employee to be medically examined. a) Such an examination shall not be based on the medical guidelines established for original placement, but instead shall evaluate only the medical or psychological condition(s) that is pertinent to the appointing authority's job-related concerns, including the protection of the health, safety, and welfare of the employee, other employees, and the public.

b) If the employee's condition is the result of a work-related injury for which the employee has been granted Findings and Award or Stipulations with Request for Award, which provides for permanent disability benefits and/or future medical care benefits, under the provisions of Division IV of the California Labor Code, no examination need be conducted by the Personnel Department. Instead, the Workers' Compensation Division of the Personnel Department may furnish the appointing authority, upon request, with the Findings and Award or Stipulations with Request for Award, together with the medical information on which they are based, subject to the limitations on the disclosure of an employee's medical information to an employer pursuant to Labor Code section 3762(c). If the appointing authority believes, after reviewing the award, that the limitations may affect the employee's ability to perform the essential functions, the appointing authority and employee shall engage in the interactive process in an attempt to effect a reasonable accommodation to the limitations in accordance with all laws, governance, policies and bargaining agreements pertaining to such processes. If after engaging in the interactive process, the Department determines that a reasonable accommodation cannot be made, the Department should contact the Personnel Department's Citywide Placement Officer for further assistance.

Sec. 13.10. Whenever an employee is found unable to perform the duties of a position due to medical limitations of a continuing nature, which impairs job effectiveness or may endanger the health, safety, or welfare of the employee, other employees, or the public:

a) The appointing authority and employee shall engage in the interactive process in an attempt to affect a reasonable accommodation to the limitations in accordance with all laws, governance, policies and bargaining agreements pertaining to such processes. Possible outcomes of the interactive process include, but are not limited to:

Assignment of the employee to the same position with reasonable accommodations that enable the employee to safely and effectively perform the job functions.

- i. Assignment of the employee to another position with reasonable accommodations that enable the employee to safely and effectively perform job functions.
- ii. Reversion or transfer (including transfer under Charter Section 1014) of the employee to a vacant position (within the Department) for which the employee is otherwise qualified and which is consistent with the employee's limitations.

If after engaging in the interactive process, the Department determines that a reasonable accommodation cannot be made, the Department should contact the Personnel Department's Citywide Placement Officer for further assistance. The Citywide Placement Officer will assist the Department in identifying options for the employee, including, but not limited to:

a) Reversion or transfer to a vacant position in another City Department for which the employee is otherwise qualified and which is consistent with the employee's limitations.

b) Disability Pension in accordance with provisions outlined in City Charter Article XI, Part 3 or Administrative Code, Division 4, Chapter 10, Article 1, Section 4.1008.

c) Medical separation from City employment is the removal of an employee who has completed a probationary period and for medical reasons under this section shall be subject to appeal under Rule 12 and Charter Section 1016.

(Amended 7-13-17)

Sec. 13.11. The fact of removal of an employee for medical reasons shall not prejudice employment in any position for which the employee is or later becomes medically qualified.

(Amended 3-26-81)

APPENDIX A
SPECIAL SICK LEAVE

Deleted (4-22-66)

APPENDIX B
VACATION - LEAVES OF ABSENCE
Ordinance No. 138,300
Chapter No. 6

ARTICLE 1
VACATIONS

Sec. 4.244. DEFINITIONS

The words and terms defined in this section shall have the following meanings as used in this Article.

- (a) "City Service" or "Service with the City" means employment position with the City of Los Angeles, or any of its departments, bureaus or offices, including any department having control of its own funds.
- (b) "Employee" means any person employed in City service and includes officers of the City, except policemen and firemen.
- (c) "Service Year" means each period of twelve (12) consecutive months of employment following an employee's entrance or re-entrance, into service with the City including any of its departments, or between any two anniversaries of such entrance or re-entrance.
- (d) "Year of Service" means an aggregate period of twelve (12) months of City service by an employee, as to each of which months a vacation credit has accrued to the employee under this article, or would have accrued had this article been in effect during such period.
- (e) 1. An employee's "Qualifying Year" means the first period of twelve (12) consecutive months of his service for the City, after his entrance or reentrance into City service, during which period he was not absent except as follows:
 - a) Absent on leave for period aggregating less than thirty-one (31) days for reason personal to the employee.
 - b) Absent on leave for periods aggregating less than ninety-one (91) days for illness or injury.
 - c) Absent for reasons of illness or injury proximately caused by, arising out of, and in the course of an employee's City service for which he is compensated under any system of Workmen's Compensation pursuant to any law of the United States, the State of California or any other state for periods of less than ninety-one (91) days.
- 2. An employee shall receive credit toward the completion of his qualifying year for periods of service prior to an absence as follows:
 - a) Upon return to duty after more than ninety (90) days absence for reasons stated in (e) 1, C. above.
 - b) Upon return to duty after an absence of less than ninety-one (91) days resulting from a suspension pursuant to Charter Section 125 for lack of work, lack of funds or abolishment of position.

Sec. 4.244. DEFINITIONS, (continued)

- (f) "Full Pay" means the amount of pay an employee would receive for the period during which he is away on vacation if he worked the days and hours prescribed for his position. Overtime pay shall not be included in such determination.

Sec. 4.245. MONTHLY VACATION CREDIT - LENGTH OF VACATION

- (a) Each employee who has completed his qualifying year shall be entitled to a vacation of ten (10) working days with full pay. Thereafter, and until the completion of his fifth year of service, he shall be entitled annually to ten (10) working days vacation with full pay subject to deductions for absences as provided in Section 4.246, and vacation time shall accrue and be credited upon the following basis. Upon the commencement of an employee's second year of service, vacation time shall accrue and be credited at the rate of 5/6 of a working day for each month of City service.
- (b) Upon the completion of five (5) years of service and until the completion of seventeen (17) years of service, each employee shall be entitled annually to fifteen (15) working days vacation with full pay, subject to deductions for absences as provided in Section 4.246. After an employee has completed four (4) years of service, vacation time shall accrue and be credited upon the following basis:
 - 1. During an employee's fifth year of service, vacation time shall be credited at the rate of 1 1/4 working days for each month of City service; provided, however, that if any employee fails to complete his said fifth year of service and if he is compensated for, or allowed to take, any of said vacation earned during said fifth year in increments of less than a full vacation, he shall be compensated therefore, or allowed to take such vacation, at the rate of 5/6 of a working day for each month of City service.
 - 2. Upon the commencement of an employee's sixth year of service and until the completion of his sixteenth year of service, vacation time shall accrue and be credited at the rate of 1 1/4 working days for each month of City service.
- (c) Upon the completion of seventeen (17) years of service, each employee shall be entitled annually to twenty (20) working days vacation with full pay subject to deductions for absences as provided in Section 4.246. After the completion of sixteen (16) years of service, vacation time shall accrue and be credited upon the following basis:

Sec. 4.245. MONTHLY VACATION CREDIT - LENGTH OF VACATION,
(continued)

1. During an employee's seventeenth year of service, vacation time shall accrue and be credited at the rate of $1 \frac{2}{3}$ working days for each month of City service; provided however, that if any employee fails to complete his said seventeenth year of service, and if he is compensated for, or allowed to take, any of said vacation earned during said seventeenth year in increments of less than a full vacation, he shall be compensated therefore, or allowed to take such vacation at the rate of $1 \frac{1}{4}$ working days for each month of City service.
2. After the completion of seventeen (17) years of service, vacation time shall accrue and be credited at the rate of $1 \frac{2}{3}$ working days for each month of City service.

Sec. 4.245.1. CREDITING VACATION TIME FOR CIVILIAN AMBULANCE
EMPLOYEES

Civilian ambulance employees of the Fire Department as defined in Section 4.138 of this Code, shall be entitled to and accrue vacation time as provided in Section 4.245. On January 1 of each year, vacation time accrued during the previous year shall be credited to each civilian ambulance employee.

Sec. 4.246. DEDUCTIBLE ABSENCES

In computing accruing monthly vacation credits, as provided herein, deduction shall be made:

1. For all absences without leave.
2. For that portion of absences in excess of
 - a) An aggregate of thirty (30) days in any one service year, on leave for reasons personal to the employee.
 - b) An aggregate of ninety (90) days sick leave in any one service year.
 - c) An aggregate of ninety (90) days, cumulating all absences on sick leave and all absences personal to the employee in any one service year.
3. For all absences during any service year in which an employee was not on active duty for at least one hundred eighty (180) calendar days. Provided, that no period of absence on leave with pay for the performance of ordered military or naval duty, shall be considered an absence for the purpose of this article.

Sec. 4.247. COMPUTATION OF YEARS OF SERVICE

- (a) In computing years of service under Section 4.245, each employee shall be credited with his qualifying year as his first year of service, and with each subsequent year of service, since the happening of the latest of any one of the following events:
 - 1. Original entrance into City service.
 - 2. Re-entrance into City service after a layoff for lack of work, lack of funds, or abolishment of position, for a period extending beyond the date on which his name is removed from the reserve list under the provisions of Charter Section 125.
 - 3. Re-entrance into City service after a suspension for cause in excess of six (6) months.
 - 4. Re-entrance into City service more than six (6) months after resignation from such service.
 - 5. Re-entrance into City service after discharge for cause.
- (b) For the purpose of computing years of service under this section, vacation credits shall be deemed to have accrued during any period of military service performed by an employee, the same as if such employee had remained in active City service, if he or she was entitled to restoration as a City employee after such military service, and was in fact so restored.
- (c) Any employee who became a member of the classified civil service of the City under Section 126 of the Charter shall be credited for vacation purposes with his years of employment by the public utility involved the same as if such employee had been in the service of the City during his employment by such utility, but such credit shall not exceed three (3) years.
- (d) Any employee who becomes, or heretofore became, a member of the classified service of the City under Charter Section 122 shall be credited for vacation purposes with his years of employment by the municipality or district referred to in Section 122, the same as if such employee had been in the service of the City during his employment by such municipality or district.
- (e) Any person who is or has been employed in the Fire Department of the City of Los Angeles who had been duly and regularly appointed under civil service rules and regulations to perform the duties of a regular fireman, or any person who is or has been employed in the Police Department of the City of Los Angeles who had been appointed under civil service rules and regulations and sworn in as provided by law to perform the duties of a regular police officer, who resigns or has resigned from his position to accept an appointment to a position in a class in City service other than the class of fireman or policeman and who is not eligible for a pension under the provisions of Article XVII of the City Charter, shall be credited for vacation purposes with his years of employment in the Fire Department or Police Department in the same manner as if such person had been subject to the provisions of this article during his employment as a member of the Fire Department or Police Department.

Sec. 4.248. CASH PAYMENT UPON SEPARATION FROM THE SERVICE

In the event any employee, after the completion of his qualifying year of service, becomes separated from the service of the City by reason of resignation, discharge, retirement or death, or for any other reason, cash payment of a sum equal to all accrued, but unused, vacation, including vacation, for the proportionate part of the service year in which the separation takes place, shall be made at the salary rate current at the date of said separation to the employee, his estate or any person legally entitled to such payment under any law of this State; provided, however, that in the case of officers of the City, or any department thereof, who serve for a term fixed by the Charter, or any other law, such vacation must be taken before the day on which such officer ceases to hold such office, and, after termination of such term in any manner, he shall not be entitled to vacation time, or any compensation in lieu thereof.

Notwithstanding the above provisions, the Department of Water and Power may make a cash payment to a permanently disabled employee of a sum equal to all accrued, but unused vacation, including vacation for the applicable, proportionate part of the service year in which the employee in that Department is determined to be permanently and totally disabled and eligible for disability benefits pursuant to provisions of the Department of Water and Power Employees' Retirement, Disability and Death Benefit Plan. Said payment shall be made upon request of the disabled employee. Payment shall be made at the salary rate current at the date the employee is determined to be permanently and totally disabled and eligible to receive disability benefits.

Payment may be made to an employee who was determined to be permanently and totally disabled prior to the effective date of this Section upon request of the disabled employee.

Sec. 4.249. CASH PAYMENT UPON GRANTING OF MILITARY LEAVE OTHER THAN
TEMPORARY MILITARY LEAVE

In the event any employee, after the completion of his qualifying year of service, is granted a military leave under the provisions of the Military and Veterans Code of the State of California other than a temporary military leave, cash payment of a sum equal to all accrued but unused vacation time, including vacation time accrued during the proportionate part of the service year in which such leave is granted, may be made to such employee at the salary rate current at the date of the commencement of such leave.

Before any payment as herein provided is made, such employee shall furnish to the head of his department two (2) certified copies of his orders, one copy to be filed in the department in which he is employed and the other with the Controller, or in lieu thereof, he shall furnish to such appointing authority upon forms provided by the Controller certified evidence of his entry into the armed forces of the United States and the date thereof; provided, however, that presentation of the proof required under Section 4.123 of this Code may be deemed proof under this by this section may be made by any commissioned officer of such armed forces.

The Controller shall have power at any time to require such additional evidence as is satisfactory to him of the entry of such employee into active service in such armed forces.

Sec. 4.250. TIME FOR GRANTING VACATIONS

- (a) Each officer or board or other appointing authority shall assign vacations and may establish and maintain a vacation schedule for each year, giving due regard in each case to the request of the employee, subject, however, to the right of such appointing authority to plan work under his, or its, control and to approve and assign vacations when the employee can be reasonably spared; provided, that when such appointing authority notwithstanding an employee's request, has failed or refused to assign a vacation prior to the time necessary to prevent expiration of any unused portion of accrued vacation credit, such employee may absent himself without penalty so as to avoid losing any vacation credit. Upon the approval of such appointing authority, any accrued and credited vacation time computed pursuant to Section 4.245 may be taken in increments of less than a full vacation, but not less than one (1) day, except for the reasons set forth in Section 4.112 of this code.
- (b) Each department, office or bureau shall furnish the Controller a detailed record of vacation taken. The record shall include the name of the employee, the class, and the number of days or hours and the dates when vacation is taken. The Controller shall maintain for each department, office or bureau the balance of vacation remaining to be taken.
- (c) Notwithstanding the provisions of Subsection (b) above, the Fire Department shall maintain the vacation records for its civilian ambulance employees.

Sec. 4.251. LAYOFF - INCLEMENT WEATHER

Except in the first service year any employee laid off for less than fifteen (15) consecutive days, or precluded from working by inclement weather which prevents normal performance of duty followed by reemployment by the City, shall be considered to be on leave without pay for such period. This applies only for the purpose of determining vacation rights.

Sec. 4.252. EMPLOYEES ENGAGED IN PART-TIME WORK

- (a) A part-time employee is entitled to the same vacation rights as a full-time employee; provided, however, that full pay for such vacation shall be computed at the rate he normally would have received for the days or hours of service normally rendered as a part-time employee during the vacation period.
- (b) When a part-time employee becomes a full-time employee or when a full-time employee becomes a part-time employee and such employee is not otherwise disqualified, all accrued and accumulated vacation time for which he has been credited up to the date of such change of work schedule shall remain credited to the employee in the amounts so accrued and accumulated without increase or decrease because of the change in his work.

Sec. 4.253. LEGAL HOLIDAYS

When a legal holiday falls on a regular working day within a vacation period, the legal holiday shall not be included in the computation of such vacation, but the employee shall be granted additional days' vacation with full pay equal to the number of such holidays; provided, however, that no such added vacation shall be granted on account of a legal holiday falling on Saturday.

Sec. 4.254. ACCUMULATION OF VACATIONS

Upon the approval of the appointing power any employee may be permitted to accumulate vacations for not to exceed two (2) annual vacation periods, and all accumulated in excess of such amount shall be deemed waived and lost.

Sec. 4.255. ADJUSTMENT OF VACATION ON EFFECTIVE DATE OF ORDINANCE

Upon July 1, 1965, each employee of the City shall be credited with the number of his years of service computed, under this Article, as amended, and shall retain his vacation credits which have accrued prior to such date, and for each of the twelve (12) months preceding July 1, 1965, each such employee shall be credited with that portion of the vacation credits under Section 4.245 hereof, in excess of those credits already accrued as to such period to which he shall have been entitled had the provisions of Section 4.245 been in effect during such preceding twelve (12) months. Other than as provided in this section, no additional vacation credit shall accrue or be credited for periods of service of any employee prior to July 1, 1965.

Sec. 4.256. NON-APPLICABILITY OF ARTICLE

Except as provided in Subsection (3) of Section 4.247, and Subsection (d) of Section 4.172, none of the provisions of this article shall apply to any person employed in the Fire Department of the City of Los Angeles who has been duly and regularly appointed under civil service rules and regulations to perform the duties of a regular fireman, or to any person employed in the Police Department of the City of Los Angeles who has been appointed under civil service rules and regulations and sworn in as provided by law to perform the duties of a regular police officer.

APPENDIX C
MEDICAL STANDARDS FOR POLICE AND FIRE SERVICE

1. Overview

Comprehensive, job-relevant medical and psychological evaluations are conducted on all police and firefighter candidates using accepted medical and psychological practices to determine each candidate's ability to perform the essential functions of the job. These evaluations are conducted in compliance with State and Federal regulations, including the protection of the employment rights of individuals with disabilities and the Americans with Disabilities Act (ADA) of 1990. The components of the medical and psychological evaluations are enforced by the California Commission on Peace Officer Standards and Training (POST)¹, the International Association of Chiefs' of Police (IACP) guidelines², the National Fire Protection Association (NFPA) guidelines³ and empirical research. Additional guidelines may be utilized where relevant.

California State law requires that all individuals empowered as police officers must be evaluated "to ensure that they are free from any physical, emotional or mental condition which might adversely affect the exercise of the powers of a peace officer" (2 Cal. Gov. Code 1031(f)). The candidate's physical condition must be evaluated by a licensed physician, and the candidate's emotional and mental condition must be evaluated by a licensed psychiatrist or licensed psychologist.

The medical and psychological evaluations for entry level police officers and firefighters shall consist of an individualized assessment that determines each candidate's medical and psychological ability to safely perform the essential functions of a police officer or firefighter. Physicians and psychologists in their decision making process use sound medical and psychological judgment, best practice standards of care, and the guidelines provided by the above mentioned agencies.

Medical and Psychological Evaluations of Candidates

The medical and psychological evaluations must be job-related and consistent with business necessity.

Medical and psychological evaluations shall be conducted after a conditional job offer is made.

Each candidate will undergo an individualized assessment to determine his or her ability to perform the essential functions of the job.

¹ [Penal Code Section 13510\(a\)](#) gives POST the authority to establish minimum selection standards for peace officers employed by agencies that participate in the POST program. The City of Los Angeles includes POST certified agencies. The POST Medical Screening Manual describes the examination process and evaluation protocol for entry-level police officers. The POST Psychological Screening Manual describes the psychological evaluation process for entry-level police officers.

² IACP was founded in 1893 to advance the science and art of police services. IACP's Psychological Service Section focuses on psychologically related issues in police assessment, counseling, consultation and operational assistance, and provides Pre-Employment Psychological Evaluation Guidelines.

³ Firefighter medical exam criteria are defined by the NFPA. The NFPA's medical guidelines state: "A firefighter must be free from any medical condition that would preclude a person from performing as a member in a training or emergency operations environment by presenting a significant risk to the safety and health of the person or others". The NFPA 1582 Standard on Comprehensive Occupational Medical Program for Fire Departments 2013 Edition describes the examination process and evaluation guidelines for entry-level firefighters.

Medical Evaluation of Candidates

The medical evaluation of a candidate shall include a medical history, examination and any laboratory tests required to detect a physical or medical condition(s) that may adversely affect the candidate's ability to perform the essential functions of the job. Collateral information and/or relevant medical records shall be reviewed when practicable.

The medical standards herein will be assessed to determine the candidate's ability to perform the essential functions of a police officer or firefighter without causing a direct threat to himself / herself or others. Any other condition not listed that may cause a direct threat to the individual or others will be assessed by the examining physician.

The examining Physician shall utilize diagnostic procedures, including the use of scientific instruments, or other laboratory methods, which, in his or her discretion, would determine the true condition of the candidate in order to medically clear, the individual. The examining physician shall base the decision to medical clear the candidate using medical information including medical literature, epidemiology, and input from specialists. The results of the exam shall be recorded in such a clear and complete manner as to be fully understandable. The hiring authority shall be appraised of functional limitations and a hiring recommendation, but shall not receive medical/psychological information.

When a candidate does not meet the medical standards contained herein due to a temporary or correctable condition, the candidate may be deferred. The period of deferment may not exceed 12 months.

When a candidate does not meet the medical standards contained herein, the candidate is considered medically disqualified for the position of police officer or firefighter. Candidates will be medically disqualified if it is determined that the individual cannot perform the essential functions of the position and may cause a threat to the health and safety of themselves or others. The candidates will be notified in writing of the outcome of the medical exam and the appeal process.

2. Medical Examination Guidelines

A reasonable degree of clinical judgment and the use of acceptable medical practice is required by the examining physician in the identification of a medical condition which may in the opinion of the examiner, adversely affect the essential functions of a police officer or firefighter.

There is no set of standards that can be all-inclusive of every physical condition that may adversely affect the ability to perform the essential functions of a job. The following includes the domains that shall be assessed during the medical evaluation. Each candidate shall be individually assessed along these domains to determine the specific risk posed by the individual and the candidate's ability to safely and satisfactorily perform the essential functions of a police officer or firefighter position.

A. Gastrointestinal (Pertaining to the organs of the GI tract, from mouth to rectum).

- (1) Hemorrhoids: (enlarged veins in the anus or lower rectum).
 - a. External hemorrhoids producing marked symptoms.
 - b. Internal hemorrhoids, if large or accompanied with hemorrhage or protruding intermittently or constantly.
- (2) Hepatitis inflammation of the liver within the preceding 6 months. Persistence of symptoms and findings (either clinical or laboratory) which indicate impaired liver function and/or damage.
- (3) Hernia (a bulge or protrusion of an organ through the structure or muscle) of any variety. History of operation for hernia within the preceding 60 days.
- (4) Pancreas, acute or chronic disease of.
- (5) A history of peptic ulcer (a stomach disorder marked by corrosion of the stomach lining due to the acid in the digestive juices) diagnosed by radiography, endoscopy or surgery in the previous five years;
- (6) Ulcerative colitis. (Inflammatory bowel disease causing swelling, ulcerations, and loss of function of the large intestine.
- (7) Irritable bowel syndrome (intestinal condition characterized by abdominal pain and cramps; changes in bowel movements [diarrhea, constipation, or both]; gassiness; bloating; nausea; and other symptoms).

B. Hematology (the branch of medical science dealing with the blood and blood-forming tissues).

- (1) Iron-Deficiency Anemia:
 - a. Bleeding disorders
 - b. Thalassemia (a group of inherited disorders characterized by reduced or absent amounts of hemoglobin, the oxygen-carrying protein inside the red blood cells).

C. Ears

- (1) Meniere's syndrome (chronic disorder of the inner ear causing vertigo, hearing loss and tinnitus [ringing in the ear]).
- (2) Middle ear:
 - a. Acute or chronic suppurative otitis media (infection of the middle ear space, behind the eardrum); a recent history of acute suppurative otitis media.
 - b. Adhesive otitis media associated with hearing level by audiometric test of 25 db (ISO) or more average for the speech frequencies (500, 1000, and 2000 cycles per second) in either ear regardless of the hearing level in the other ear.
 - c. Acute or chronic serous otitis media.
 - d. Presence of attic perforation in which presence of cholesteatoma (a cystic mass) is suspected.
- (3) Tympanic membrane:
 - a. Perforation regardless of etiology.
 - b. Severe scarring of the tympanic membrane associated with hearing level by audiometric test of 25 db (ISO)

or more average for the speech frequencies (500, 1000, and 2000 cycles per second) in either ear regardless of the hearing level in the other ear.

(4) Hearing

Police and fire candidates must have normal abilities to localize sounds, understand speech in noise and understand whispered speech.

Pure tone threshold testing for each ear separately at 500, 1000, 2000, 3000, 4000, and 6000 Hz in American National Standards Institute (ANSI) approved and calibrated sound treated booth. Permanent hearing thresholds, ANSI S3.6-1996) reference zero shall average no more than 25 db in either ear.

D. Endocrine

(1) Adrenal disorders (refers to the glands which sit on top of each kidney and that secrete hormones).

(2) Diabetes mellitus (a condition in which the pancreas no longer produces enough insulin, so that glucose in the blood cannot be absorbed into the cells of the body).

(3) Parathyroid disorders.

(4) Thyroid disorders.

E. Musculoskeletal System

(1) Upper Extremities

a. Acromioclavicular Separation (a separated shoulder).

b. Shoulder subluxation (incomplete or partial dislocation of a joint) and dislocation.

c. Finger amputation/arthritis (degenerative arthritis or degenerative joint disease).

(2) Lower Extremities/Knee

a. Meniscus injuries.

b. Loose body in the knee.

c. Patellofemoral problems.

d. Anterior cruciate ligament instability.

e. Collateral ligament instability.

f. Leg length discrepancy.

g. Retained hardware.

F. Arthritis

(1) Disease of any bone or joint, healed, with such resulting deformity or rigidity that function is impaired to such a degree that it will interfere with service.

(2) Dislocation, old and/or not reduced

(3) Fractures:

a. Malunited fractures that interfere significantly with function.

b. Ununited fractures.

c. Any old or recent fracture in which a plate, pin, or screws were used for fixation and left in place and which may be subject to easy trauma, i.e., as a plate tibia, etc.

(4) Injury of a bone or joint within the preceding 6 weeks, without fracture or dislocation, of more than a minor nature.

(5) Muscular paralysis, contracture, or atrophy, if progressive or of sufficient degree to interfere with service.

(6) Osteomyelitis (inflammation of the bone), active or recurrent, of any bone or substantiated history of osteomyelitis of any of the long bones unless successfully treated 2 or more years previously without subsequent recurrence of disqualifying sequelae as demonstrated by both clinical and X-ray evidence.

(7) Osteoporosis (decrease in bone mass or density)

(8) Chondromalacia (inflammation of the underside of the knee), manifested by verified history of joint effusion, interference with function, or residual from surgery.

(9) Severe acute or chronic sprain of any major joint with residual swelling, limitation of motion, or joint instability.

(10) Any type of chronic joint laxity associated with recurrent synovitis or swelling.

G. Eyes

(1) Police candidates must have uncorrected vision of at least 20/40 in the best eye and no worse than 20/70 in the other, unless they qualify for a soft contact lens (SCL) waiver. Vision must be correctable to at least 20/30 in each eye regardless of the corrective device used.

(2) Firefighter candidates must have uncorrected vision of at least 20/40 in the best eye and not worse than 20/100 in the other regardless of contact lens use.

(3) Color vision deficiency - Police and fire candidates must be able to accurately and quickly identify colors.

(4) Diplopia (double vision) documented, constant or intermittent from any cause or of any degree interfering with visual function.

(5) Where said correction is accomplished through the use of "soft" contact lenses, there shall be no limit on uncorrected distance visual acuity, provided that such candidates whose visual acuity is corrected in this manner shall have worn such corrective devices for a minimum of 3 months prior to the physical examination. Persons employed pursuant to this accommodation shall be required to present periodic medical verification from an optometrist that they are bona fide soft contact lens wearers.

(6) Depth perception less than normal.

(7) Near Vision each eye J3 for police candidates

H. Urinary System

(1) Kidney:

a. Acute or chronic infections of the kidney.

b. Renal Failure (kidney)

I. Neurology

(1) Cranial Defect

(2) History of seizure

(3) Head trauma without history of seizure

(4) Primary headache disorders

J. Cardiovascular

- (1) Coronary Heart Disease.
- (2) Electrocardiographic evidence of major arrhythmias such as:
 - a. Atrial tachycardia (rapid heartbeat), flutter of fibrillation, ventricular tachycardia or fibrillation.
 - b. Conduction defects (irregular heartbeats) such as first degree atrioventricular (A-V) block and right bundle branch block. (These conditions occurring as isolated findings are not unfitting when cardiac evaluation reveals no cardiac disease.)
 - c. Left bundle branch block, 2nd and 3rd degree A-V block, myocardial infarction; coronary insufficiency at rest or after stress; or evidence of heart muscle disease.
- (3) Valvular disorders
- (4) Cardiomyopathy (Enlarged Heart)
- (5) Hypertension (High Blood Pressure)

K. Vascular System

- (1) Peripheral vascular disease (circulation disorder) including Raynaud's phenomena, Buerger's disease (thromboangiitis obliterans), erythromelalgia, arteriosclerotic and diabetic vascular diseases. Special tests will be employed in doubtful cases.
- (2) Thrombophlebitis:
(inflammation of a vein with blood clot formation inside the vein).
 - a. History of thrombophlebitis with persistent thrombus or evidence of circulatory obstruction or deep venous incompetence in the involved veins.
 - b. Recurrent thrombophlebitis.
 - c. Aneurysm of the heart or major vessel, congenital or acquired (bulging, weak area in the wall of an artery).

L. Weight

Applicants must meet such weight standards as may be announced in the examination bulletin for the classes of Firefighter and Police Officer.

M. Respiratory

- (1) Obstructive Respiratory Diseases
 - a. Asthma - Exercise Induced Bronchoconstriction
 - b. Chronic Obstructive Pulmonary Diseases
- (2) Restrictive Respiratory Diseases
- (3) Obstructive Sleep Apnea.

N. Psychological Evaluation of Candidates

The psychological evaluation of each candidate shall include a review of background information, review of personal history, administration of standardized tests to identify patterns of abnormal behavior and assess normal behavior, an interview and any additional tests required to detect a mental or emotional condition(s) that may adversely affect the candidate's ability to safely perform the essential functions of the job. Collateral information and/or relevant medical records shall be reviewed when practicable. The examining psychologist shall utilize diagnostic procedures which, in his or her discretion, would determine the true condition of the candidate in order to psychologically clear the individual.

The psychological standards herein have been linked to successful job performance. Additionally, a reasonable degree of clinical judgment and the use of acceptable psychological practice is required by the examining psychologist in the identification of a psychological condition which may, in the opinion of the examiner, adversely affect the essential functions of a police officer or firefighter.

There is no set of standards that can be all-inclusive of every mental or emotional condition that may adversely affect the ability to perform the essential functions of a job. The following includes the domains that shall be assessed during the psychological evaluation. Each candidate shall be individually assessed along these domains to determine the specific risk posed by the individual and the candidate's ability to perform the essential functions of a police officer or firefighter position.

The results of the psychological evaluation shall be recorded in such a clear and complete manner as to be fully understandable. The hiring authority shall be apprised of functional limitations and a hiring recommendation, and shall not receive medical/psychological information.

When a candidate does not meet the medical standards contained herein due to a temporary or correctable condition, the candidate may be deferred. The period of deferment may not exceed 12 months.

When a candidate does not meet the minimum standards contained herein, the candidate is considered psychologically disqualified for the position of police officer or firefighter. Candidates will be psychologically disqualified if it is determined that the individual cannot safely and satisfactorily perform the essential functions of the position due to a mental or emotional condition. Candidates will be notified in writing of the outcome of the psychological evaluation and the appeal process.

N. Psychological Evaluation of Candidates, (Continued)

SCREENING DIMENSIONS:

- Job-relevant psychopathology
- Social Competence
- Teamwork
- Stress Tolerance and Emotional Regulation
- Adaptability/Flexibility
- Conscientiousness/Dependability
- Impulse Control/Attention to Safety
- Integrity/Ethics
- Decision Making and Judgment
- Assertiveness/Persuasiveness
- Avoiding Substance Abuse and Other Risk Taking Behavior
- Communication

O. Dermatology (skin)

(1) Atopic dermatitis (inflammation of the skin). With active or residual lesions in characteristic areas (face and neck, antecubital and popliteal fossae, occasionally wrists and hands), or documented history thereof.

(2) Dermatitis herpetiformis (characterized by intensely itchy, red patches). Severe chronic seborrheic dermatitis.

(3) Eczema. Any type which is chronic and resistant to treatment.

(4) Skin Infection, until cured.

(5) Psoriasis.

(6) Scars which are so extensive, deep, or adherent that they may restrict functioning or interfere with the candidate's flexibility grip and strength.

(7) Raynaud's disease (a disease characterized by spasm of the arteries in the extremities, especially the fingers).

P. Spine and Related Structures

Disease or defects impairing function to the extent that performance of any duty will be impaired, or in the performance of such duty, the condition will be aggravated so as to interfere with the essential functions of the job.

(1) Cervical (neck) pain, radiculopathy and instability.

(2) Lumbar pain (lower back), radiculopathy and disc surgery.

(3) Spondylolisthesis (a condition in which a bone [vertebra] in the spine slips out of the proper position onto the bone below it).

(4) Scoliosis (abnormal curving of the spine).

(5) Spina bifida (a developmental congenital disorder caused by the incomplete closing of the embryonic neural tube).

Q. Infectious Diseases

Any condition that may impair the ability of the candidate to perform the essential duties such as heaving, lifting, climbing stairs, driving fire suppression and pursuit of a suspect.

R. Oncology (Cancer):

Individually evaluate candidates with a history of a malignancy.

S. Medication-related impairment

Individually assess the candidate for unreasonable and sudden incapacitation and risk for his or her ability to safely perform job functions.

T. Amputations and prosthetics

Complete and individual evaluation in relation to the essential job functions and the ability to safely perform the essential functions of the job.

C-I POLICE OFFICER AND FIREFIGHTER TRAINEE CLASSES

The medical standards used for Police and Fire trainee classes, such as Crime Prevention Assistant, Police Student Worker, Cadet, Fire Department Trainee, Fire Student Worker and Associate Community Officer, shall be the same as for Police Officer and Firefighter, respectively.

(Effective 07-13-17)

APPENDIX D

LIST OF CITY DEPARTMENTS FOR CIVIL SERVICE PURPOSES

Aging
Airports
Animal Services
Building and Safety
City Attorney
City Clerk
City Employees' Retirement System
City Planning
Community Development
Controller
Convention Center
Council (Legislative Branch)
Cultural Affairs
Department on Disabilities
El Pueblo de Los Angeles Historical Monument
Emergency Management
Employee Relations Board
Environmental Affairs
Ethics Commission
Fire
General Services
Harbor
Housing
Human Services
Information Technology Agency
Joint Division, Department of Water & Power (JXXX)
Library
Mayor (Executive Branch)
Neighborhood Empowerment
Office of City Administrative Officer
Office of Finance
Pensions
Personnel
Police
Power Construction Division, Department of Water & Power
(PCXX)
Power Division, Department of Water & Power (PXXX)
Public Works
Recreation and Parks
Transportation
Treasurer
Water Division, Department of Water & Power (WXXX)
Zoo

(Amended 9-18-2009)

**APPENDIX E
LOS ANGELES CITY CHARTER
ARTICLE X
EMPLOYMENT PROVISIONS**

CIVIL SERVICE

Section 1000 - Applicability

The provisions of this Article shall apply to all employees of the City, except for those specifically exempted in Section 1001.

Section 1001 - Exemptions

Each of the following positions shall be exempt from this Article:

(a) **Exempt Positions.**

- (1) All officers elected by the people.
- (2) All members of the boards of commissioners.
- (3) All chief administrative officers of the City's departments and offices and the Directors of the Public Works' Bureaus of Contract Administration, Engineering, Sanitation, Street Lighting and Street Services.
- (4) Two positions in the class of Assistant General Manager or Deputy Director in each City office or department, and two positions in the class of Assistant Director in each of the Public Works Bureaus of Contract Administration, Engineering, Sanitation, Street Lighting and Street Services, and two positions in the class of Deputy Controller in the Office of Controller.
- (5) All Deputy Chiefs of Police.
- (6) All Deputy Chiefs of Fire.
- (7) Positions in the Office of the Mayor.
- (8) Positions established by the Council for the purpose of assisting the members of the Council in the performance of their duties, except for clerical personnel.
- (9) All positions in the office of the City Attorney.
- (10) The Chief Financial Officer of the Department of Water and Power.
- (11) The Executive Director of the Board of Police Commissioners.
- (12) The Inspector General of the Police Department.
- (13) The Executive Director and all non-clerical personnel of the City Ethics Commission.
- (14) All Assistant Directors in the Office of Administrative and Research Services.
- (15) The Traffic Manager and the Port Warden of the Harbor Department.
- (16) Crossing Guards.
- (17) All physicians and psychologists subject to Section 1040.
- (18) All officers of election.
- (19) Persons specially employed by the City Clerk, as authorized by the provisions of Section 405 of the Charter, to assist in the conduct of any election.
- (20) Positions elsewhere specifically exempted by the Charter.

- (b) **Management, Professional, Scientific or Expert Services.** In addition to those positions described in subsections (a), (c) and (d) of this section, up to 150 persons to provide management services or to render professional, scientific or expert services of an exceptional character to offices or departments including the Proprietary Departments. Appointments under this subsection shall be subject to the following:
- (1) As to each position to be exempted under this subsection, and prior to the initiation of the selection process to fill the position, the Mayor shall forward to the Council a recommendation for an exempt position which sets forth the educational, experience and other professional requirements of the position and describes the circumstances presented by the department seeking the appointment that preclude filling the position through the civil service system. Within ten Council meeting days from receipt of the recommendation, the Council may by two-thirds vote disapprove the Mayor's recommendation for the exemption. If the Council does not act on the recommendation within the specified time period, the recommendation shall be deemed approved. When the position is vacated, the exemption shall terminate unless re-authorized in accordance with this subsection.
 - (2) No person may be employed under this subsection if he or she has served in an exempt position in the office of an elected City official in the prior two years unless he or she meets the professional experience requirements established for the position.
 - (3) Persons who have been exempted or who have been appointed to an exempt position prior to the effective date of this Charter, will retain their exemption. Exemptions under this subsection shall be prospective and shall be made only at the time of filling a vacant position.
 - (4) Council may, by ordinance adopted by two-thirds vote, increase the maximum number of exempt positions as provided in subsection (b) to no more than one percent (1%) of the regular authorized positions in the City workforce, provided that if the maximum number of exempt positions is increased pursuant to this subsection, the number of positions created by subsections (a) (4), (5) and (c) of this section shall be counted toward the maximum allowable exemptions. If Council provides for a maximum number of exemptions based on a percentage of the workforce, and a reduction in the workforce results in more filled exempt positions than permissible, each incumbent shall retain the exemption, but when vacated, such excess exemptions shall terminate.
- d. **Proprietary Department Positions.** In addition to the exempt positions in the Proprietary Departments created by subsections (a), (b) (1), (2), (3) and (d) of this section, up to 15 positions in the Department of Water and Power and up to ten positions to be allocated between the Harbor Department and the Department of Airports for employment of persons to provide management services or to render professional, scientific or expert services of an exceptional character. Exemption of these positions shall be subject to the following:

- (1) Upon receipt of a request for an exempt position by the department which sets forth the educational, experience and other professional requirements of the position and describes the circumstances that preclude filling the position through the civil service system, the Mayor shall forward to the Council a recommendation for the exempt position. Within ten Council meeting days from receipt of the recommendation, the Council may by two-thirds vote disapprove the Mayor's recommendation for the exemption. If the Council does not act on the recommendation within the specified time period, the recommendation shall be deemed approved.
 - (2) No person may be employed under this subsection if he or she has served in an exempt position in the office of an elected City official in the prior two years unless he or she meets the professional experience requirements established for the position.
 - (3) Persons who have been exempted or who have been appointed to an exempt position prior to the effective date of this Charter, shall retain their exemption. Exemptions under this subsection shall be prospective and shall be made only at the time of filling a vacant position.
- d. **Positions Approved by Council.** In addition to the exempt positions created in subsections (a), (b) and (c) of this section, any of the following may be exempted from the provisions of this Article upon the request of the head of the department or office in which they are employed, by order of the Board of Civil Service Commissioners, approved by the Council by resolution:
- (1) positions of unskilled laborers, including drivers;
 - (2) positions for workers, mechanics or craftspeople (including crew leaders) employed exclusively in that position on the construction of public works, improvements or buildings;
 - (3) any position requiring the services of one individual for not more than half time and paying a salary not to exceed three-fourths of the monthly rate established by the salary fixing authority of the department, division or office for entering-level clerical positions;
 - (4) grant-funded positions for a term of no more than two years which, by application of the procedures described in this subsection, may be extended for one additional year for a maximum exemption period of three years.

Any exemption made under the provisions of (1) through (4) may be terminated at any time by resolution of the Board of Civil Service Commissioners.

- e. **Leave of Absence from Civil Service.** Each person exempted or appointed to an exempt position under this section shall, during the period of exempt employment, be considered as being on leave of absence from the classified civil service if at the time of exemption he or she holds a position in the classified civil service, or is entitled to hold a position therein, and shall continue, during such period, to accrue seniority credit the same as though serving in such position.

SECTION HISTORY

Amended by: Subsec. (a), Charter Amendment Q § 1, approved March 8, 2011, effective April 8, 2011.

Section 1002 - Employees of Acquired Public Utility

All persons employed in the operating service of any public utility acquired by the City, who have been so employed for at least one year immediately prior to the date of the acquisition, may be employed by the City in their respective positions to the extent practicable, and, so long as continuously so employed by the City, shall be exempt from the civil service provisions of this Charter.

Section 1003 - Classification of Positions

The Board of Civil Service Commissioners shall establish classes for all positions of employment. The positions classified by the board shall constitute the classified civil service of the City, and no appointment to any of these positions shall be made except in accordance with the rules adopted by the board under the authority of this Article (the Civil Service Rules).

Each class shall be given an appropriate title and shall include all positions sufficiently similar in respect to duties and responsibilities and that have the same requirements as to education, experience, knowledge and ability; the same tests of fitness; and to which the same schedule of compensation may apply with fairness.

Section 1004 - Civil Service Rules

The board shall promulgate Civil Service Rules to carry out the purposes of this Article in accordance with applicable law. All rules and any changes to those rules shall be made in writing. The board shall give notice by publication in some daily newspaper circulated in the City of Los Angeles of the place or places where the rules may be obtained, and the date, not less than 30 days after the date of publication, when the rules shall go into effect. The Civil Service Rules shall provide for, among other subjects, examinations, leaves of absence, transfers, temporary appointments, disciplinary hearings, layoffs, and procedures for the review and appeal of determinations by the general manager of the Personnel Department with respect to the civil service provisions of the Charter.

Section 1005 - Examinations

Positions in the classified civil service shall be filled through competitive examination. Applicants shall be subject to review of experience and character and may be disqualified if it is determined specified requirements are not met. Examinations shall be practical, and shall relate to those matters that will fairly test the relative capacity of the persons examined to discharge the duties of the position to which they seek to be appointed and, when appropriate, shall include, or exclusively consist of, tests of physical qualifications, and manual skill. No limitation or restriction whatsoever shall be imposed, excepting to the extent permitted by applicable state or federal law in the departments of fire and police, fixing a maximum age in excess of which persons shall be deprived from taking examinations for or being employed in the classified civil service. The provisions of Section 104(i) regarding discrimination on the basis of age shall not prohibit fixing a maximum age in the departments of fire and police if otherwise authorized by this section.

SECTION HISTORY

Amended by: Charter Amendment Q § 2, approved March 8, 2011, effective April 8, 2011.

Section 1006 - Credit for Military Service

- (a) Subject to the conditions set forth in this section, in all original examinations, the Board of Civil Service Commissioners shall, in addition to all other credits, give a credit of five percent of the total credits specified for an examination to all persons who receive a passing score on the examination and who have served in the armed forces of the United States during time of war or armed insurrection, or during any time when the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared, or when the United States is assisting the United Nations in actions involving the use of armed forces to restore international peace and security (Military Service), if such persons are honorably discharged from active service even if they remain in the military reserve.
- (b) The five percent (5%) credit shall be granted for a period of five years from the date of release from active Military Service of an eligible person or five years from the date the person becomes available for employment. A person shall be deemed unavailable for employment if the person is a student engaged in a training or educational process approved by the board or is hospitalized as a result of a service-connected injury or illness.
- (c) A five percent (5%) credit for a period not to exceed five years shall be given to widows or widowers of persons killed while in Military Service. Such five-year period shall commence to run from the date the spouse is deceased.
- (d) A five percent (5%) credit for a period not to exceed five years shall be given to spouses of persons who are unable to work because of disabilities resulting from Military Service. Such five-year period shall commence to run from the date the board determines that the person became unable to work.
- (e) Notwithstanding any time limitations set forth in other parts of this section, the five percent (5%) credit shall be provided to all persons with disabilities resulting from Military Service without regard to the date of discharge. For purposes of this subsection, a person shall be deemed disabled if the disability is certified by the Veterans Administration or its successor agency.

Section 1007 - Examination Bulletins

Notice of time, place and general scope of every examination shall be given by the General Manager of the Personnel Department as provided in the Civil Service Rules.

Section 1008 - Register of Eligible Candidates

The General Manager of the Personnel Department shall prepare a register for each class of position in the classified civil service of the persons whose general average standing upon examination for the class is not less than the minimum fixed by the Civil Service Rules, and who are otherwise eligible. These persons shall be listed in the register as candidates in the order of their relative excellence, as determined by their examination without reference to the date of examination. The board may prescribe a minimum score in the written portion of any examination, including credit for past service in examinations for promotion, and may exclude from subsequent portions of the examination any candidate who fails to attain the minimum score.

The board may, by its rules, provide for the extension of the life of an eligible list and may delegate to the general manager of the Personnel

Department the authority to extend the life of an eligible list for entry-level positions in accordance with the Civil Service Rules.

Section 1009 - Promotion

The board shall by its rules provide for promotion in the classified civil service on the basis of ascertained merit and seniority in service and examination, and shall provide, in all cases where it is practicable, that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among members of lower ranks who apply for the examination and who have the experience and qualifications required by the board as a prerequisite for taking the examination. The General Manager of the Personnel Department shall submit to the appointing authority for each promotion the names of eligible applicants in accordance with Section 1010.

In rating eligible candidates, the board shall make an allowance of credits for past service. The announcement of the examination shall state that credits will be given for past service. Upon the written request of the appointing authority, the board may certify the names of those applicants having the highest ratings on the open competitive eligible list whose scores before adjustment for preferential credits are higher than the score of the highest available applicant on the promotional eligible register after credits for past service have been added. Names of candidates shall be removed from the register of eligibles for promotion after they have remained on the register for two years without re-examination.

Promotional examinations shall be held at intervals necessary to maintain a register of eligibles for promotional positions in which there are vacancies. The method and rules governing examination and certification for promotions shall be the same as provided for applicants for original appointment, except as otherwise provided in this section.

Section 1010 - Certification

- (a) **Three Highest Whole Scores.** The appointing authority of a department shall notify the board when one or more classified positions are to be filled. The General Manager of the Personnel Department shall certify to the appointing authority the names and addresses of those eligibles having the three highest whole scores on the register for the class to which the positions belong. The appointing authority shall fill the positions from the names certified by the General Manager within 60 days from the date of certification. Certified test scores shall be made public.
- (b) **Selective Certification.** Upon request of the appointing authority and approval by the board, the General Manager of the Personnel Department may establish a separate register of eligibles from among those eligibles having the three highest whole scores based on factors such as special skills, licenses, language proficiency and specialized training.

- (c) **Extra Certifications.** If there are sufficient eligibles available, the general manager of the Personnel Department shall certify at least five names and addresses more than the number of positions to be filled. If there are less than five available eligibles more than the number of positions to be filled within a range of three whole scores, the General Manager of the Personnel Department shall certify the names and addresses of all available eligibles within such additional number of whole scores as necessary to provide a minimum of five available eligibles more than the number of positions to be filled.

Where there are remaining on the eligible list less than five available eligibles more than the number of positions to be filled and the General Manager of the Personnel Department finds that it is for the good of the civil service, the names of all available eligibles may be certified and appointments may be made from among those available eligibles.

- (d) **Certification Within Range of One or More Whole Scores.** In consideration of the number of vacancies to be filled and the likely number of available eligibles within a range of three whole scores, the General Manager of the Personnel Department may certify the names and addresses of all available eligibles within a range of one or more whole scores whenever a certification is requested by an appointing authority and there are at least five eligibles available within such range over and above the number of positions to be filled.
- (e) **Order of List.** Whenever the General Manager of the Personnel Department certifies the names and addresses of eligible candidates, the names shall be listed in the order of the whole scores achieved, except that within the range of each single whole score the names of eligibles shall be listed in random order.
- (f) **[Repealed.]**

SECTION HISTORY

Amended by: Subsec. (f) repealed, Charter Amendment Q § 3, approved March 8, 2011, effective April 8, 2011.

Section 1011 - Probation

- (a) **Length of Probation.** A candidate appointed to an entry level classified position shall be employed on probation for a period not exceeding 12 months, with the specific period to be established by the board, and for a period not exceeding 18 months, to be measured from the commencement of recruit training, for those employees appointed under Civil Service Rules and regulations and sworn in, as provided by law, to perform the duties of regular police officers. The Civil Service Rules may provide for a different period of probation for non-entry level employees, not exceeding six months except that a longer period, not exceeding 12 months, may be fixed for management personnel.
- (b) **Termination During Probation.** At or before the expiration of the probationary period, the appointing authority may terminate the probationary employee by delivering written notice of termination to the employee assigning in writing the reasons for the termination. The appointing authority shall subsequently notify the board of such termination. Unless the probationary employee is served with written notice of termination during the probationary period, the employee's appointment shall be deemed complete.

SECTION HISTORY

Amended by: Subsec. (a), Charter Amendment Q § 4, approved March 8, 2011, effective April 8, 2011.

Section 1012 - Removal from and Reinstatement to the Register of Eligible Candidates

- (a) No candidate shall lose his or her place on a register of eligible candidates by certification or rejection, except that the board may remove names of candidates from a register after they have remained on the register for more than two years.
- (b) The board may, by its rules, provide for striking off names of candidates from open competitive eligible lists established as a result of continuous examinations after they have remained on the list for six months.
- (c) The Civil Service Rules shall provide for reinstatement to the register of eligibles, on recommendation of the head of the department, of persons who have become separated from the civil service or who have been reduced in rank, other than persons who have been removed for cause.
- (d) The board may, by its rules, provide for reinstatement to the register of eligibles, those candidates who are terminated during the probationary period, but the General Manager of the Personnel Department may not certify any candidate to the department or office which terminated the candidate except at the specific request of the appointing authority of that department or office.

Section 1013 - Temporary Appointment

- (a) **Length of Appointment.** To prevent stoppage of public business or to meet extraordinary exigencies, any appointing authority may make temporary appointments to classified positions in accordance with Civil Service Rules that the board shall prescribe. The board shall have the power to authorize such temporary appointments until an eligible list is established, but for no longer than one year.
- (b) **Termination.** Any temporary appointment shall terminate immediately when a regular appointment can be made unless the board finds that for a specified period it is necessary that the temporary employee remain to orient or train the new regular appointee.
- (c) **Temporary and Intermittent Appointments.** The Civil Service Rules shall provide for the tenure of persons appointed from a register of eligibles to positions determined by the board to be temporary or intermittent in character. Any rules adopted pursuant to this subsection shall provide that when appointment is made to a position determined to be temporary or intermittent, the provisions of Section 1011 with respect to period of probation and completion of appointment shall not apply.

SECTION HISTORY

Amended by: Subsec. (a), Charter Amendment Q § 5, approved March 8, 2011, effective April 8, 2011.

Section 1014 - Special Reassignments

- (a) **Reassignment Without Examination.** In addition to and notwithstanding the provisions of Section 1015, the board may by its rules provide for status and seniority for civil service employees in classes other than those for which they were examined, where:
 - (1) an employee is incapable of performing satisfactorily the duties of his or her position because of injury, sickness or disability; or
 - (2) an employee has completed a probationary period in the City service.

- (b) **Requirements for Reassignment.** Any rules adopted by the board pursuant to this section shall provide that:
- (1) no employee may be placed in a different class without first receiving the employee's written consent to the reassignment;
 - (2) no change of class status may be allowed if it would result in a promotion;
 - (3) no employee may be placed in a different class unless the employee possesses the minimum qualifications required for the class and the capability of performing the required duties;
 - (4) no employee who is placed in a different class pursuant to the provisions of this section may be credited with more seniority than accumulated in the employee's former class.

Section 1015 - Layoffs

In addition to all other matters, the board shall by its rules provide for the following:

- (a) **Order of Suspension and Restoration.** The Civil Service Rules shall provide the manner and order, not inconsistent with the provisions of this section, in which all persons employed in the classified civil service shall be suspended and restored where the suspension results from lack of work, lack of funds or abolishment of position or otherwise, excepting suspension for personal delinquency. In all cases, suspension and restoration shall be based upon seniority as provided in this section, or as provided by the Civil Service Rules.

No assignment of employees to positions within a class, except as provided in this section, for which no different examination requirements have been established by the board shall affect the requirements of this section governing suspension and restoration for lack of work, lack of funds or abolishment of position or otherwise. In all of these cases, all employees within the same Class-Group, as defined below, and for which similar examinations are required by the board shall be considered as one Class-Group for purposes of suspension and restoration.

Whenever suspension other than for personal delinquency is to be made in any class in an office, department, bureau or major division in a department having control of its own funds (Class-Group), the person to be suspended shall be selected in the order determined by length of service in such class and in classes of higher rank since regular appointment in the classified civil service, after deducting periods of absence in accordance with the Civil Service Rules. Persons having the shortest length of service shall be suspended first.

- (b) **Displacement.** Any person so suspended shall be entitled to displace the person holding a position in a Class-Group in which a regular position was formerly held by the person so suspended, who has the shortest length of service in such Class-Group and in classes of higher rank after deducting periods of absence as provided by the Civil Service Rules. Any person entitled to displace a person may fill instead, with the consent of the appointing authority, a vacant position in the Class-Group in which he or she is entitled to displace. In the event an employee exercises his or her right to displacement, the employee shall receive the salary at the level of the highest paygrade in the Class-Group which the employee held prior to leaving the Class-Group.

- (c) **Determination of Class-Groups.** The Class-Group in which suspension is to be made or the Class-Group in which restoration is to be made, shall include all positions created from such Class-Group after the original regular appointment therein of the person suspended or restored. The determination of the board as to the Class-Group from which such positions were subsequently created shall be final and conclusive.
- (d) **Reserve List.** A reserve list shall be established in each class in each office, department, bureau or division of a department having control of its own funds which shall consist of the names of those persons who have been regularly appointed or promoted to, and have served beyond the probationary period in a class and have been suspended for causes other than personal delinquency. Each person whose name appears on the reserve list, until regularly restored to a position in the class in the office, department, bureau or division from which he or she was suspended shall be certified for appointment to a position in the class in the office, department, bureau or division from which he or she was suspended. The name of any person who has been out of the service of the City for more than five years shall be permanently removed from the reserve list.
- (e) **Order of Certification.** Whenever any vacancy is to be filled, it shall be filled by certifying in the following order:
- (1) from the reserve list, if any, in the class and office, department, bureau or major division in which the vacancy exists, the name of the person with greatest length of service in the class and all classes of higher rank, or by transfer of a person whose service in the class and classes of higher rank is greater than that of any person on the reserve list.
 - (2) from the promotional list, if any, provided for in Section 1009, of the office, department, bureau or major division where the vacancy is to be filled;
 - (3) from the reserve list of other offices, departments, bureaus and major divisions as provided in the Civil Service Rules;
 - (4) by certifying from the appropriate register of eligibles provided in this Article.

As to certifications to be made from other than the reserve list of the office, department, bureau or major division in which the vacancy exists, the board may by its rules provide that when the list or register from which certification is to be made does not contain as many names as may be certified for any vacancy or vacancies under the provisions of Section 1010, additional names, up to but not exceeding the maximum number allowed, shall be certified from the list or register next in the order as provided above.

- (f) **Procedural Review.** The board shall have the same power and duty to review as to regularity of procedure all cases of suspension for lack of work, lack of funds or abolishment of position or otherwise, as elsewhere provided in the Charter for removal, discharge, or suspension for cause; but the question of the necessity for suspension for lack of work, lack of funds or abolishment of position shall not be subject to review by the board.

Section 1016 - Discharge or Suspension

- (a) **Discharge or Suspension for Cause.** Any board or officer having the power of appointment shall have the power to suspend or discharge any officer, member or employee of the office or department. No person in the classified civil service shall be discharged or suspended except for cause, which shall be stated in writing by the board or officer having the power to make such discharge or suspension.
- (b) **Statement of Cause.** The written statement of cause shall be filed with the Board of Civil Service Commissioners, with certification that a copy has been served upon the person so discharged or suspended, in accordance with Section 1018. Upon filing with the board, the discharge or suspension shall take effect.
- (c) **Application for Hearing.** Within five days of service of the written statement upon any person so discharged or suspended, the person shall file a written application with the board in order to require the board to hold a hearing to investigate the grounds for the discharge or suspension. In the event that the person does not file an application, the board may, but is not required to, within 15 days after the filing of the written statement with the board, determine to hold a hearing to investigate the grounds for the discharge or suspension.
- (d) **Restoration.** If, after investigation and hearing as required by law is held, the board finds, in writing, that the grounds stated for the discharge or suspension were insufficient or were not sustained, the board shall order the person to be reinstated or restored to duty. With the consent of the appointing authority, the board may also reduce the length of the suspension, or may substitute suspension for discharge, if the board makes a written finding that such action is warranted. The order of the board with respect to the discharge or suspension shall be promptly certified to the appointing board or officer, and shall be final and conclusive.
- (e) **Compensation.** If the board orders reinstatement or restoration to duty of a person who has been discharged or suspended, the person shall be entitled to receive compensation from the City the same as if he or she had not been discharged or suspended by the appointing board or officer.
- (f) **Change of Disciplinary Review.** The Council may, by ordinance, provide for an alternative system for impartial review of employee discipline as set forth in subsections (b) through (e) of this section, provided that such a system conforms with due process standards for a fair hearing, and provided there remains a process for review of employee discipline in which costs are borne by the City.
- (g) **Finality of Order of Suspension for Lack of Funds.** The order of any appointing board or officer suspending any person because of lack of funds or lack of work in the department shall be final, and shall not be subject to review by the Board of Civil Service Commissioners.

(h) **Applicability.** The procedure for review of discipline set forth in this section shall not apply to:

- (1) those members of the Police Department appointed under Civil Service Rules and regulations and sworn in, as provided by law, to perform the duties of regular police officers who are subject to the provisions of Section 1070 of the Charter.
- (2) those members of the Fire Department appointed under Civil Service Rules and regulations to perform the duties of regular firefighters who are subject to the provisions of Section 1060 of the Charter.
- (3) any suspension of five working days or less in any 12 month period for personal delinquency. The reasons stated in writing for any suspension shall be furnished to the suspended employee and promptly filed with the board. Any suspension which results in an employee having a total suspended time by reason of the exercise of authority under this subsection in excess of five working days in any 12 month period shall be subject to all of the provisions of this section.

Section 1017 - Demand for Restoration; Claim for Compensation

Whenever it is claimed by any person that he or she has been unlawfully demoted, suspended, laid off or discharged, and that person has filed an application for a hearing as provided in Section 1016(c) and reinstatement or restoration to duty has been denied, the person may file a written claim for compensation and a demand for reinstatement. The claim and demand must be filed within 90 days from the date of the decision of the board following a hearing, or if no hearing is applied for, from the date on which it is claimed that the person was first illegally, wrongfully or invalidly demoted, laid off, suspended or discharged. The demand for reinstatement must be filed with the board and the claim for compensation must be filed with the City Clerk. Failure to file a demand for reinstatement with proof of filing with the board, within the time specified in this section, shall be a bar to any action to compel reinstatement. Proof of filing with the City Clerk of the claim for compensation within the time and in the manner specified shall be a condition precedent to any recovery of wages or salary claimed to be due on account of demotion, layoff, suspension or discharge. Except as provided in this section, claims for compensation shall conform to the requirements of Section 350.

Section 1018 - Service of Notice

Service of notice in accordance with this Article may be made by handing a copy to the person or by sending a copy by certified mail to the person's last known residence if, after due diligence, the person cannot be found.

Section 1019 - Falsification and Corruption

- (a) **Investigation.** The board shall investigate the enforcement of the civil service provisions of this Article and the Civil Service Rules. All officers of the City shall aid the board in all proper ways in carrying out the civil service provisions of this Article.

- (b) **Reprimand; Recommendation of Discharge or Suspension.** Any person holding a position in the classified civil service who willfully violates any of the civil service provisions of this Article shall, after hearing by the board, be subject to reprimand by the board. The board shall have the right to recommend suspension, discharge, or in lieu of discharge, demotion of the person to the appointing power.
- (c) **Misdemeanors.** The following conduct is a violation of this Article and shall be punishable as a misdemeanor:
 - (1) any oral or written false statement willfully made under oath in any application or document filed with the board, in any proceeding before the board, in any investigation conducted by or under the jurisdiction of the board, or in any proceeding arising under this Article.
 - (2) any conduct, whether done alone or in cooperation with others to defeat, deceive or obstruct any person in respect to his or her right of examination; to corruptly or falsely mark, grade, estimate, or report upon the examination of proper standing of any person examined under the civil service provisions, or aid in so doing; or to willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects of any person for employment or promotion.
 - (3) direct or indirect payment or promise of payment of money or other valuable consideration to any person for appointment, proposed appointment, or promotion to a position in the classified civil service.

Section 1020 - Certification of Employment

The Controller shall not approve any compensation for services to any person performing the duties of a position in the classified civil service, unless the board has certified that the person has been employed in accordance with this Article and the Civil Service Rules.

Section 1021 - Employment Upon Consolidation or Annexation of Other Governmental Entities

Officers and employees of any governmental agency, municipality or any special assessment or other special district created under general laws, all or part of which may become part of the City through consolidation, annexation or joint powers agreement, may upon Council approval of the consolidation, annexation or joint powers agreement become employees of the City in a similar capacity as provided in this section.

In order to avoid suspension for lack of work of employees of the Community Redevelopment Agency (CRA), the Council may, by resolution, direct the Board of Civil Service Commissioners to develop procedures allowing placement, as provided in this section, of CRA employees in civil service positions for which they are qualified in any City office or department except the Department of Water and Power. Appointment would be made only at the discretion of the City department or office where there is a vacancy, and only after persons on a department reserve list, if any, have been offered the position in accordance with Civil Service Rules.

Upon consideration of the resolution regarding CRA employees or consolidation, annexation, or joint powers agreement, but prior to final approval, the Council shall request that the Board of Civil Service Commissioners establish the qualifications, fitness requirements and background standards for the prospective employees and establish the method of determining that the prospective employees meet those qualifications, requirements and standards. The board shall also establish the appropriate employment classifications, length of probationary periods, and seniority for layoff and examination purposes for the prospective employees. The Council may establish terms and conditions of employment in addition to those provided elsewhere in the Charter, and in addition to or different from those provided by ordinance, by memorandum of understanding or otherwise.

Those employees who are determined by the board to have met the qualifications, requirements, and standards established by the board, and who meet all other legally applicable requirements, shall become employees of the City upon final approval of the consolidation, annexation or joint powers agreement by the Council or, in the case of individual CRA employees, upon approval of the appointment by the board.

If the duties of any officer or employee of any municipality or any special assessment or other special district conflict with the duties of any officer of the City, then that officer or employee shall become an employee of the City in a position subordinate to the officer of the City.

Section 1022 - Use of Independent Contractors

Nothing in this Article shall be deemed or construed as preventing the Council, or a board of commissioners in the case of those departments having control of their own revenues and funds, from entering into contracts for the performance of work when it is determined by the Council or the board of commissioners that the work can be performed more economically or feasibly by independent contractors than by City employees. The authority of the Council set forth in this section may be delegated to departments and officers of the City under rules and procedures as the Council may prescribe. Nothing in this section shall limit the application of Sections 370 through 373 of the Charter relating to contracts and competitive bidding for contracts.

Section 1023 - Military Leave

Every officer or employee who leaves his or her office or position to serve in the armed forces of the United States shall be entitled to a leave of absence and, upon returning to the service of the City, shall be entitled to restoration to the position to which he or she would have been entitled as if the leave had not occurred, subject to applicable state and federal law and as further provided by ordinance.

Section 1024 - Non-discrimination

Notwithstanding any other provision of the Charter, the City shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners. The Council shall adopt ordinances to implement this provision.

DISCIPLINE FOR PHYSICIANS AND PSYCHOLOGISTS

Section 1040 - Rights and Due Process Procedures

Persons appointed to full-time, non-management positions as physicians or psychologists shall be employed on probation for a period of two years. Persons serving in such positions as of the effective date of this section, shall be given credit for their service with the City prior to the effective date with respect to completion of the required probationary period. Upon successful completion of the probationary period, these employees shall be entitled to the rights and due process procedures set forth in Section 1016.

Notwithstanding any other provision of this section, any person employed by the City as a full-time physician or psychologist is subject to layoff due to lack of work, lack of funds, or abolishment of position in a manner consistent with the principles contained in Section 1015. The Civil Service Rules promulgated pursuant to that section shall establish the procedure for such layoffs, determination of seniority rights and for the establishment of reserve lists.

EMPLOYMENT IN THE CITY ATTORNEY'S OFFICE

Section 1050 - Employment in the City Attorney's Office

The City Attorney's Office shall be subject to the following:

- (a) No person shall be removed, suspended or reduced in grade without good cause who has served continuously as an attorney in the Office of the City Attorney for two years or more immediately preceding the action, or who has served continuously in any other capacity in the Office of the City Attorney for one year or more immediately preceding the action. The time during which persons serve at the pleasure of the City Attorney as prescribed in subsection (d) shall not be considered in the computation of time periods under this provision.
- (b) Every person having served for those periods enumerated in the preceding subsection who is removed, suspended, or reduced in grade, shall have the right to appeal to an impartial trier of fact in accordance with written rules promulgated by the City Attorney. The rules shall, before they become effective, be submitted to the Council. If the Council approves the rules, or if the Council fails to disapprove the rules within 60 days after submission, they shall become effective. The rules shall provide for service upon the person involved of a written statement of grounds and for a fair hearing by an impartial trier of fact who may:
 - (1) deny the appeal;
 - (2) sustain the appeal and order that the appellant be restored with full back pay to the position from which removed, suspended, or reduced in grade; or
 - (3) sustain the appeal in part and deny it in part and substitute as a lesser penalty either a suspension or a reduction in grade as may be appropriate. The trier of fact shall have the power to administer oaths and affirmations, examine witnesses under oath, and compel the attendance of witnesses and the production of evidence at the hearing by subpoena to be issued by the City Clerk.
- (c) Notwithstanding any other provision of this section, any person employed in the Office of the City Attorney is subject to layoff due to lack of work, lack of funds, or abolishment of position in a manner consistent with the principles contained in Section 1015.

The rules promulgated pursuant to the preceding subsection shall establish the procedures for layoffs, determination of seniority rights, and for the establishment of reserve lists.

- (d) Notwithstanding any other provision of this section, the City Attorney may appoint to serve at the pleasure of the City Attorney from among persons not then employed in the Office of the City Attorney no more than four assistants who meet the qualifications for those positions, and no more than four other persons. At the time of the appointments, the City Attorney shall file with the City Clerk a statement identifying the persons appointed. The appointment of all persons serving at the pleasure of the City Attorney shall terminate when the succeeding City Attorney is sworn in, unless reappointed by the succeeding City Attorney. In the event there is no vacancy in the class of positions to which a person is appointed under this provision, and should the Council fail to authorize an additional position, the person in the class to which the appointment is to be made having the least seniority in that class and higher classes shall be reassigned to a position in any other lower class of positions in which that person has displacement rights based on seniority or, at that person's option, may be transferred to any vacant position in the Office at the same or lower level class for which that person is found by the City Attorney to be qualified.

DISCIPLINARY PROCEDURES FOR THE FIRE DEPARTMENT

Section 1060 - Rights and Due Process Procedures

- (a) **Applicability; Rights.** For purposes of this section, the term "member" refers to all officers and firefighters of the Fire Department. This section shall not apply to any member of the department who has not completed the period of probation in his or her entry position as provided in Section 1011(a). Members not covered by this section who are otherwise entitled by law to a hearing or appeal with regard to proposed or imposed discipline shall be provided a hearing or appeal under rules promulgated by the Fire Chief.

The right of a member of the Fire Department, except the Fire Chief and any other member in a position exempt from civil service, to hold his or her office or position and to receive compensation attached to the office or position is hereby declared to be a substantial property right of which the holder shall not be deprived arbitrarily or summarily, nor other than as provided in this section. No member of the Fire Department shall be suspended, removed, or otherwise separated from the service of the Fire Department (other than by resignation), except for good and sufficient cause shown upon a finding of guilty of the specific charge or charges assigned as cause or causes after a full, fair and impartial hearing before a Board of Rights except as provided in subsection (b) and (h) of this section. The charges must be filed within one year of the department's discovery of the act committed or omitted by a member and in no event later than two years from the date of the act or omission. No case of suspension with loss of pay shall be for a period exceeding six months.

- (b) **Temporary Relief from Duty; Suspension.** After following pre-disciplinary procedures otherwise required by law, the Fire Chief may:

- (1) temporarily relieve from duty any member pending a hearing before and decision by a Board of Rights on any charge or charges pending against the member; or
 - (2) suspend the member for a total period not to exceed 30 days with loss of pay and with or without reprimand, subject to the right of the member to a hearing before a Board of Rights. In the event the member files an application for a hearing before a Board of Rights as provided in this section, the suspension shall automatically become a temporary relief from duty pending hearing and decision by the Board of Rights. In the event that the member fails to apply for a hearing within the period prescribed, he or she shall be deemed to have waived the hearing and the suspension shall remain effective, unless the Fire Chief requires that a hearing be held.
 - (3) cancel such temporary relief from duty, or following such relief from duty, restore the member to duty with or without restrictions pending a hearing before a Board of Rights.
- (c) **Complaint.** In the event any order of relief from duty or suspension is made, the order shall contain a statement of the charges assigned as causes. The Fire Chief shall, within five days after the order is served as provided in subsection (d), file with the Board of Fire Commissioners, a copy of a verified written complaint upon which the order is based, with a statement that a copy of the order and verified complaint was served upon the accused. The complaint shall be verified by the oath of the Fire Chief and shall contain a statement in clear and concise language of all the facts constituting the charge or charges. If the complaint and proof of service are not filed within the five day period prescribed, the order of temporary relief from duty or suspension shall be void and of no effect and shall be automatically revoked, and the accused member restored to duty with the department without loss of pay and without prejudice, as if no order of relief from duty or suspension had been made.
- (d) **Service.** The service of any notice, order or process mentioned in this section, other than service of subpoena, may be made either by handing the member a copy personally or by sending a copy by certified mail to his or her last known address of record with the Fire Department if, after due diligence, the member cannot be found.
- (e) **Application for Hearing.** Within five days after personal service upon the accused of a copy of the verified complaint or within ten days after service by certified mail, the accused member may file with the Fire Chief a written application for a hearing before any decision by a Board of Rights.
- (f) **Time and Place of Hearing.** Upon the selection of a Board of Rights, the Fire Chief shall set the time (not less than five nor more than ten days thereafter) and designate a place where the hearing is to be held, and shall cause notice thereof to be served upon the accused. After the Board of Rights has first convened, the board may continue the hearing of the matter to a specific date, and no other notice need be given, except as required by order of the board.

(g) **Composition of Board of Rights.** The Board of Rights shall be composed of three officers of the rank of Battalion Chief or higher. Upon the filing of the request for hearing before a Board of Rights, the accused shall draw six cards from a box containing the names of all officers who are qualified to be members of the board (except the names of the accused, the accuser, the Fire Chief, Deputy Chiefs, and other officers who may be prejudiced or disqualified by reason of being a material witness to the facts constituting the charges made), and shall select any three of the six names drawn to be members of the Board of Rights, rejecting the three names not selected by replacing them in the box.

(h) **Failure to Request a Hearing; Failure to Appear.** In the event the accused fails to request a hearing before a Board of Rights within the period prescribed, the Fire Chief may require a hearing to be held before a Board of Rights and may for that purpose, within five days after the expiration of such period, draw three names from a box to constitute the board.

If a Board of Rights has been constituted for the purpose of hearing and the accused, without reasonable excuse, fails, or refuses to appear before the Board of Rights at the time and place designated, the Fire Chief may, at his or her discretion, either direct the Board of Rights to proceed with the hearing in the absence of the accused, or the Fire Chief may, without a hearing, impose the penalty of suspension or removal as he or she deems fit and proper. The Fire Chief shall cause notice of the action to be served upon the accused and shall file a statement of the action with the Board of Fire Commissioners within five days.

If the accused and the Fire Chief both fail to draw and create a Board of Rights within the period prescribed in any case of temporary relief from duty pending hearing, the temporary relief from duty shall be null and void.

(i) **Oaths, Affirmations and Subpoenas.** Each member of the Board of Rights shall have the power to administer oaths and affirmations, in any investigation or proceeding pending before the board, examine witnesses under oath, and compel the attendance of witnesses and the production of evidence.

Upon demand of any member of the Board of Rights, the City Clerk shall issue a subpoena in the name of the City, and attest the same with the corporate seal. The subpoena shall direct and require the attendance of the witnesses or the production of evidence at the time and place specified. It shall be the duty of the Chief of Police to cause all such subpoenas to be served upon the person or persons required to attend or produce evidence. It shall be the duty of the Council to provide suitable penalties for disobedience of such subpoenas, and the refusal of witnesses to testify or produce evidence.

(j) **Legal Advice.** Upon the request of any two members of the Board of Rights, the board's chairperson shall request an attorney from the City Attorney's office who shall advise the board on legal matters during any session of the hearing. The attorney need not be physically present at the hearing, but may advise the Board telephonically or through other means of communication. The same attorney advising the Board of Rights shall not advise the department's advocate in the same matter.

(k) **Burden of Proof.** In Board of Rights proceedings, the Fire Department shall have the burden of proving each charge, including those based on conduct punishable in whole or in part as a crime, by a preponderance of the evidence.

(l) **Representation; Transcript.** At the hearing, the accused shall have the right to appear in person and by counsel or representative, or both, and make defense to the charges and may produce witnesses and cross-examine witnesses. The accused shall have the right and privilege to select and name any other member of the department of any rank not higher than the rank of Captain (who is not otherwise disqualified by reason of prejudice or being a party to the action in any capacity) to act as his or her defense representative at the hearing. The Fire Chief must immediately assign the member selected to act as defense representative, and it is hereby made the duty of such member to use every legal means available and exercise the best efforts of which he or she is capable to defend the accused at the hearing.

All testimony at the hearing shall be given under oath, reported by a stenographer and transcribed and the member shall be entitled, upon request, to a certified copy of the transcript without charge or payment of fee.

(m) **Findings and Decision.** The Board of Rights shall, at the conclusion of the hearing, make its findings of guilty or not guilty on each charge which must be based only upon the evidence presented at the hearing. If the accused is found not guilty, the board shall order his or her restoration to duty without loss of pay and without prejudice, and the order shall be self-executing and immediately effective. If the accused is found guilty, the Board of Rights shall, by order, prescribe its penalty of:

- (1) suspension for a definite period not exceeding six months with total loss of pay, and with or without reprimand; or
- (2) reprimand without further penalty; or
- (3) removal from office or position.

The decision and order must be certified in writing and a copy immediately delivered to the Fire Chief.

(n) **Personnel History and Records.** The departmental personnel history and records of the accused shall be available to the Board of Rights only if the accused has been found guilty of any charge upon which he or she was heard by the Board of Rights, and then only for the purpose of determining a proper penalty, except that the medical package of the accused shall not be considered by the board with regard to penalty unless such information is relevant to a charge as to which there was a finding of guilty. At the penalty stage, the board must look to the nature and gravity of the offense of which the accused has been found guilty and may at its discretion review the departmental personnel history and record of the accused, provided that no item or entry in the record may be considered by the board except in the presence of the accused, unless the member

has failed or refused to be present, and then only if the accused has been given a fair and reasonable opportunity to explain the item or entry.

- (o) **Imposition; Reduction of Penalty.** Within five days of delivery to the Fire Chief of a certified copy of the decision and order of the Board of Rights, the Fire Chief shall either execute the order, or the Fire Chief may, at his or her discretion and in lieu of the order, impose a penalty less severe than that ordered by the Board of Rights, but may not impose a greater penalty. In the case of a suspension or removal, the Fire Chief shall cause a copy of the notice of the penalty to be served upon the accused and shall file a statement of such action with the Board of Fire Commissioners within five days thereafter.
- (p) **Effective Date of Penalty.** In any case of suspension or removal prescribed by the Board of Rights, or by the Fire Chief if no hearing is held before a Board of Rights, the time of the suspension shall be computed from the first day the member was suspended or relieved from duty pending hearing before and decision by the Board of Rights and the removal shall relate back to and be effective as of the date of the relief from duty pending hearing before and decision by the Board of Rights. Notwithstanding the above, the Fire Chief and the member may agree to an alternative date for the commencement of the period of suspension and/or may agree to non-consecutive dates for the term of the suspension.
- (q) **Double Jeopardy; Exoneration.** No member shall be twice tried for the same offense, except upon his or her request. In any case of exoneration of the accused after a hearing before a Board of Rights, exoneration shall be without prejudice to the member.
- (r) **Rehearing.** At any time within three years after the effective date of removal, the removed member may file a request with the Fire Chief to be reheard or to be heard on the cause of his or her removal, together with a supporting affidavit setting forth in clear and concise language the reasons or grounds for a hearing or rehearing. The Fire Chief shall consider and make a decision upon the request within 30 days after filing. If the Fire Chief determines that good reason or cause exists for a hearing or rehearing, the Fire Chief shall without unnecessary delay, cause a Board of Rights to be constituted for the purpose of hearing and deciding upon the matter. The Board of Rights shall, at the conclusion of the hearing, render and certify its findings (independent of any previous findings by any other Board of Rights, or any other court, board or other tribunal, or any investigation or report of or discretion exercised by the Fire Chief in cases where no hearing was had before a Board of Rights), based only upon the evidence presented at such hearing. The board shall make and certify its decision and order in writing, and deliver a copy to the Fire Chief. The Fire Chief shall proceed in the same manner as provided for above after decision by a Board of Rights.
- (s) **Other Legal Rights.** This section shall not be construed to affect any rights a member may have to assert other legal rights or remedies in relation to his or her office or position or to the compensation attached thereto, or to appeal to or be heard or tried by any court or other tribunal of competent jurisdiction.
- (t) **Restoration to Duty.** Any person restored to duty or reinstated in his or her office or position after suspension or removal, shall be entitled to receive full compensation from the City as if the suspension or removal had not been made, except that such

compensation shall not be for more than one year's salary unless otherwise provided by law.

- (u) **Effects of New Charter.** This section shall not apply to the discipline of any member who was relieved from duty or who appealed a suspension to a Board of Rights prior to its effective date. Matters arising out of such relief from duty or suspension shall be adjudicated in accordance with applicable prior Charter provisions.

DISCIPLINARY PROCEDURES FOR THE POLICE DEPARTMENT

Section 1070 - Rights and Due Process Procedures

- (a) **Applicability; Rights.** As used in this section, member shall mean an employee of the Police Department who has peace officer status as defined in California Penal Code Section 830.1. The provisions of this section shall not apply to any member of the Police Department who has not completed the period of probation in his or her entry level position, as provided in Section 1011(a). Non-tenured Police officers, where otherwise entitled by law to a hearing or appeal with regard to proposed or imposed discipline, shall be provided a hearing or appeal under procedures promulgated by the Chief of Police.

The rights of a member, except the Chief of Police and any other member in a position exempt from civil service, to hold his or her office or position and to receive compensation attached to the office or position is hereby declared to be a substantial property right of which the holder shall not be deprived arbitrarily or summarily, nor other than as provided in this section. No member shall be suspended, demoted in rank, suspended and demoted in rank, removed, or otherwise separated from the service of the department (other than by resignation), except for good and sufficient cause shown upon a finding of guilty of the specific charge or charges assigned as cause or causes after a full, fair, and impartial hearing before a Board of Rights, except as provided in subsections (b) and (i). No case of suspension with loss of pay shall be for a period exceeding 65 working days.

- (b) **Temporary Relief from Duty; Suspension; Demotion.** After following pre-disciplinary procedures otherwise required by law, the Chief of Police may:
 - (1) temporarily relieve from duty any member pending a hearing before any decision by a Board of Rights on any charge or charges pending against the member, except that a member so relieved shall not suffer a loss of compensation until 30 days after the date on which the member was served with the charge or charges, except as provided for in subsection (q) or whenever the employee is temporarily relieved of duty on a new charge or charges while relieved of duty or serving a suspension based on a prior charge or charges. There shall be a calendar priority for Board of Rights hearings when a member is subject to relief from duty pending a hearing. The Chief of Police in his or her sole discretion shall have the power to cancel temporary relief from duty, or following relief from duty, to restore the member to duty with or without restrictions pending hearing; or
 - (2) suspend the member for a total period not to exceed 22 working days with loss of pay and with or without reprimand, subject to the right of the member to a hearing before a Board of Rights as provided in this section; or

- (3) demote the member in rank, with or without suspension or reprimand or both, subject to the right of the member to a hearing before a Board of Rights as provided in this section; or
 - (4) demote the member in rank, with or without temporary relief from duty or cancellation of such relief from duty, subject to the right of the member to a hearing before a Board of Rights as provided in this section. In the event the member suspended and/or demoted in rank under this subsection files an application for a hearing by a Board of Rights as provided in this section, the suspension and/or demotion shall automatically be stayed pending hearing and decision by the Board of Rights. Provided, however, in the case of any member demoted in conjunction with a temporary relief from duty or cancellation of such relief from duty, the demotion shall not be stayed pending a hearing before any decision by a Board of Rights unless the accused specifically requests in the written application that the Board consider the demotion in conjunction with the appeal of the temporary relief from duty or cancellation of such relief from duty. In the event that the member fails to apply for a hearing within the period prescribed, the member shall be deemed to have waived a hearing, and the suspension and/or demotion shall remain effective unless the Chief of Police requires that a hearing be held.
- (c) **Limitations Periods.** No member shall be removed, suspended, demoted in rank, or suspended and demoted in rank for any conduct that was discovered by an uninvolved supervisor of the department more than one year prior to the filing of the complaint against the member, except in any of the following circumstances:
- (1) If the act, omission, or allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.
 - (2) If the member waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.
 - (3) If the criminal investigation is a multi-jurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.
 - (4) If the investigation involves more than one employee and requires a reasonable extension.
 - (5) If the investigation involves an employee who is incapacitated or otherwise unavailable.
 - (6) If the investigation involves a matter in civil litigation where the member is named as a party defendant, the one year time period shall be tolled while that civil action is pending.
 - (7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.
 - (8) If the investigation involves an allegation of workers' compensation fraud on the part of the member.
 - (9) If a pre-disciplinary notice is required or utilized and the response results in additional investigation, the one-year period shall be tolled while the additional investigation is pending.
- (d) **Complaint.** Any order of relief from duty, cancellation of relief from duty pending a Board of Rights hearing, suspension, demotion

in rank, or suspension and demotion in rank shall contain a statement of the charges assigned as causes. The Chief of Police shall, within five days after the order is served as provided in subsection (e), file with the Board of Police Commissioners a copy of a verified written complaint upon which the order is based, with a statement that a copy of the order and verified complaint was served upon the accused. The complaint shall be verified by the oath of the Chief of Police and shall contain a statement in clear and concise language of all the facts constituting the charge or charges.

- (e) **Service.** The service of any notice, order, or process mentioned in this section, other than service of subpoena, may be made by handing the accused a copy personally. If a copy of any notice, order or process cannot with reasonable diligence be personally served, service may be made by United States mail.
- (f) **Application for Hearing.** Within five days after personal service upon the accused of a copy of the verified complaint, or within ten days after service in any other manner provided for in this section, the member may file with the Chief of Police a written application for a hearing before any decision by a Board of Rights. A Board of Rights is considered a *de novo* hearing.
- (g) **Time and Place of Hearing.** Upon the selection of a Board of Rights, the Chief of Police shall set the time for (not less than 10 nor more than 30 days thereafter) and designate a place where the hearing is to be held, and shall cause notice thereof to be served upon the accused. After the Board of Rights has first convened, the Board may continue the hearing of the matter to a specific date, and no other notice need be given, except as may be required by order of the Board.
- (h) **Composition of Board of Rights.** The Board of Rights shall be composed of two officers of the rank of captain or above and an individual who is not a member of the department (the civilian member). The members selected as prescribed in this section shall constitute the Board for the purpose of hearing and deciding upon the matter for which it was specially drawn. The qualifications of, selection procedures for, and compensation of the civilian members shall be established by ordinance. Upon the filing of the request for a hearing before a Board of Rights, as provided in subsection (f), the accused shall draw four cards from a box containing the names on cards of all officers who are qualified to be members of the Board of Rights (except the names of the accused, accuser, the Chief of Police, any staff or command officer specifically exempted by the Chief of Police in accordance with the provisions of the Board of Rights Manual or successor document, and any other officer who may be prejudiced or disqualified by reason of being a material witness to the facts constituting the charges made, otherwise disqualified for cause as determined by the Chief, or who has a conflict of interest). The accused shall select any two of the four names drawn to be members of the Board of Rights.
- (i) **Failure to Request a Hearing; Failure to Appear.** In the event the accused fails to request a hearing before a Board of Rights as provided in subsection (f) within the period prescribed, the Chief may require a hearing to be held before a Board of Rights and may for that purpose, within five days after the expiration of such period, draw two names from a box to sit on the Board.

If a Board of Rights has been constituted for the purpose of hearing and the accused, without reasonable excuse, fails or refuses to appear before the Board at the time and place designated, the Chief of Police may, at his or her discretion, either direct the Board of Rights to proceed with the hearing in the absence of the accused, or the Chief may, without a hearing, impose a penalty of suspension, demotion in rank, suspension and demotion in rank, or removal as he or she deems fit and proper. The Chief shall cause notice of the action to be served upon the member and shall file a statement of the action with the Board of Police Commissioners within five days.

If the accused and Chief both fail to draw and create a Board of Rights within the period prescribed, the complaint shall be null and void.

- (j) **Oaths, Affirmations and Subpoenas.** During an internal investigation, prior to a Board of Rights hearing, or prior to or during other administrative proceedings, the Police Commission may compel the attendance of witnesses and the production of evidence by subpoena. Upon demand of the Police Commission, the City Clerk shall issue a subpoena in the name of the city and attest the same with the corporate seal. The subpoena shall direct and required the attendance of the witnesses or the production of evidence, at the time and place specified. Request to quash a subpoena may be filed with the Police Commission who shall decide the matter. Each Board member shall have the power to administer oaths and affirmations in any investigation or proceeding pending before a Board of Rights, examine witnesses under oath, and compel the attendance of witnesses and the production of evidence by subpoena. Upon demand of any Board member, the City Clerk shall issue a subpoena in the name of the City and attest the same with the corporate seal. The subpoena shall direct and require the attendance of the witnesses or the production of evidence, at the time and place specified. It shall be the duty of the Chief of Police to cause all such subpoenas to be served upon the person or persons required to attend or produce evidence. It shall be the duty of the Council to provide suitable penalties for disobedience of such subpoenas and the refusal of witnesses to testify or produce evidence.

- (k) **Legal Advice; Ex Parte Communication.** Upon the request of any two Board members, the Board's chairperson shall request an attorney from the City Attorney's office who shall advise the Board on legal matters during or between any session of the hearing. The attorney need not be physically present at the hearing, but may advise the Board telephonically or through other means of communication. The attorney who advises the Board may not advise the department's advocate in the same matter.

Ex Parte communication with members of a Board of Rights regarding the subject matter of the hearing while proceedings are pending is prohibited. No person shall attempt to influence the decision of a Board of Rights except during the hearing and on the record.

- (l) **Burden of Proof.** In Board of Rights proceedings, the department shall have the burden of proving each charge, including those based on conduct punishable in whole or in part as a crime, by a preponderance of the evidence.

- (m) **Representation; Transcript; Evidence.** At the hearing, the accused shall have the right to appear in person and by counsel or representative, (at his or her expense) and make defense to the charge or charges and may produce witnesses and cross-examine witnesses.

All testimony at the hearing shall be given under oath and shall be reported by a stenographer for possible transcription. Upon prepayment of the fee for the preparation thereof, the accused shall be entitled to a certified copy of the transcript; provided, however, when the department has previously had all or a portion of the report transcribed, a copy of the previously prepared report(s) shall be given to the member without charge. When the report is transcribed, the original transcript shall be placed on file in the department.

Evidence of acts, irrespective of whether they were associated with a personnel complaint against the accused and irrespective of the resolution of the complaint, may be considered in the discretion of a Board of Rights if relevant to the charges, such as, if the acts tend to prove that the conduct charged is consistent with a pattern of conduct. The acts may have occurred either before or after the conduct concerning which the member is presently charged.

- (n) **Finding and Decision.** The Board of Rights shall at the conclusion of the hearing make findings of guilty or not guilty on each charge, which findings shall be based only upon the evidence presented at the hearing. If the accused is found not guilty, the Board shall order the member's restoration to duty without loss of pay and without prejudice, and the order shall be self-executing and immediately effective. If the accused is found guilty, the Board of Rights shall prescribe its penalty by written order of:
- (1) suspension for a definite period not exceeding 65 working days with total loss of pay, and with or without reprimand; or
 - (2) demotion in rank, with or without suspension or reprimand or both; or
 - (3) reprimand without further penalty; or
 - (4) removal.

The decision of the Board must be certified in writing and a copy delivered to the Chief of Police as soon as practicable, but in no event later than ten days after the decision of the Board of Rights. Whenever a Board of Rights prescribes a penalty of suspension or removal and the member is not currently relieved from duty, the Chief may temporarily relieve the member from duty pending execution of the order.

For purposes of this section, demotion in rank shall mean reduction in civil service classification. The provisions of this section shall not apply to reductions in pay grade or similar personnel actions caused by reassignment, deselection from bonused positions, and the like. Such personnel actions shall be administered under policies adopted by the department.

- (o) **Personnel History and Records.** The departmental personnel history and records of the accused shall be available to the Board of Rights only if the accused has been found guilty of any charge upon which the member was heard or tried by the Board of Rights, and then only for the purpose of determining a proper penalty. At the penalty

stage, the Board may consider the entire departmental personnel history and record of the accused which shall include, among other things, information concerning personnel complaints against the accused that were sustained and information derived from complaints against the accused that were not resolved, to the extent and in the manner allowed by department policy except that the medical package of the accused shall not be considered by the Board with regard to penalty unless such information is relevant to a charge as to which there was a finding of guilty.

In prescribing the penalty, the Board shall look to the nature and gravity of the offense of which the member has been found guilty and may at its discretion review the departmental personnel history and record of the member. No item or entry in the record may be considered by the Board except in the presence of the member and only where the member has been given a fair and reasonable opportunity to explain any item or entry unless the member has failed or refused to be present. Personnel records introduced at or considered by the Board are confidential except for any document or information from a document that was publicly disclosed during the hearing.

- (p) **Imposition; Reduction of Penalty.** Within ten days of delivery of a certified copy of the decision of a Board Rights to the Chief of Police, the Chief shall either uphold the recommendation of the Board of Rights or may, at his or her discretion, impose a penalty less severe than that ordered by the Board Rights, but may not impose a greater penalty. In the case of a demotion, suspension, demotion and suspension, or removal, the Chief shall cause a copy of the notice of the penalty to be served upon the member and shall file a statement of this action with the Board of Police Commissioners within five days.
- (q) **Effective Date of Penalty.** A removal prescribed by the Board of Rights, or by the Chief of Police if no hearing is had before a Board of Rights, shall relate back to and be effective as of the date of the relief from duty without pay pending hearing before any decision by the Board; however, where a final decision has been made by the Chief of Police prior to the end of the 30 day period referred to in subsection (b)(1), the removal shall be effective immediately. When there has been no relief from duty, the removal shall be effective upon service of the order. The effective date of any suspension and/or demotion prescribed by the Board of Rights, or by the Chief of Police if no hearing is had before a Board of Rights, shall be determined by policies adopted by the department; provided, that in case of suspension where there has been a temporary relief from duty, the 30 day period referred to in subsection (b)(1) or any portion thereof in which the member received compensation shall not be counted as part of the suspension. Nothing in this section shall preclude the imposition of a suspension without pay when a final decision is made prior to the end of the 30 day period. Practices in effect on the effective date of the most recent amendment to this section shall remain in effect until the adoption of any modification to the penalty
- (r) **Calendar Days.** Except as otherwise provided in this section, all time periods, including those of limitation, shall be calculated in calendar days. When the last day of any such period falls on a weekend or City holiday, the period shall extend to the next business day.

- (s) **Not Guilty.** In any case of a finding of Not Guilty of the accused after a hearing before a Board of Rights, the finding of Not Guilty shall be without prejudice to the member.
- (t) **Rehearing.** At any time within three years after the effective date of removal, the removed member may file a request with the Chief of Police to be reheard or to be heard on the cause of the member's removal, together with a supporting affidavit setting forth in clear and concise language the reasons or grounds for a hearing or rehearing. The Chief shall consider and make a decision on the request and affidavit within 30 days after filing. If the Chief determines that good reason or cause exists for a hearing or rehearing, the Chief shall, without unnecessary delay, cause a Board of Rights to be constituted for the purpose of hearing and deciding upon the matter. The Board of Rights shall, at the conclusion of the hearing, render and certify its findings (independent of any previous findings by any other Board of Rights, or any other court, Board, or other tribunal, or any investigation or report of or discretion exercised by the Chief in such cases where no hearing was had before a Board of Rights) based only upon the evidence presented at the hearing. The Board shall make and certify its decision and order in writing and deliver a copy to the Chief. The Chief shall proceed in the same manner as provided for above after decision by a Board of Rights.
- (u) **Modification of Penalty.** Following the filing of the notice of penalty with the Board of Police Commissioners as required in subsection (p), the Chief of Police may correct a technical error, or where there is good cause shown, may reduce a penalty, including restoration of a person following removal. The provisions of subsection (w) shall not apply to this subsection; however, the member shall receive full compensation for any penalty or portion thereof already served which has been reduced or nullified by the Chief of Police. The Chief of Police shall file a copy of the modified order or statement of his decision with the Board of Police Commissioners.
- (v) **Other Legal Rights.** This section shall not be construed to affect any rights a member may have to assert other legal rights or remedies in relation to his or her office or position or to the compensation attached thereto, or to appeal to or be heard or tried by any court or other tribunal of competent jurisdiction.
- (w) **Restoration to Duty.** A member restored to duty after removal or temporary relief from duty, or whose suspension or demotion has been overturned in whole or in part, shall be entitled to receive full compensation from the City as if the nullified penal action had not been taken; except that such compensation shall not exceed one year's salary unless otherwise required by law.
- (x) **Decisions Based on Evidence.** Members of a Board of Rights are to make decisions based solely on the evidence before them.
- (y) **Public Records.** The order referred to in subsection (d) and the notice of the penalty referred to in subsection (p) are considered to be a public record at the time of filing of such documents with the Board of Police Commissioners. The Chief of Police or his or her designee shall be the custodian of public records referred to in this section.
- (z) **Effects of Amending This Section.** This section shall not apply to the discipline of any member who was relieved from duty or who appealed a demotion or suspension or both to a Board of Rights prior to its effective date. Matters arising out of such relief from duty,

demotion or suspension shall be adjudicated in accordance with applicable prior Charter provisions.

SECTION HISTORY

Amended by: Charter Amendment 1, approved April 10, 2001, effective May 5, 2001.

Appendix F
Service Ratings

Deleted (7-13-17)

Appendix G
Training at the University of Southern California
under Ordinance No. 122,849 -

(deleted 6-13-1972)

Appendix H
Medical Standards for Maintenance Laborer Class -
(deleted 5-27-1976)

APPENDIX J
Military and Veterans Code

Sec 1. Sec. 395.1 of the Military and Veterans Code is amended to read: Public employees; return to position after termination of active service.

(a) Notwithstanding any other provision of law to the contrary, any officer or employee of the state not subject to Chapter 11 (commencing with Section 19770) of Part 2 of Division 5 of Title 2 of the Government Code, or any public officer, deputy, assistant, or employee of any city, county, city and county, school district, water district, irrigation district, or any other district, political corporation, political subdivision, or governmental agency thereof who, in time of war or national emergency as proclaimed by the President or Congress, or when any of the armed forces of the United States are serving outside of the United States or their territories pursuant to order or request of the United Nations, or while any national conscription act is in effect, leaves or has left his or her office or position prior to the end of the war, or the termination of the national emergency or during the effective period of any order or request of this type of the United Nations or prior to the expiration of the National Conscription Act, to join the armed forces of the United States and who does or did without unreasonable and unnecessary delay join the armed forces or, being a member of any reserve force or corps of any of the armed forces of the United States or of the militia of this state, is or was ordered to duty therewith by competent military authority and served or serves in compliance with those orders, shall have a right, if released, separated or discharged under conditions other than dishonorable, to return to and reenter upon the office or position within six months after the termination of his or her active service with the armed forces, but not later than six months after the end of the war or national emergency or military or police operations under the United Nations or after the Governor finds and proclaims that, for the purposes of this section, the war, national emergency, or United Nations military or police operation no longer exists, or after the expiration of the National Conscription Act, if the term for which he or she was elected or appointed has not ended during his or her absence; provided, that the right to return to and reenter upon the office or position shall not extend to or be granted to any officer or employee of the state not subject to Chapter 11 (commencing with Section 19770) of Part 2 of Division 5 of Title 2 of the Government Code, or any public officer, deputy, assistant, or employee of any city, county, city and county, school district, water district, irrigation district or any other district, political corporation, political subdivision or governmental agency thereof, who shall fail to return to and reenter upon his or her office or position within 12 months after the first date upon which he or she could terminate or could cause to have terminated his or her active service with the armed forces of the United States or of the militia of this state. He or she shall also have a right to return to and reenter upon the office or position during terminal leave from the armed forces and prior to discharge, separation or release therefrom.

(b) Upon return and reentry to the office or employment the officer or employee shall have all of the rights and privileges in, connected with, or arising out of the office or employment which he or she would

have enjoyed if he or she had not been absent therefrom; provided, however, the officer or employee shall not be entitled to sick leave, vacation or salary for the period during which he or she was on leave from that governmental service and in the service of the armed forces of the United States.

If the office or position has been abolished or otherwise has ceased to exist during his or her absence, he or she shall be restored in a position of like seniority, status and pay if the position exists, or to a comparable vacant position for which he or she is qualified.

(c) Any officer or employee other than a probationer who is restored to his or her office or employment pursuant to this act shall not be discharged from that office or position without cause within one year after the restoration, and shall be entitled to participate in insurance or other benefits offered by the employing governmental agency pursuant to established rules and practices relating to those officers or employees on furlough or leave of absence in effect at the time the officer or employee left his or her office or position to join the armed forces of the United States.

(d) Notwithstanding any other provisions of this code, any enlisted person who was involuntarily ordered to active duty (other than for training) for a stated duration shall not lose any right or benefit conferred under this code if he or she voluntarily elects to complete the period of that duty.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Restored 7-13-17)

APPENDIX K
Medical Standards

(deleted 7-13-2017

for all classes except those covered by Appendixes C and H)

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