

# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE  
MAYOR

## MEMORANDUM CSC NO. 2017-04

KATE FAVETTI  
PRESIDENT

F. X. CROWLEY  
VICE PRESIDENT

DOUGLAS S. CHAN  
COMMISSIONER

SCOTT R. HELDFOND  
COMMISSIONER

GINA M. ROCCANOVA  
COMMISSIONER

MICHAEL L. BROWN  
EXECUTIVE OFFICER

Date: November 27, 2017

To: Department Heads  
Departmental Personnel Officers  
Employee Organization Representatives

From: Michael L. Brown  
Executive Officer

Subject: **Notice of Posting:  
Proposed Amendments to Civil Service Commission Rules,  
Affecting All Employees, to Eliminate Obsolete Limited Tenure  
and Non-Civil Service Appointment Types throughout the Civil  
Service Rules.**

The Civil Service Commission acted at its Regular Meeting on November 20, 2017, to direct its Executive Officer to post the proposed amendments to Civil Service Commission Rule Series 002, 014, 021 and 022, and to meet and discuss the proposed Rule changes with any interested stakeholders. The proposed rule amendments will accomplish the following:

1. Elimination of Obsolete Limited Tenure and Non-Civil Service Appointment Types under the Civil Service Rules.

Any employee organizations or other stakeholders interested in discussing the proposed amendments are invited to attend any or all of the following scheduled meetings:

Date: **Tuesday, December 5, 2017**  
Time: **2:00 p.m. to 4:00 p.m.**

Date: **Wednesday, December 6, 2017**  
Time: **10:00 a.m. to 12:00 p.m.**

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The meetings will take place in the Civil Service Commission's Office, located at 25 Van Ness Avenue, Suite 720. Please contact Commission staff at [CivilService@sfgov.org](mailto:CivilService@sfgov.org) to RSVP if you are planning to attend any of the meetings.

Attached is a copy of the proposed amendments to Civil Service Commission Rules Series 002, 014, 021, and 022.

If there are any questions, please contact me at (415) 252-3247.

Sincerely,

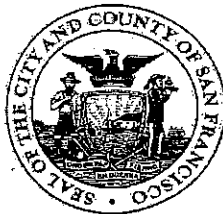
CIVIL SERVICE COMMISSION



MICHAEL L. BROWN  
Executive Officer

Attachments

Cc: Kate Favetti, President, CSC  
F.X. Crowley, Vice President, CSC  
Douglas S. Chan, Commissioner, CSC  
Scott R. Heldfond, Commissioner, CSC  
Gina R. Rocanova, Commissioner, CSC



# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE  
MAYOR

Date: November 20, 2017

To: Civil Service Commission

From: Michael L. Brown, Executive Officer *MLB*

Subject: **Recommendation to Revise the Civil Service Rules, Affecting All Employees, to Eliminate Provisions on Limited Tenure and Non-Civil Service Appointments throughout the Civil Service Rules**

KATE FAVETTI  
PRESIDENT

F. X. CROWLEY  
VICE PRESIDENT

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SCOTT R. HELDFOND  
COMMISSIONER

GINA M. ROCCANOVA  
COMMISSIONER

MICHAEL L. BROWN  
EXECUTIVE OFFICER

## I. Overview

The purpose of this staff report is to submit to the Civil Service Commission ("Commission") for its review and approval, proposed revisions to the Civil Service Rules that would eliminate provisions on Limited Tenure and Non-Civil Service appointments (in other words, eliminate those appointment types) and update provisions on Provisional appointments.

See Attachment A for the proposed revisions to Civil Service Rule Series 02; see Attachment B for the proposed revisions to Civil Service Rules Series 14; see Attachment C for the proposed revisions to Civil Service Rule Series 21; and see Attachment D for the proposed revisions to Civil Service Rule Series 22.

## II. Elimination of Limited Tenure and Non-Civil Service Appointment Types under the Civil Service Rules

### A. Background

#### 1. Appointment Types under the Civil Service Rules

The Civil Service Rules recognize four appointment types as authorized under the Charter: Permanent Civil Service ("PCS"), Temporary Civil Service ("TCS"), Provisional ("PV") and Exempt appointments. PCS and TCS appointments are made to civil service positions either as result of a certification off of an eligible list or by another mechanism authorized under the Rules. PV appointments are primarily made to civil service positions when there is no available eligible/eligible list. Exempt appointments are made to positions that are excluded from civil service examination, selection and removal procedures under Charter Section 10.104.

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*Recommendation to Revise the Civil Service Rules Affecting All Employees, to Eliminate Provisions on Limited Tenure and Non-Civil Service Appointments throughout the Civil Service Rules*

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There are three types of PV appointments: Limited Tenure ("LT"), Non-Civil Service ("NCS"), and PV appointments made pursuant to Charter Section 10.105.

- NCS appointments are made to positions in the absence of an available eligible/eligible list (generally limited to the hourly equivalent of 130 working days) or in an emergency (limited to 240 hours). (Rule 114.6.1) NCS appointments were first created by the voters through a Charter amendment in 1932, authorizing emergency appointments, (see Attachment E).
- LT appointments are made to positions in the absence of an available eligible/eligible list. LT appointments were first created by the voters through a Charter amendment in 1942. (See Attachment F.) These appointments require the express prior approval of the Commission. (Rule 114.7.2) They are time limited to a maximum of 130 working days, and in no case may exceed 1040 hours in a calendar year (Rule 114.5.1)
- PV appointments are made to positions in the absence of an available eligible/eligible list pursuant to Charter Section 10.105. These appointments are limited to three years, unless otherwise extended by approval of the Board of Supervisors. This PV appointment type was created by the voters with the establishment of the new 1996 Charter.

All PV appointments serve at the pleasure of the appointing officer, and must be selected on the basis of merit factors and equal employment opportunity considerations. They gain no right or preference for PCS appointment, and they must be released upon the conclusion of the maximum allowable duration of their appointment or upon adoption of an eligible list, whichever occurs first.

2. History on the Elimination of LT and NCS Appointment Types.

Prior to the early 1990s, the rules on minimum qualifications, examinations, eligible lists, certain temporary appointments (including LT and NCS appointments) and probationary releases were codified in the Charter. This meant that such rules could only be changed through the electorate by a Charter amendment. With the passage of Proposition C in November 1991, those rules were removed from the Charter and placed into the Commission's Civil Service Rules to provide greater flexibility to amend merit system provisions as needed in order to ensure that the City is able to effectively and efficiently provide needed services to its residents (see Attachment G).

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At its meeting of September 20, 1993, the Commission adopted several changes to the Civil Service Rules to implement the provisions of Proposition C, including the elimination of references to LT and NCS appointment types for all employees except those in classes represented by the Transportation Workers Unions Locals 200 and 250A ("TWU"), and the uniformed members of the San Francisco Police Department ("SFPD") and San Francisco Fire Department ("SFFD"). TWU-represented employees and uniformed members of the SFPD and SFFD employees were excluded from the Commission's action at the time because the Commission was still meeting and conferring over the Rules with the unions that represented those employee groups. As to all other employees not represented by those unions, LT and NCS appointment types were consolidated into one PV appointment type. (See Civil Service Rule Series 14.5-Provisional Appointment). LT and NCS employees were subsequently transitioned to PV status accordingly. (See Attachment H for Memorandum No. 93-48, issued by the Department of Human Resources ("DHR") on November 22, 1993, describing the Commission's action to eliminate LT and NCS appointment types.)

Upon its adoption, the 2000 edition of the Civil Service Rules included LT and NCS appointment types applicable to only uniformed members of the SFFD (covered in Volume III of the Rules) and employees represented by TWU-represented employees (covered in Volumes I and IV of the Rules), since there remained incumbent LT and/or NCS appointees in those employee groups.

At the Commission's meeting of June 15, 2009, then-Commissioner Donald Casper requested that Commission staff provide information on the history of LT and NCS appointments, the incumbents in those appointment types, and the expected continued duration of those appointments. (See Attachment I for the staff report submitted by Commission staff in response.) As noted in that report, at the time there remained approximately nine LT and NCS appointments Citywide. Therefore, the Commission determined that it would be best to refrain from eliminating the Civil Service Rule provisions on LT and NCS appointments until those remaining positions were vacated.

**B. Discussion**

The Executive Officer confirmed with the Department of Human Resources that there are no remaining LT or NCS appointments. In fact, departments have not made any new LT or NCS appointments in over a decade according to PeopleSoft records. This is because LT and NCS are

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***Recommendation to Revise the Civil Service Rules Affecting All Employees, to Eliminate Provisions on Limited Tenure and Non-Civil Service Appointments throughout the Civil Service Rules***

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antiquated appointment types—created over 50 years ago, before the voters removed them from the old Charter and specifically authorized new, more flexible categories of appointments under the 1996 Charter (i.e., PV and Exempt appointments).

The maximum allowable durations for LT and NCS appointments made in the absence of an eligible list are far more restrictive than the three-year duration permitted for PV appointments under Charter Section 10.105. And in the event that a department must make an appointment in an emergency situation, a department can make an appointment to an Exempt position under Charter Section 10.104 far more quickly and for a greater duration of time than it could with an appointment to a NCS position.

As these antiquated appointment types of NCS and LT are no longer used or even necessary, the Executive Officer recommends that they be eliminated from the Civil Service Rules and the Charter Section 10.104 reference for categories 16, 17 and 18 be inserted into the Rules.

**III. Recommendation**

Adopt the Executive Officer's report; direct the Executive Officer to post the proposed revisions to the Civil Service Commission Rules Series 02; 14; 21; and 22, (Attachment A; Attachment B; Attachment C; and Attachment D), and to meet and discuss the proposed revisions with any interested stakeholders.

**Attachments:**

- Attachment A: Proposed revisions to Civil Service Rule Series 02
- Attachment B: Proposed revisions to Civil Service Rules Series 14
- Attachment C: Proposed revisions to Civil Service Rule Series 21
- Attachment D: Proposed revisions to Civil Service Rule Series 22
- Attachment E: Charter Amendment on NCS and Emergency Appointments. - 1932
- Attachment F: Charter Amendment on Limited Tenure (LT) - 1942
- Attachment G: Excerpt from November 1991 Proposition C
- Attachment H: Civil Service Commission Memorandum No. 93-48
- Attachment I: Staff Report submitted by Commission staff – June 15, 2009

**Proposed Revisions to Civil Service Rule Series 02**

# **ATTACHMENT A**

## **Rule 102 Definitions**

Applicability: Rule 102 shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

<b><u>Sec. 102.1</u></b>	<b><u>Appointment</u></b>
<b><u>Sec. 102.2</u></b>	<b><u>Appointing Officer</u></b>
<b><u>Sec. 102.3</u></b>	<b><u>Appointment Date</u></b>
<b><u>Sec. 102.4</u></b>	<b><u>Bulletin Board</u></b>
<b><u>Sec. 102.5</u></b>	<b><u>Certification Date</u></b>
<b><u>Sec. 102.6</u></b>	<b><u>Charter</u></b>
<b><u>Sec. 102.7</u></b>	<b><u>City</u></b>
<b><u>Sec. 102.8</u></b>	<b><u>Civil Service Department</u></b>
<b><u>Sec. 102.9</u></b>	<b><u>Class</u></b>
<b><u>Sec. 102.10</u></b>	<b><u>Classification Plan</u></b>
<b><u>Sec. 102.11</u></b>	<b><u>Classified Service</u></b>
<b><u>Sec. 102.12</u></b>	<b><u>Commission</u></b>
<b><u>Sec. 102.13</u></b>	<b><u>Commissioner</u></b>
<b><u>Sec. 102.14</u></b>	<b><u>Department</u></b>
<b><u>Sec. 102.15</u></b>	<b><u>Department of Human Resources</u></b>
<b><u>Sec. 102.16</u></b>	<b><u>Eligible</u></b>
<b><u>Sec. 102.17</u></b>	<b><u>Eligible List</u></b>
<b><u>Sec. 102.18</u></b>	<b><u>Executive Session</u></b>
<b><u>Sec. 102.19</u></b>	<b><u>Human Resources Director</u></b>
<b><u>Sec. 102.20</u></b>	<b><u>Layoff</u></b>
<b><u>Sec. 102.21</u></b>	<b><u>Near List</u></b>
<b><u>Sec. 102.22</u></b>	<b><u>Part-Time Employment</u></b>
<b><u>Sec. 102.23</u></b>	<b><u>Position</u></b>
<b><u>Sec. 102.24</u></b>	<b><u>Post</u></b>
<b><u>Sec. 102.25</u></b>	<b><u>School Districts</u></b>
<b><u>Sec. 102.26</u></b>	<b><u>Seniority</u></b>
<b><u>Sec. 102.27</u></b>	<b><u>Service</u></b>
<b><u>Sec. 102.28</u></b>	<b><u>Start Work Date</u></b>
<b><u>Sec. 102.29</u></b>	<b><u>Time Periods</u></b>
<b><u>Sec. 102.30</u></b>	<b><u>Validation Date</u></b>



## Rule 102 Definitions

Applicability: Rule 102 shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

Unless otherwise required by the context, the words listed below and as used in these Rules have the following meanings:

**Sec. 102.1    Appointment**

**102.1.1    Permanent Civil Service**

An appointment made as a result of a certification from an eligible list to a permanent position or to a position declared permanent.

**102.1.2    Probationary**

Status of civil service employees during a trial period following permanent appointment.

**102.1.3    Temporary Civil Service**

An appointment made to a temporary position as a result of certification from an eligible list

**102.1.4    Provisional**

An appointment to a permanent or temporary position in the absence of an available eligible or in an emergency which in either case, is time limited as provided elsewhere in these Rules.

~~102.1.5    Provisional~~

~~Section 102.1.5 shall apply only to employees in classes represented by the Transport Workers Union (TWU) Locals 200 and 250A, except Service Critical classes of the Municipal Transportation Agency (MTA).~~

~~1)    Non-Civil Service~~

~~An appointment to a permanent or temporary position in the absence of an available eligible or in an emergency which, in either case, is time limited to a maximum duration as provided elsewhere in these Rules.~~

**Sec. 102.1    Appointment (cont.)**

~~102.1.5~~ ~~Provisional (cont.)~~

~~Section 102.1.5 shall apply only to employees in classes represented by the Transport Workers Union (TWU) Locals 200 and 250A, except Service Critical classes of the Municipal Transportation Agency (MTA).~~

~~2) Limited Tenure~~

~~An appointment to a permanent or temporary position in the absence of an available eligible. Use of limited tenure appointment is restricted as provided in these Rules.~~

**102.1.6 Exempt**

An appointment to a permanent or temporary position exempt from being filled from an eligible list in accordance with the provisions of Section 10.104 of the Charter.

**Sec. 102.2 Appointing Officer**

The head of an organizational unit having appointive authority within the organizational unit and the powers of a department head as defined by former Charter Section 3.501 as enacted into ordinance under Charter Section 18.103.

**Sec. 102.3 Appointment Date**

The date on which an appointing officer notifies the Department of Human Resources of his or her selection from a list of eligibles certified by the Department of Human Resources.

**Sec. 102.4 Bulletin Board**

The official bulletin boards, so designated, at the Civil Service Department and Department of Human Resources, used for posting of examinations and public announcements of the Commission and Department of Human Resources.

**Sec. 102.5 Certification Date**

The date on which the Department of Human Resources notifies an appointing officer of the name of eligible from which appointment may be made to fill a position.

**Sec. 102.6 Charter**

The Charter of the City and County of San Francisco.

**Sec. 102.7 City**

The City and County of San Francisco.

**Sec. 102.8**    **Civil Service Department**

The administrative office of the Commission under the direction of the Executive Officer.

**Sec. 102.9**    **Class**

A position or group of positions for which a common descriptive job title may be used.

**102.9.1**    **Job Code**

The term job code is used within the Human Resources classification system interchangeably with the Civil Service/Charter term class or classification.

**Sec. 102.10**    **Classification Plan**

All the classes which have been established, the procedures for maintaining the plan, and the specifications or descriptions of each of the classes.

**Sec. 102.11**    **Classified Service**

Includes all positions in the City service subject to competitive examination.

**Sec. 102.12**    **Commission**

The administrative body of Civil Service Commissioners empowered to enforce the civil service provisions of the Charter.

**Sec. 102.13**    **Commissioner**

A member of the Civil Service Commission of the City and County of San Francisco, appointed by the Mayor.

**Sec. 102.14**    **Department**

Organizational unit or units under one appointing officer.

**Sec. 102.15**    **Department of Human Resources**

The Department charged with administering the policies, Rules, and procedures of the Civil Service Commission and performing such other duties and functions as set forth in the Charter.

**Sec. 102.16**    **Eligible**

A person who has standing on an eligible list.

**Sec. 102.17** **Eligible List**

A list of names of persons who have passed a civil service examination.

**Sec. 102.18** **Executive Session**

A meeting or part of a meeting of the Commission legally held in private or with the general public excluded.

**Sec. 102.19** **Human Resources Director**

Director of the Department of Human Resources.

**Sec. 102.20** **Layoff**

Separation from a position because of economy, lack of funds, or lack of work.

**Sec. 102.21** **Near List**

An eligible list or a holdover roster in a class similarly related to a class for which there is no eligible list from which the Human Resources Director may authorize the certification of eligibles for temporary civil service appointment.

**Sec. 102.22** **Part-Time Employment**

Part-time employment is regularly scheduled, less than full-time, permanent or temporary appointment to a permanent or temporary position.

**Sec. 102.23** **Position**

Duties and responsibilities assigned by an appointing officer to be performed by one employee.

**102.23.1 Permanent**

A collection of duties, regardless of the source and nature of the funds, performed by one individual, which represent the ongoing work of the City and County. Such position(s) may be either:

1) enumerated in the Annual Salary Ordinance or Salary Resolutions of the School Districts for which funds have been provided on a continuing basis; or

2) a position declared to be permanent by action of the Human Resources Director.

**102.23.2 Temporary**

A position in which the duties and responsibilities exist for a maximum duration of 1040 hours except in the case of a special project, defined elsewhere in these Rules, for up to a maximum duration of 2080 hours.

**102.23.3 Part-Time**

Positions less than the established full-time normal schedule of hours per day or days per week.

**102.23.4 Exempt**

Temporary or permanent positions excluded from civil service hiring and removal procedures in accordance with the provisions of Section 10.104 of the Charter.

**102.23.5 School-Term Only**

Positions in the School Districts established for school term periods only.

**102.23.6 As-Needed**

A temporary or provisional appointment on either a full-time or part-time work schedule against a temporary requisition designated as as-needed to cover peak workloads, emergency extra workloads, necessary relief, and other situations involving a fluctuating staff.

**Sec. 102.24 Post**

To place on the official Bulletin Board.

**Sec. 102.25 School Districts**

San Francisco Unified School District and San Francisco Community College District.

**Sec. 102.26 Seniority**

**102.26.1 Civil Service - Permanent**

Seniority shall be determined by the date of certification which resulted in a permanent appointment to a position in a class in a department. In the event of identical dates, seniority shall be determined by rank on the eligible list, the higher eligible being the senior. Employees who resign or are terminated and subsequently are reappointed shall have their seniority determined by their new certification date following separation.

**102.26.2 Civil Service - Temporary (from eligible list)**

Seniority shall be determined by the date of certification which resulted in a temporary appointment to a temporary position in a class in a department. In the event of identical dates, seniority shall be determined by rank on the eligible list, the higher eligible being the senior.

~~102.26.3 Civil Service - Limited Tenure~~

~~Section 102.26.3 shall apply only to employees in classes represented by the Transport Workers Union (TWU) Locals 200 and 250A, except Service Critical classes of the Municipal Transportation Agency (MTA).~~

~~Seniority shall be determined by the date an appointee starts to work in a position in a class in a department on a limited tenure basis. Seniority in the event of ties shall be determined by the appointing officer.~~

**102.26.4 Departmental**

Seniority for shift and work assignments, vacation or holiday schedule is determined by the appointing officer and is not within the authority of the Civil Service Commission or the Department of Human Resources.

**Sec. 102.27 Service**

The City and County of San Francisco government service, including the classified positions in the School Districts.

**Sec. 102.28 Start Work Date**

The date on which an appointee is first reported on the timeroll as working.

**Sec. 102.29 Time Periods**

Reference to time periods, such as one week or one month, etc., shall mean calendar days unless the Rule specifically refers to business days.

**Sec. 102.30 Validation Date**

The date on which the Department of Human Resources notifies an appointing officer that it has approved an appointment.

## Rule 302 Definitions

Applicability: Rule 302 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

<u>Sec. 302.1</u>	<u>Appointment</u>
<u>Sec. 302.2</u>	<u>Appointing Officer</u>
<u>Sec. 302.3</u>	<u>Appointment Date</u>
<u>Sec. 302.4</u>	<u>Bulletin Board</u>
<u>Sec. 302.5</u>	<u>Certification Date</u>
<u>Sec. 302.6</u>	<u>Charter</u>
<u>Sec. 302.7</u>	<u>City</u>
<u>Sec. 302.8</u>	<u>Civil Service Department</u>
<u>Sec. 302.9</u>	<u>Class</u>
<u>Sec. 302.10</u>	<u>Classification Plan</u>
<u>Sec. 302.11</u>	<u>Classified Service</u>
<u>Sec. 302.12</u>	<u>Commission</u>
<u>Sec. 302.13</u>	<u>Commissioner</u>
<u>Sec. 302.14</u>	<u>Department</u>
<u>Sec. 302.15</u>	<u>Department of Human Resources</u>
<u>Sec. 302.16</u>	<u>Eligible</u>
<u>Sec. 302.17</u>	<u>Eligible List</u>
<u>Sec. 302.18</u>	<u>Executive Session</u>
<u>Sec. 302.19</u>	<u>Human Resources Director</u>
<u>Sec. 302.20</u>	<u>Layoff</u>
<u>Sec. 302.21</u>	<u>Near List</u>
<u>Sec. 302.22</u>	<u>Part-Time Employment</u>
<u>Sec. 302.23</u>	<u>Position</u>
<u>Sec. 302.24</u>	<u>Post</u>
<u>Sec. 302.25</u>	<u>Seniority</u>
<u>Sec. 302.26</u>	<u>Service</u>
<u>Sec. 302.27</u>	<u>Start Work Date</u>
<u>Sec. 302.28</u>	<u>Time Periods</u>
<u>Sec. 302.29</u>	<u>Validation Date</u>



## Rule 302 Definitions

Applicability: Rule 302 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

Unless otherwise required by the context, the words listed below and as used in these Rules have the following meanings:

**Sec. 302.1**     **Appointment**

**302.1.1**     **Permanent Civil Service**

An appointment made as a result of a certification from an eligible list to a permanent position or to a position declared permanent.

**302.1.2**     **Probationary**

Status of civil service employees during a trial period following permanent appointment.

**302.1.3**     **Temporary Civil Service**

An appointment made to a temporary position as a result of certification from an eligible list

**302.1.4**     **Provisional**

An appointment to a permanent or temporary position in the absence of an available eligible or in an emergency which in either case, is time limited as provided elsewhere in these Rules.

~~1) Non-Civil Service~~

~~An appointment to a permanent or temporary position in the absence of an available eligible or in an emergency which, in either case, is time limited to a maximum duration as provided elsewhere in these Rules.~~

~~Sec. 302.1~~ ~~Appointment (cont.)~~

~~302.1.4~~ ~~Provisional (cont.)~~

~~2)~~ ~~Limited Tenure~~

~~An appointment to a permanent or temporary position in the absence of an available eligible. Use of limited tenure appointment is restricted as provided in these Rules.~~

**302.1.5 Exempt**

An appointment to a permanent or temporary position exempt from being filled from an eligible list in accordance with the provisions of Section 10.104 of the Charter.

**Sec. 302.2 Appointing Officer**

The head of an organizational unit having appointive authority within the organizational unit and the powers of a department head as defined by former Charter Section 3.501 as enacted into ordinance under Charter Section 18.103.

**Sec. 302.3 Appointment Date**

The date on which an appointing officer notifies the Department of Human Resources of his or her selection from a list of eligibles certified by the Department of Human Resources.

**Sec. 302.4 Bulletin Board**

The official bulletin boards, so designated, at the Civil Service Department and Department of Human Resources, used for posting of examinations and public announcements of the Commission and Department of Human Resources.

**Sec. 302.5 Certification Date**

The date on which the Department of Human Resources notifies an appointing officer of the name of eligible from which appointment may be made to fill a position.

**Sec. 302.6**    **Charter**

The Charter of the City and County of San Francisco.

**Sec. 302.7**    **City**

The City and County of San Francisco.

**Sec. 302.8**    **Civil Service Department**

The administrative office of the Commission under the direction of the Executive Officer.

**Sec. 302.9**    **Class**

A position or group of positions for which a common descriptive job title may be used.

**Sec. 302.10**    **Classification Plan**

All the classes which have been established, the procedures for maintaining the plan, and the specifications or descriptions of each of the classes.

**Sec. 302.11**    **Classified Service**

Includes all positions in the City service subject to competitive examination.

**Sec. 302.12**    **Commission**

The administrative body of Civil Service Commissioners empowered to enforce the civil service provisions of the Charter.

**Sec. 302.13**    **Commissioner**

A member of the Civil Service Commission of the City and County of San Francisco, appointed by the Mayor.

**Sec. 302.14**    **Department**

Organizational unit or units under one appointing officer.

**Sec. 302.15** **Department of Human Resources**

The Department charged with administering the policies, Rules, and procedures of the Civil Service Commission and performing such other duties and functions as set forth in the Charter.

**Sec. 302.16** **Eligible**

A person who has standing on an eligible list.

**Sec. 302.17** **Eligible List**

A list of names of persons who have passed a civil service examination.

**Sec. 302.18** **Executive Session**

A meeting or part of a meeting of the Commission legally held in private or with the general public excluded.

**Sec. 302.19** **Human Resources Director**

Director of the Department of Human Resources.

**Sec. 302.20** **Layoff**

Separation from a position because of economy, lack of funds, or lack of work.

**Sec. 302.21** **Near List**

An eligible list or a holdover roster in a class similarly related to a class for which there is no eligible list from which the Human Resources Director may authorize the certification of eligibles for temporary civil service appointment.

**Sec. 302.22** **Part-Time Employment**

Part-time employment is regularly scheduled, less than full-time, permanent or temporary appointment to a permanent or temporary position.

**Sec. 302.23 Position**

Duties and responsibilities assigned by an appointing officer to be performed by one employee.

**302.23.1 Permanent**

A collection of duties, regardless of the source and nature of the funds, performed by one individual, which represent the ongoing work of the City and County. Such position(s) may be either:

- 1) enumerated in the Annual Salary Ordinance for which funds have been provided on a continuing basis; or
- 2) a position declared to be permanent by action of the Human Resources Director.

**302.23.2 Temporary**

A position in which the duties and responsibilities exist for a maximum duration of 1040 hours except in the case of a special project, defined elsewhere in these Rules, for up to a maximum duration of 2080 hours.

**302.23.3 Part-Time**

Positions less than the established full-time normal schedule of hours per day or days per week.

**302.23.4 Exempt**

Temporary or permanent positions excluded from civil service hiring and removal procedures in accordance with the provisions of Section 10.104 of the Charter.

**302.23.5 As-Needed**

A temporary or provisional appointment on either a full-time or part-time work schedule against a temporary requisition designated as as-needed to cover peak workloads, emergency extra workloads, necessary relief, and other situations involving a fluctuating staff.

**Sec. 302.24 Post**

To place on the official Bulletin Board.

**Sec. 302.25 Seniority**

**302.25.1 Civil Service - Permanent**

Seniority shall be determined by the date of certification which resulted in a permanent appointment to a position in a class in a department. In the event of identical dates, seniority shall be determined by rank on the eligible list, the higher eligible being the senior. Employees who resign or are terminated and subsequently are reappointed shall have their seniority determined by their new certification date following separation.

**302.25.2 Civil Service - Temporary (from eligible list)**

Seniority shall be determined by the date of certification which resulted in a temporary appointment to a temporary position in a class in a department. In the event of identical dates, seniority shall be determined by rank on the eligible list, the higher eligible being the senior.

~~**302.25.3 Civil Service - Limited Tenure**~~

~~Seniority shall be determined by the date an appointee starts to work in a position in a class in a department on a limited tenure basis. Seniority in the event of ties shall be determined by the appointing officer.~~

**302.25.4 Departmental**

Seniority for shift and work assignments, vacation or holiday schedule is determined by the appointing officer and is not within the authority of the Civil Service Commission or the Department of Human Resources.

**Sec. 302.26 Service**

The City and County of San Francisco government service, including the classified positions in the School Districts.

**Sec. 302.27 Start Work Date**

The date on which an appointee is first reported on the timeroll as working.

**Sec. 302.28** **Time Periods**

Reference to time periods, such as one week or one month, etc., shall mean calendar days unless the Rule specifically refers to business days.

**Sec. 302.29** **Validation Date**

The date on which the Department of Human Resources notifies an appointing officer that it has approved an appointment.

## Rule 402 Definitions

Applicability: Rule 402 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

<u>Sec. 402.1</u>	<u>Appointment</u>
<u>Sec. 402.2</u>	<u>Appointing Officer</u>
<u>Sec. 402.3</u>	<u>Appointment Date</u>
<u>Sec. 402.4</u>	<u>Bulletin Board</u>
<u>Sec. 402.5</u>	<u>Certification Date</u>
<u>Sec. 402.6</u>	<u>Charter</u>
<u>Sec. 402.7</u>	<u>City</u>
<u>Sec. 402.8</u>	<u>Civil Service Department</u>
<u>Sec. 402.9</u>	<u>Class</u>
<u>Sec. 402.10</u>	<u>Classification Plan</u>
<u>Sec. 402.11</u>	<u>Classified Service</u>
<u>Sec. 402.12</u>	<u>Commission</u>
<u>Sec. 402.13</u>	<u>Commissioner</u>
<u>Sec. 402.14</u>	<u>Department</u>
<u>Sec. 402.15</u>	<u>Department of Human Resources</u>
<u>Sec. 402.16</u>	<u>Eligible</u>
<u>Sec. 402.17</u>	<u>Eligible List</u>
<u>Sec. 402.18</u>	<u>Executive Session</u>
<u>Sec. 402.19</u>	<u>Human Resources Director</u>
<u>Sec. 402.20</u>	<u>Layoff</u>
<u>Sec. 402.21</u>	<u>Near List</u>
<u>Sec. 402.22</u>	<u>Part-Time Employment</u>
<u>Sec. 402.23</u>	<u>Position</u>
<u>Sec. 402.24</u>	<u>Post</u>
<u>Sec. 402.25</u>	<u>School Districts</u>
<u>Sec. 402.26</u>	<u>Seniority</u>
<u>Sec. 402.27</u>	<u>Service</u>
<u>Sec. 402.28</u>	<u>Start Work Date</u>
<u>Sec. 402.29</u>	<u>Time Periods</u>
<u>Sec. 402.30</u>	<u>Validation Date</u>



## Rule 402 Definitions

Applicability: Unless otherwise noted, Rule 402 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Unless otherwise required by the context, the words listed below and as used in these Rules have the following meanings:

**Sec. 402.1    Appointment**

**402.1.1    Permanent Civil Service**

An appointment made as a result of a certification from an eligible list to a permanent position or to a position declared permanent.

**402.1.2    Probationary**

Status of civil service employees during a trial period following permanent appointment.

**402.1.3    Temporary Civil Service**

An appointment made to a temporary position as a result of certification from an eligible list.

**402.1.4    Provisional**

An appointment to a permanent or temporary position in the absence of an available eligible or in an emergency which in either case, is time limited as provided elsewhere in these Rules.

~~1)    **Non-Civil Service**~~

~~Section 402.1.4 1) shall apply only to Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.~~

~~An appointment to a permanent or temporary position in the absence of an available eligible or in an emergency which, in either case, is time limited to a maximum duration as provided elsewhere in these Rules.~~

~~Sec. 402.1~~ ~~Appointment (cont.)~~

~~402.1.4~~ ~~Provisional (cont.)~~

~~2)~~ ~~Limited Tenure~~

~~Section 402.1.4 2) shall apply only to Service Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.~~

~~An appointment to a permanent or temporary position in the absence of an available eligible. Use of limited tenure appointment is restricted as provided in these Rules.~~

402.1.5 Exempt

An appointment to a permanent or temporary position exempt from being filled from an eligible list in accordance with the provisions of Sections 10.104 and 8A.104 of the Charter.

Sec. 402.2 Appointing Officer

402.2.1 The head of an organizational unit having appointive authority within the organizational unit and the powers of a department head as defined by former Charter Section 3.501 as enacted into ordinance under Charter Section 18.103 and existing Administrative Code Section 2A.30.

402.2.2 Appointing Officer - MTA

The MTA Director of Transportation.

Sec. 402.3 Appointment Date

402.3.1 The date on which an appointing officer notifies the Department of Human Resources of his or her selection from a list of eligibles certified by the Department of Human Resources.

402.3.2 Appointment Date - MTA

The date on which the MTA Director of Transportation issues official notice of the selection from a list of eligibles.

**Sec. 402.4**    **Bulletin Board**

The official bulletin boards, so designated, at the Civil Service Department, Municipal Transportation Agency (MTA) and the City's Department of Human Resources, used for posting of examinations and public announcements of the Commission, MTA and the City's Department of Human Resources.

**Sec. 402.5**    **Certification Date**

**402.5.1**    The date on which the City's Department of Human Resources notifies an appointing officer of the name of eligible from which appointment may be made to fill a position.

**402.5.2**    **Certification Date - MTA**

The date the MTA Director of Transportation/ Designee issues a notice to eligibles from which appointments may be made to fill a Service-Critical position at the MTA.

**Sec. 402.6**    **Charter**

The Charter of the City and County of San Francisco.

**Sec. 402.7**    **City**

The City and County of San Francisco.

**Sec. 402.8**    **Civil Service Department**

The administrative office of the Commission under the direction of the Executive Officer.

**Sec. 402.9**    **Class**

A position or group of positions for which a common descriptive job title may be used.

**402.9.1**    **Job Code**

The term job code is used within the Human Resources classification system interchangeably with the Civil Service/Charter term class or classification.

**Sec. 402.10**    **Classification Plan**

All the classes which have been established, the procedures for maintaining the plan, and the specifications or descriptions of each of the classes.

**Sec. 402.11**   **Classified Service**

Includes all positions in the City service subject to competitive examination.

**Sec. 402.12**   **Commission**

The administrative body of Civil Service Commissioners empowered to enforce the civil service provisions of the Charter.

**Sec. 402.13**   **Commissioner**

A member of the Civil Service Commission of the City and County of San Francisco, appointed by the Mayor.

**Sec. 402.14**   **Department**

Organizational unit or units under one appointing officer.

**Sec. 402.15**   **Department of Human Resources**

The City-wide Department charged with performing such duties and functions as set forth in the Charter.

**Sec. 402.16**   **Eligible**

A person who has standing on an eligible list.

**Sec. 402.17**   **Eligible List**

A list of names of persons who have passed a civil service examination.

**Sec. 402.18**   **Executive Session**

A meeting or part of a meeting of the Commission legally held in private or with the general public excluded.

**Sec. 402.19**   **Human Resources Director**

Director of the City's Department of Human Resources.

**Sec. 402.20** **Layoff**

Separation from a position because of economy, lack of funds, or lack of work.

**Sec. 402.21** **Near List**

An eligible list or a holdover roster in a class similarly related to a class for which there is no eligible list from which the City's Human Resources Director or the MTA Director of Transportation may authorize the certification of eligibles for temporary civil service appointment.

**Sec. 402.22** **Part-Time Employment**

Part-time employment is regularly scheduled, less than full-time, permanent or temporary appointment to a permanent or temporary position.

**Sec. 402.23** **Position**

Duties and responsibilities assigned by an appointing officer to be performed by one employee.

**402.23.1 Permanent**

A collection of duties, regardless of the source and nature of the funds, performed by one individual, which represent the ongoing work of the City and County. Such position(s) may be either:

- 1) enumerated in the Annual Salary Ordinance for which funds have been provided on a continuing basis; or
- 2) a position declared to be permanent by action of the City's Human Resources Director or the MTA Director of Transportation .

**402.23.2 Temporary**

A position in which the duties and responsibilities exist for a maximum duration of 1040 hours except in the case of a special project, defined elsewhere in these Rules, for up to a maximum duration of 2080 hours.

**402.23.3 Part-Time**

Positions less than the established full-time normal schedule of hours per day or days per week.

**Sec. 402.23** **Position (cont.)**

**402.23.4 Exempt**

Temporary or permanent positions excluded from civil service hiring and removal procedures in accordance with the provisions of Section 8A.104 or 10.104 of the Charter.

**402.23.5 School-Term Only**

Positions in the School Districts established for school term periods only.

**402.23.6 As-Needed**

A temporary or provisional appointment on either a full-time or part-time work schedule against a temporary requisition designated as as-needed to cover peak workloads, emergency extra workloads, necessary relief, and other situations involving a fluctuating staff.

**Sec. 402.24 Post**

To place on the official Bulletin Board.

**Sec. 402.25 School Districts**

San Francisco Unified School District and San Francisco Community College District.

**Sec. 402.26 Seniority**

**402.26.1 Civil Service - Permanent**

Seniority shall be determined by the date of certification which resulted in a permanent appointment to a position in a class in a department. In the event of identical dates, seniority shall be determined by rank on the eligible list, the higher eligible being the senior. Employees who resign or are terminated and subsequently are reappointed shall have their seniority determined by their certification date following separation.

**Sec. 402.26   Seniority (cont.)**

**402.26.2   Civil Service - Temporary (from eligible list)**

Seniority shall be determined by the date of certification which resulted in a temporary appointment to a temporary position in a class in a department. In the event of identical dates, seniority shall be determined by rank on the eligible list, the higher eligible being the senior.

~~402.26.3   Civil Service - Limited Tenure~~

~~Section 402.26.3 shall apply only to Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.~~

~~Seniority shall be determined by the date an appointee starts to work in a position in a class in a department on a limited tenure basis. Seniority in the event of ties shall be determined by the appointing officer.~~

**402.26.4   Departmental**

Seniority for shift and work assignments, vacation or holiday schedule is determined by the appointing officer and is not within the authority of the Civil Service Commission.

**Sec. 402.27   Service**

The City and County of San Francisco government service, including the classified positions in the School Districts.

**Sec. 402.28   Start Work Date**

The date on which an appointee is first reported on the time roll as working.

**Sec. 402.29   Time Periods**

Reference to time periods, such as one week or one month, etc., shall mean calendar days unless the Rule specifically refers to business days.

**Sec. 402.30   Validation Date**

The date on which the City's Department of Human Resources notifies an appointing officer that it has approved an appointment or the MTA Director of Transportation/Designee issues a notice of having approved an appointment.

**Proposed Revisions to Civil Service Rule Series 14**

**ATTACHMENT B**



## **Rule 114**

### **Appointments**

#### **Article I: General Provisions**

Applicability: Article I, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### ~~Article II: Limited Tenure Appointments~~

~~Applicability: Article II, Rule 114, shall apply only to employees in classes represented by the Transport Workers Union (TWU), Locals 200 and 250A; excluding MTA Service-Critical classes. Article II, Rule 14 shall only be applicable in time of war or national emergency as defined in Section 114.10 and Section 114.20~~

#### ~~Article III: Temporary and Emergency Appointments~~

~~Applicability: Article III, Rule 114, shall apply only to employees in classes represented by the Transport Workers Union (TWU), Locals 200 and 250A; excluding MTA Service-Critical classes.~~

#### **Article IV: Appointment by Reinstatement**

Applicability: Article IV, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Article V: Reappointment**

Applicability: Article V, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Article VI: Appointment by Transfer**

Applicability: Article VI, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Article VII: Employment in Class 8304 Deputy Sheriff and Class 8302 Deputy Sheriff I**

Applicability: Article VII, Rule 114, shall apply only to employees in Class 8304 Deputy Sheriff and Class 8302 Deputy Sheriff I.

#### **Article VIII: Exempt Appointment**

Applicability: Article VIII, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Article IX: Director of Elections**

Applicability: Article IX, Rule 114, shall apply to the Director of Elections as provided for in Charter Section 13.104.

## **Rule 114 Appointments**

### **Article I: General Provisions**

**Applicability:** Article I, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

**Sec. 114.1**     **Appointment - General Provisions**

**114.1.1**     **Report of Appointment**

Except with the permission of the Human Resources Director, all appointments shall be reported by the appointing officer to the Department of Human Resources on the prescribed form prior to the appointee's starting date of employment.

**114.1.2**     **Validation of Appointment**

No appointee may begin working except with permission of the Human Resources Director until the appointing officer has received official notice of validation of appointment from the Department of Human Resources.

**114.1.3**     **Finality of Appointing Officer's Decision**

Except as otherwise provided in these Rules, ordinances, or the Charter, the decision of the appointing officer in all matters regarding appointment shall be final.

**Sec. 114.2**     **Permanent Appointment - Definition**

A permanent appointment is an appointment made as a result of certification from an eligible list to a permanent position.

**Sec. 114.3**     **Method of Appointment - Permanent Appointment**

Permanent appointments shall be made in the following order of priority:

**114.3.1**     by the return to duty of a permanent holdover;

**114.3.2**     by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees;

**Sec. 114.3 Method of Appointment - Permanent Appointment (cont.)**

**114.3.3** by the appointing officer through use of any one of the following options:

- 1) advancement of a part-time or school-term employee to full-time status consistent with the requirements found elsewhere in this Rule; or
- 2) transfer; or
- 3) from requests for reinstatement other than by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees; or
- 4) by reappointment following resignation; or
- 5) by certification by the Department of Human Resources of eligibles from a regular list or reemployment register.

**114.3.4** Exercise of one option will preclude the use of any other method of appointment except as a result of any settlement arising following an appeal or other litigation. Departments may also fill permanent vacancies through internal reassignment of permanent employees consistent with departmental procedures. Such reassignments are not within the jurisdiction of the Civil Service Commission or the Department of Human Resources except as specifically provided elsewhere in these Rules.

**Sec. 114.4 Temporary Appointment**

**114.4.1** Temporary appointment shall be one of the following:

- 1) An appointment from an eligible list to a temporary position. Such appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 1040 hours; or
- 2) An appointment from an eligible list to a temporary position established to perform a special project or investigation. The establishment of such position shall require the express approval of the Human Resources Director. It must be readily foreseeable that the duties and responsibilities and products must be completed by the time limit of a maximum of the hourly equivalent of 260 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 2080 hours.

**Sec 114.4      Temporary Appointment (cont.)**

**114.4.1      (cont.)**

3) When no eligible list exists or no eligible is available on an existing eligible list for a position in the class requisitioned by an appointing officer, and immediate service in the position is required by the appointing officer and another eligible list exists which is deemed by the Human Resources Director to be suitable to provide temporarily the service desired, the Human Resources Director shall certify for civil service temporary appointment an eligible from such eligible list.

**114.4.2      Expiration of Temporary Appointment**

1) Upon expiration of the maximum allowable time period or upon expiration of the appointee's temporary position, temporary appointees shall be separated as provided below.

2) Temporary appointees so separated shall be returned to the eligible list from which appointed if such list has not expired.

3) Temporary appointees returned to the eligible list or to the holdover roster shall be immediately available for certification to temporary positions:

- under another appointing officer; or
- to the same appointing officer to another position with the express approval of the Human Resources Director.

In the case of represented classes, the Human Resources Director shall provide prior notification to the appropriate bargaining representative of intention to authorize such immediate certification and shall, upon request, meet and confer concerning the proposed certification.

4) For employees represented by the Transport Workers Union, Locals 200 and 250A temporary appointees, except those appointed from a "near list", whose list has expired shall be ranked on the holdover roster for the class.

**114.4.3      Layoff due to lack of work or lack of funds or termination shall be as provided elsewhere in these Rules.**

**Sec. 114.5**    **Provisional Appointment**

- 114.5.1    Provisional appointment shall be an appointment to a permanent or temporary position when there is no available eligible.
- 1)    A provisional appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular work schedule of the employee; however, in no case may the maximum duration exceed 1040 hours in any class or in any department in a calendar year.
- 2)    Except with the express approval of the Human Resources Director, when an eligible list is adopted, all provisional appointments in the affected class shall expire.
- 114.5.2    Provisional appointments may be extended with the approval of the Human Resources Director for additional periods of time not to exceed, for each extension, the time limitations specified above.
- 114.5.3    Provisional appointees serve at the discretion of the appointing officer.
- 114.5.4    Provisional appointees shall be separated as provided below at the expiration of the maximum allowable time or upon expiration of the appointee's temporary position.
- 114.5.5    The Human Resources Director shall promulgate policies and procedures for making provisional appointments which shall include provisions that appointments shall be made on the basis of a combination of merit factors, equal employment opportunity and, if promotive, consideration of performance appraisal ratings and seniority.
- 114.5.6    Layoff of provisional appointees due to lack of work, lack of funds or termination shall be as provided elsewhere in these Rules.
- 114.5.7    A civil service appointee who is laid off, terminated or who resigns from a provisional appointment shall return to the appointee's permanent position.
- 114.5.8    A provisional appointee resigning from employment shall complete the prescribed resignation form.
- 114.5.9    Provisional appointees shall acquire, by virtue of serving under provisional appointment, no right or preference for permanent appointment.

**Sec. 114.5 Provisional Appointment (cont.)**

**114.5.10 Restrictions on Provisional Appointment**

As provided in Charter Sections 10.105 and 18.110:

- 1) Provisional appointments for civil service positions for which no eligible list exists shall not exceed three (3) years.
- 2) Provisional appointments may only be renewed beyond three (3) years with the approval of the Board of Supervisors and upon certification by the Human Resources Director that for reasons beyond his or her control the Department of Human Resources has been unable to conduct examinations for these positions.
- 3) Unless provisional appointments are renewed as provided in this section or are transitioned to regular civil service appointment through either the competitive examination process or as provided in Charter Section 18.110, provisional employees appointed before July 1, 1996 shall be laid off by June 30, 1999.

**~~Sec. 114.6~~ ~~Provisional Appointment - Non-Civil Service Appointment~~**

~~Section 114.6 apply only to employees in classes represented by the Transport Workers Union (TWU), Local 200 and 250A; excluding MTA Service Critical classes.~~

~~114.6.1 Non-Civil Service appointment made under the authority of these Rules shall be an appointment to a permanent or temporary position when either~~

~~1) there is no available eligible. It is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular work schedule of the employee; however, in no case may the maximum duration exceed 1040 hours in any class or in any department in a calendar or fiscal year or except with the express approval of the Human Resources Director, thirty (30) days from eligible list adoption, whichever is less; or~~

~~2) there is an emergency.~~

~~Such appointment is time limited to a maximum of 240 hours.~~

~~114.6.2 Non-civil service appointees serve at the discretion of the appointing officer.~~

~~114.6.3 Non-civil service appointees shall be separated as provided below at the expiration of the maximum allowable time or upon expiration of the appointee's temporary position.~~

Sec. 114.6 ~~Provisional Appointment - Non Civil Service Appointment (cont.)~~

~~114.6.4~~ The Human Resources Director shall promulgate policies and procedures for making non-civil service appointments which include provisions that appointments shall be made on the basis of a combination of merit factors, equal employment opportunity and, if promotive, seniority.

~~114.6.5~~ Notification to signatory unions shall be as follows:

~~Employee organizations signatory to the Letter of Agreement adopted April 4, 1983, shall be notified on a biweekly basis of all non-civil service appointments authorized in the preceding two-week period, together with the duration of such appointments and the reason(s) for such duration. Union representatives of organizations signatory to the aforementioned agreement shall have the right to meet and confer with the Human Resources Director or designee following notification cited herein above.~~

Sec. 114.7 ~~Provisional Appointment - Limited Tenure Appointment~~

~~Section 114.7 apply only to employees in classes represented by the Transport Workers Union (TWU), Local 200 and 250A; excluding MTA Service Critical classes.~~

~~114.7.1~~ Limited tenure appointment is an appointment made to a permanent or temporary positions under authority of this Rule in a class for which there is no available eligible.

~~114.7.2~~ All limited tenure appointments shall require the express prior approval of the Commission and shall be made pursuant to the stated intent of the Letter of Agreement and Compliance Agreement adopted April 4, 1983, as it pertains to the classes represented by the unions signatory to these Agreements.

~~114.7.3~~ Layoff due to lack of work, lack of funds, or termination shall be as provided elsewhere in these Rules.

~~114.7.4~~ A civil service appointee who is laid off, terminated, or who resigns from a limited tenure appointment shall return to the appointee's permanent position.

~~114.7.5~~ A limited tenure appointee resigning from employment shall complete the prescribed resignation form.

**114.7.6 Provisional Appointees - No Preference for Permanent Appointment**

Provisional appointees shall acquire, by virtue of serving under provisional appointment, no right or preference for permanent appointment.

**Sec. 114.8      Advancement from Part-Time or School-Term Position to Full-Time**

After one (1) year of continuous permanent satisfactory service in a part-time or school-term only position, the senior appointee in a class in the department may be advanced by the appointing officer to a full-time position. Such advancement from a school-term only position shall not require that a new probationary period be served. Advancement from a part-time position shall require a new probationary period.

**Sec. 114.9      Separation of Temporary and Provisional Appointees Upon Expiration of Term of Employment**

**114.9.1**      No temporary or provisional appointment shall exceed the maximum allowable duration provided in these Rules, and upon expiration of that period of time, the appointee shall be separated from the position.

**114.9.2**      The appointee's separation shall be based upon the expiration of the maximum allowable duration or upon expiration of the appointee's temporary position. Such separation shall be without reference to the layoff or termination provisions of these Rules. The appointee shall be notified in writing:

- 1) at the time of appointment as to the duration of such appointment; and
- 2) at least ten (10) working days in advance of the final date.



## **~~Rule 114~~** **~~Appointments~~**

### **~~Article II: Limited Tenure Appointments~~**

~~Incorporating former Charter Section 8.331 into the Civil Service Commission Rules pursuant to former Charter Section 8.320.1 Incorporating Former Charter Provisions (Proposition C - November 5, 1991 Election)~~

~~Applicability: Article II, Rule 114, shall apply only to employees in classes represented by the Transport Workers Union (TWU), Locals 200 and 250A, excluding MTA Service Critical classes. Article II, Rule 14 shall only be applicable in time of war or national emergency as defined in Section 114.10 and Section 114.20~~

#### **~~Sec. 114.10 Limited Tenure Appointments - When Authorized~~**

~~When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under these Rules, the Human Resources Director may qualify applicants for wartime appointments to positions through informal and non-competitive tests.~~

#### **~~Sec. 114.11 Selection of Limited Tenure Appointees~~**

~~Such tests and appointments resulting therefrom shall be governed solely by the provisions of these Rules and the tests shall be adequate in the judgment of the Human Resources Director to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in these Rules.~~

#### **~~Sec. 114.12 Definition and Duration of Limited Tenure Appointments~~**

~~Appointments made under the provisions of this Rule shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided elsewhere in these Rules but in no event to exceed six (6) months beyond the cessation of hostilities.~~

#### **~~Sec. 114.13 Layoff of Limited Tenure Appointees~~**

~~Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds.~~

~~Sec. 114.14~~ ~~Termination of Limited Tenure Appointees~~

~~Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the Human Resources Director without reference to the procedures governing removals set forth in Charter Section A8.341.~~

~~Sec. 114.15~~ ~~Restriction on Rights on Limited Tenure Appointees~~

~~Persons serving under limited tenure appointments under this Rule shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in the Charter or by Rules of the Civil Service Commission, which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures as provided in these Rules.~~

~~Sec. 114.16~~ ~~Restriction on Credit for Limited Tenure Service - Employees of Municipal Railway~~

~~Service after January 1, 1951, under limited tenure appointment, by platform employees of the Municipal Railway, shall not be included in the calculation of service of such employees for the purpose of determining assignments of runs when such assignments are made on the basis of seniority of service.~~

~~Sec. 114.17~~ ~~Non-Civil Service Appointments When No Eligible List~~

~~Non-civil service appointments in the absence of civil service eligibles, as provided in these Rules, shall not be authorized if applicants qualified for limited tenure appointments are available.~~

~~Sec. 114.18~~ ~~Department of Human Resources to Maintain Eligible Lists~~

~~The Department of Human Resources shall make every effort, consistent with current conditions, to maintain adequate registers of eligibles established through the regular examination procedure as provided in these Rules.~~

~~Sec. 114.19~~ ~~Civil Service Commission to Adopt Rules to Govern Limited Tenure Appointments~~

~~The Civil Service Commission shall adopt Rules to carry out the provisions of this Rule and to govern the administration of limited tenure appointments.~~

Sec. 114.20 - Additional Authority for Limited Tenure Appointments

- ~~114.20.1~~ In time of national emergency declared by the President of the United States or by the Congress or while any act authorizing compulsory military service or training is in effect, the provisions of this Rule may also be made operative upon recommendation of the Civil Service Commission and approval of the Board of Supervisors by ordinance enacted by two thirds vote of the Board.
- 114.20.2 Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six (6) months after repeal by the Board of Supervisors of the ordinance which authorized such appointments.

## Rule 114 Appointments

### ~~Article III: Temporary and Emergency Appointments~~

~~Incorporating former Charter Section 8.331 into the Civil Service Commission Rules--  
pursuant to former Charter Section 8.320-1 Incorporating Former Charter Provisions--  
(Proposition C - November 5, 1991 Election)~~

~~Applicability: Article III, Rule 114, shall apply only to employees in classes represented by the  
Transport Workers Union (TWU), Locals 200 and 250A; excluding MTA Service  
Critical classes.~~

#### ~~Sec. 114.21 Temporary "Near List" Appointments Authorized~~

~~When no list of eligibles exists or no eligible is available on an existing  
list for a position in the class requisitioned by the appointing officer, and  
immediate service in the position is required by the appointing officer and  
another list exists which is deemed by the Human Resources Director to be  
suitable to provide temporarily the service desired, the Commission shall  
certify for civil service temporary appointment an eligible from such list.~~

#### ~~Sec. 114.22 Non-Civil Service Appointment Defined~~

~~If no such other list deemed by the Human Resources Director to be  
suitable exists, the Human Resources Director pursuant to Civil Service  
Commission Rules may authorize the appointing officer to make a non-  
civil service or emergency appointment for a period not exceeding 130  
working days.~~

#### ~~Sec. 114.23 Duration of Non-Civil Service Appointment~~

~~Non-civil service or emergency appointments extended beyond ninety (90)  
days must be approved by the Human Resources Director. Such non-civil  
service or emergency appointment, however, shall cease prior to the  
expiration of such 130 working days at the time a civil service eligible  
reports for duty as provided in Section A8.329 of the Charter.~~

~~Sec. 114.24 Emergency Appointment Pending Canvassing of Eligible List~~

~~114.24.1~~ If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in Section A8.329 of the Charter, the Human Resources Director may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding thirty (30) working days.

~~114.24.2~~ Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such thirty (30) working days at the time a civil service eligible reports for duty as provided in Section A8.329 of the Charter.

~~Sec. 114.25 Restriction on Compensation of Non-Civil Service Appointees~~

No person shall be compensated under any non-civil service or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this Rule for a period exceeding 130 working days in any fiscal or calendar year, and no claim or warrant therefore shall be approved, allowed or paid for any compensation in excess of such 130 working days in any fiscal or calendar year.

~~Sec. 114.26 Mandate for Funding Department of Human Resources to Conduct Examinations~~

If no eligibles are available for appointment to a permanent position in the class requested by the appointing officer, the Department of Human Resources shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, the Department of Human Resources shall report to the Mayor the estimated cost thereof, the Mayor shall request and the Supervisors shall make supplemental appropriation therefore in the manner provided herein for supplemental appropriations.

## **Rule 114**

### **Appointments**

#### **Article IV: Appointment by Reinstatement**

**Applicability:** Article IV, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Sec. 114.27 Reinstatement**

**114.27.1** A permanent employee who accepts permanent appointment to a position in another class shall be permanently separated from any former position, with the following exception: the employee may be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the appointing officers in both the present department and the former department or the department(s) to which reinstatement is requested. A copy of the approved form(s) must be filed with the Department of Human Resources.

**114.27.2** An employee serving a promotive probationary period shall be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the Human Resources Director.

1) A request for reinstatement under this section shall not extend the probationary period or infringe upon an appointing officer's authority to terminate an employee.

2) An approved request for reinstatement shall remain in effect until the employee is either reinstated, separated, refuses an offer of reinstatement, or such a request is canceled by the Human Resources Director.

3) Separation of the employee shall nullify all requests for reinstatement approved under this section.

4) The employee shall receive one (1) offer of reinstatement. Failure to accept a reinstatement offer shall forfeit all rights to reinstatement under this section.

5) A reinstatement under this section shall be under the Rule of One procedures as adopted by the Civil Service Commission.

**Sec. 114.27 Reinstatement (cont.)**

**114.27.2 (cont.)**

6) If more than one (1) request for reinstatement under this section is on file, the person with the greater seniority in the class to which reinstatement is requested shall be reinstated first.

**114.27.3** Reinstatement to a position in a former class and department shall be with former civil service seniority standing in that department and no probationary period shall be required.

**114.27.4** Reinstatement to a position in a former class in another department shall require a new civil service seniority date in that department from the date of such reinstatement and shall require a new probationary period.

**Sec. 114.28 Reinstatement Following Transfer**

An appointment by transfer shall cancel all rights to the position from which transferred except that, prior to the completion of the probationary period, a transferee may request reinstatement to a vacancy in a position in the same class and department from which transferred in accordance with the procedures established in this Rule.

**Sec. 114.29 Restrictions on Reinstatement**

Appointments by reinstatement are subject to the appointment provisions found elsewhere in this Rule.

## Rule 114 Appointments

### Article V: Reappointment

**Applicability:** Article V, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Sec. 114.30 Reappointment after Resignation**

- 114.30.1** A permanent appointee who has completed the probationary period who resigns and whose services have been certified as satisfactory by the appointing officer, or except as otherwise ordered by the Commission in the case of services certified as unsatisfactory, shall be permanently separated from such appointment except as follows:
- 114.30.2** Upon request on the prescribed form within a four (4) year period after the effective date of the resignation, the resignee with the approval of an appointing officer may be appointed ahead of eligibles to a vacancy in a permanent position in the class from which resigned in any department.
- 114.30.3** A separate request must be filed with each department to which reappointment is desired. An approved copy of the reappointment form(s) must be filed with the Department of Human Resources.
- 114.30.4** If a vacancy does not exist in the class from which resigned from City and County service, or, if otherwise approved by the Human Resources Director, subject to appeal to the Civil Service Commission, a resignee may re-enter the service to a vacancy in any former class in which the probationary period had been completed in any department with the approval of the appointing officer.
- 114.30.5** When reappointed, the resignee shall enter the service as a new appointee with no rights based on prior service except such as may be specifically provided elsewhere in these Rules, in the Vacation, Sick Leave and any other Ordinances as appropriate, and in the examination procedures with respect to credit for prior City and County service.

#### **Sec. 114.31 Restrictions on Reappointment**

Reappointments are subject to the appointment provisions found elsewhere in this Rule.



## **Rule 114**

### **Appointments**

#### **Article VI: Appointment by Transfer**

**Applicability:** Article VI, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Sec. 114.32    Transfer - General**

- 114.32.1** A transfer of a permanent appointee who has completed the probationary period to a position in the same class under another appointing officer shall be requested on the form prescribed by the Human Resources Director.
- 114.32.2** A properly completed transfer form approved by the appointing officer or designee of the department to which transfer is requested shall be filed in the requested department. A copy of the approved form shall be filed with the Department of Human Resources and in the employee's current department within two (2) business days of approval.
- 114.32.3** Appointees accepting a new appointment by transfer shall give a minimum period of notice prior to separation from their current department of fifteen (15) working days, unless the current department approves a shorter period of notice.
- 114.32.4** Appointments by transfer are subject to the appointment and probationary provisions of these Rules.
- 114.32.5** Appointment by transfer will cancel all other transfer requests which have been filed.

#### **Sec. 114.33    Transfer from Position Not Full-Time**

A permanent appointee to a part-time position or a position not full time on an annual basis and who serves under such appointment continuously for one (1) year, may request transfer to a regular full-time position in accordance with the provisions of this Rule.

**Sec. 114.34 Transfers Occasioned by Reduction of Force Due to Technological Advances, Automation, or the Installation of New Equipment**

Permanent civil service employees who have completed their probationary period and who are subject to layoff because of technological advances, automation, the installation of new equipment, or the transfer of functions to another jurisdiction may submit a request to the Human Resources Director for transfer to a position within their capacities to perform, whether or not within the class for which they qualified for appointment. Such request for transfer shall be subject to the following:

- 114.34.1 Request for transfer shall be submitted on the form prescribed by the Human Resources Director and shall be approved by the appointing officer or designee of the department to which transfer is requested.
- 114.34.2 The position to which transfer is requested shall not be to a class with more than a five percent (5%) increase in compensation.
- 114.34.3 The Human Resources Director may administer any examinations which, in the judgment of the Human Resources Director, are deemed advisable to test the capacity of the employee to perform the duties in the position to which transfer is requested, unless the transfer is to a position in the same class or a closely related class.
- 114.34.4 Employees so transferred, who are not suited to the position, may be given an opportunity for further transfer to other positions within their capacities to perform.
- 114.34.5 In the event of layoff of an appointee who occupies a position through transfer under the provisions of this section, such layoff shall be in accordance with the applicable provisions of the Layoff Rule. Seniority shall be calculated from the date of certification in the class from which transferred.
- 114.34.6 Employees transferred under the provisions of this section may request reinstatement to the former class in accordance with the Reinstatement Rule.
- 114.34.7 In the event that more than one (1) approved transfer to the same class is on file in the Department of Human Resources, preference shall be given to the appointee who has the longest service under civil service permanent appointment in the class from which layoff is to be made.
- 114.34.8 An appointee transferred under the provisions of this section shall serve a probationary period in the new class.

**Sec. 114.35** **Transfers Occasioned by the Transfer of Functions from One Department to Another**

- 114.35.1** When, in accordance with Charter provisions, part of the functions and duties of any department are transferred to another department, the employees performing such functions and duties shall be transferred therewith.
- 114.35.2** Such employees shall retain in their new department the same salary and civil service seniority status as they had in the department from which transferred.
- 114.35.3** Employees transferred in accordance with this Rule shall not be required to serve a new probationary period.

**Sec. 114.36** **Limited-Term Transfer**

**114.36.1** **Definition**

The transfer of a permanent appointee to a vacant position in the same class under another appointing officer for a specified duration of time may be approved by the appointing officers of both departments and the Human Resources Director and shall be known as a "limited-term transfer."

**114.36.2** **Purpose**

The purpose of a limited-term transfer is to more efficiently utilize and exchange human resources among the departments of the City and County; to allow employees exposure and training in other departments; and to provide a mechanism for reducing staffing levels during slow periods or periods of fiscal emergency and to temporarily increase staffing during peak work periods.

**Sec. 114.36 Limited-Term Transfer. (cont.)****114.36.3 Types of Limited-Term Transfers**

1) **Voluntary:** A limited-term transfer may be initiated on the written request of an employee on the form prescribed by the Human Resources Director. Upon receipt of a written request from an employee and no less than fifteen (15) working days prior to implementation, the designated union of the employee shall be provided written notice. The union shall have five (5) working days from the date of the notice to request a meeting with the appointing officer/designee. Within five (5) working days from the date of the union request, a meeting shall be held. If the union is unavailable to meet within the five (5) working days following the request to meet, the unavailability of the union shall constitute a waiver of the right to meet. Unavailability of the appointing officer/designee shall constitute an extension of the timelines. The timelines may also be extended through mutual written agreement.

2) **Mandatory:** A permanent or probationary employee may be transferred by the employee's appointing officer for a specified period up to a maximum of six (6) months in any calendar year to a position in the same class under another appointing officer. Such transfers shall be made by class in reverse order of seniority in the class in the department after all permanent and probationary employees in the class have been canvassed and all more senior employees have been notified and have waived the right to request a voluntary limited-term transfer. The employee shall receive at least five (5) working days written notice in advance of the effective date of the transfer and shall be given an opportunity, if requested, to meet and confer with the appointing officer/designee and the designated union representative. No permanent employee shall be placed on mandatory limited-term transfer if there are temporary or provisional employees in the same class in the department from which the transfer originates.

**114.36.4 Expiration and Extension**

1) Limited-term transfers will remain in force for the period specified unless abridgment is approved by both appointing officers.

2) Voluntary limited-term transfers may be extended for additional periods of time with the approval of the employee, the appointing officer and the Human Resources Director.

3) Upon expiration of the period of the transfer, the transferee shall be automatically reinstated to a permanent position in the class and department from which transferred.

**Sec. 114.36 Limited-Term Transfer (cont.)**

**114.36.5 Probationary Period**

1) A limited-term transferee shall not serve a new probationary period; however, notwithstanding any other provision of these Rules, with the approval of the appointing officer in the department to which transferred, the time served during a limited-term transfer, or a portion thereof, may be counted toward the completion of the probationary period if the transferee requests and is granted a permanent transfer and commences a probationary period in the new department.

2) An appointee who is transferred under the provisions of this Rule while serving a probationary period in the department from which transferred shall complete the probationary period upon reinstatement to the original department; however, an appointing officer may, notwithstanding any other provision of these Rules, credit the time served during a limited-term transfer or a portion thereof toward the completion of the probationary period in the original department.

**114.36.6 Disciplinary Action**

A limited-term transferee is an appointee in the department to which transferred during the period of the transfer for the purpose of disciplinary action.

**114.36.7 Temporary Positions**

Limited-term transfers which are not made to permanent positions may be made to positions which are funded on a temporary basis with the certification of the Controller that funds for the payment of mandatory fringe benefits are available in the department to which transferred. Appointees so transferred retain all the rights and benefits of permanent appointees.

**114.36.8 Seniority**

Appointees returning to their original departments following a limited-term transfer are reinstated with full seniority. No deduction from seniority in the original department shall be made for any period of limited-term transfer.

**114.36.9 Layoff**

An appointee who is laid off while on a limited-term transfer shall be automatically reinstated to a permanent position in the class in the department from which transferred.

## **Rule 114**

### **Appointments**

#### **Article VII: Employment in Class 8304 Deputy Sheriff and Class 8302 Deputy Sheriff I**

**Applicability:** Article VII, Rule 114, shall apply only to employees in Class 8304 Deputy Sheriff and Class 8302 Deputy Sheriff I.

**Sec. 114.37    Preemption of Certain Civil Service Commission Rules**

Notwithstanding any other provisions of these Rules, employment in Class 8302 Deputy Sheriff I and Class 8304 Deputy Sheriff shall be administered as provided in this Rule.

**Sec. 114.38    Probationary Period for Deputy Sheriff I (Job Code 8302)**

- 114.38.1 Appointees in Deputy Sheriff I (Job Code 8302) shall serve a probationary period, consistent with any valid Memorandum of Understanding and as provided elsewhere in these Rules.
- 114.38.2 Consistent with any valid Memorandum of Understanding covering this class, appointees in Class 8302 Deputy Sheriff I may be released by the Sheriff at any time during the probationary period. The decision of the Sheriff shall be final.
- 114.38.3 The probationary period for an appointee in Class 8302 Deputy Sheriff I shall be extended only for unpaid authorized or unauthorized absences from work, absences due to disciplinary reasons, sick leave or disability leaves.

**Sec. 114.39    Advancement from Class 8302 Deputy Sheriff I to Class 8304 Deputy Sheriff**

- 114.39.1 Subject to the successful completion of the probationary period and such other terms and conditions as required by the Sheriff and approved by the Human Resources Director, the Sheriff shall have the authority to advance appointees in Class 8302 Deputy Sheriff I to a permanent entrance appointment in Class 8304 Deputy Sheriff.
- 114.39.2 Advancement as provided in this Rule shall not require a new probationary period.

**Sec. 114.39 Advancement from Class 8302 Deputy Sheriff I to Class 8304 Deputy Sheriff (cont.)**

- 114.39.3** With the approval of the Human Resources Director, an appointee in class 8302 Deputy Sheriff I who has, in the sole discretion of the Sheriff, successfully performed each and every requirement necessary for successful completion of the probationary period, but through no fault of the appointee, completes the probationary period prior to successful completion of all state certification requirements prescribed by the Commission on Peace Officer Standards and Training (POST), may be advanced to 8304 Deputy Sheriff subject to a probationary period which shall extend from the date of appointment to the 8304 Deputy Sheriff class to the date upon which POST certifies that the appointee has successfully completed all state-mandated requirements.
- 114.39.4** For purposes of the Human Resources Director's approval of advancement under this section, a finding of "no fault of the appointee" shall include but not be limited to administrative delay by the Sheriff's department, lack of available training funds, or such other circumstances beyond the control of the appointee, but not related in any way to the appointee's performance.
- 114.39.5** Except as set forth above, appointees in class 8302 Deputy Sheriff I who fail to successfully complete each and every POST certification requirement and such other terms and conditions as required by the Sheriff and approved by the Human Resources Director during the probationary period, shall be deemed to have failed to have and maintain all necessary qualifications for the position and shall be subject to immediate removal.

**Sec. 114.40 Seniority of Appointees in Class 8304 Deputy Sheriff Upon Advancement**

Seniority in Class 8304 Deputy Sheriff shall be determined by the date of permanent certification from and rank on the eligible list for Class 8302 Deputy Sheriff I.

**Sec. 114.41 Layoff in Class 8302 Deputy Sheriff I and Class 8304 Deputy Sheriff**

Layoffs in Class 8302 Deputy Sheriff I and Class 8304 Deputy Sheriff shall be as provided elsewhere in these Rules, except that, all appointees in Class 8302 Deputy Sheriff I shall be laid off before the layoff of any appointees in Class 8304 Deputy Sheriff shall occur.

**Sec. 114.42**    **No Reversion Rights**

Except through new examination or except as provided elsewhere in this Article, appointees separated or advanced from Class 8302 Deputy Sheriff I shall not be eligible to reinstate to or reoccupy positions in Class 8302 Deputy Sheriff I, for any reason.

**Sec. 114.43**    **Reappointment of Separated Employee**

- 114.43.1    Subject to the approval of the Sheriff, a former employee under permanent civil service appointment in Class 8302 Deputy Sheriff I who separated during the probationary period because of failure to successfully complete the required peace officer training and who subsequently completes this training at their own expense may, upon written request and within 18 months from the separation date, be reappointed to a vacant position in Class 8302 Deputy Sheriff I.
- 114.43.2    When reappointed, the employee shall enter the service as a new appointee with no rights based on prior service except that which may specifically be provided in these Rules or by ordinance.
- 114.43.3    When reappointed, the employee shall complete a new probationary period unless the Sheriff allows full or partial credit for prior service.
- 114.43.4    The decision of the Sheriff in all matters delegated under this section shall be final and shall not be subject to appeal to the Civil Service Commission or review through any other dispute resolution procedure.
- 114.43.5    The Human Resources Director shall provide procedures for implementing this section.



## **Rule 114 Appointments**

### **Article VIII: Exempt Appointment**

**Applicability:** Article VIII, Rule 114, shall apply to employees in all classes; except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Sec. 114.44 Exclusions from Civil Service Appointment**

All permanent employees of the City and County shall be appointed through the civil service process by competitive examination unless exempted from the civil service examination and selection process in accordance with Charter provisions. Appointments excluded by Charter from the competitive civil service examination and selection process shall be known as exempt appointments. Any person occupying a position under exempt appointment shall not be subject to civil service selection, appointment, and removal procedures and shall serve at the pleasure of the appointing officer.

#### **Sec. 114.45 Charter Limit on Certain Categories of Exempt Appointments**

**114.45.1** The proportion of full-time employees in the exempt categories included under Charter Sections 10.104-1 through 10.104-12 to the total number of civil service employees of the City and County shall not be greater than the proportion existing on July 1, 1994, except as authorized in this Article. As certified by the Civil Service Commission at its meeting of November 18, 1996, the ratio on July 1, 1994 of full-time exempt employees to the total full-time City and County work force was two percent (2%).

**114.45.2** In accordance with Charter Section 10.104, the Civil Service Commission may, by express approval, authorize that full-time positions conforming to the criteria established in this Section in the categories defined in Charter Sections 10.104-1 through 10.104-12 in excess of the Charter limitation be excluded from civil service selection and removal procedures and be filled through exempt appointment.

**Sec. 114.45 Charter Limit on Certain Categories of Exempt Appointments (cont.)**

- 114.45.3** Requests for exemption under this section must conform to the following:
- 1) The position to be exempted must be in one of the categories defined in Charter Sections 10.104-1 through 10.104-12.
  - 2) The action of exempting a particular position shall not directly affect the civil service rights of an incumbent regularly occupying such position on a permanent civil service basis.
  - 3) The Human Resources Director recommends the exemption and certifies that the exemption action shall not directly affect an incumbent civil service appointee to the position.
  - 4) The request for exemption is made and approved by an appointing officer or an elected official; a request from a department under the City Administrator must be approved by the City Administrator.
  - 5) The official making the request provides written justification as to the reasons the position should be exempted.
- 114.45.4** An appointing officer or an elected official may submit a request to exempt a position under this section to the Civil Service Commission through the Human Resources Director. If the Director recommends approval, the request shall be transmitted to the Civil Service Commission for review and action; if the Director denies a request, the appointing officer shall be notified in writing of the denial and the reasons for such action.
- 114.45.5** The decision of the Human Resources Director is appealable to the Civil Service Commission within thirty (30) calendar days of the date of the notice of denial. The Commission decision on the appeal shall be final.
- 114.45.6** This section as adopted by the Civil Service Commission at its meeting of November 18, 1996 was approved by the Board of Supervisors on January 3, 1997 (Resolution Number 222-96-4).

Sec. 114.45.7 Charter Limit on Categories 16, 17 and 18

114.45.8 Temporary and Seasonal Exemptions under Charter Section 10.104-16

- 1) Temporary and seasonal appointments shall be TEX, with full-time, part-time, or as-needed schedules.
- 2) No person, regardless of work schedule, shall exceed 1040 hours of work in any fiscal year.

114.45.9 Temporary Substitute/Backfill Exemption under Charter Section 10.104-17

- 1) An appointment proposed for exemption under Charter Section 10.104-17 shall be for a temporary substitute or back-fill for a civil service employee on an authorized leave of absence (\*e.g., an employee on pregnancy or other medical leave, etc.)
- 2) The Human Resources Director may approve an appointment in increments of up to 1040 hours (six months); however, the appointment shall not exceed a maximum duration of 4160 hours (not to exceed two years by Charter requirement, or a total of four six-month increments).

114.45.10 Special Project Exemption under Charter Section 10.104-18

- 1) An appointment authorized for exemption under Charter Section 10.104-18 must be to a position created for or dedicated to a special project, or for professional services, not to exceed three years by Charter requirement.
- 2) Funding for appointments to perform professional services as authorized under Charter Section 10.104-18 shall be for a limited term (e.g., a grant or a "one-time only" appropriation for a specific or special purpose). Departmental requests for such appointments must certify that the funding is limited, identify the funding source and anticipate duration of such funding source, and adequately describe the professional services to be performed.
- 3) Departmental requests for appointments to a special project as authorized under Charter Section 10.104-18 must adequately define the special project or professional service to be provided (including but not limited to a description of the project objective, scope of work, and the specific anticipated duration of the project).



## **Rule 114**

### **Appointments**

#### **Article IX: Director of Elections**

**Applicability:** Article IX, Rule 114, shall apply to the Director of Elections as provided for in Charter Section 13.104.

**Sec. 114.46**    **Purpose**

The purpose of Article IX, Rule 114, shall be to reflect the authority of the Civil Service Commission and the Elections Commission as well as the employment rights of the Director of Elections as set forth in Section 13.104 and Article X of the Charter of the City and County of San Francisco. A Rule on the position of Director of Elections is in order because of the unique nature of the position under the Charter.

**Sec. 114.47**    **Requirement for a Personnel Requisition and Job Announcement**

**114.47.1**    Whenever the position of Director of Elections is to be filled, the Elections Commission shall issue a personnel requisition in the prescribed format noting that appointment to the position shall be in accordance with Charter Section 13.104 and Civil Service Commission Rule 114, Article IX.

**114.47.2**    The Department of Human Resources shall issue a job announcement which shall be posted for a minimum of ten (10) days and shall include a position description, qualifications, dates applications will be accepted, relevant provisions in Charter Section 13.104 and other relevant job-related information.

**Sec. 114.48**    **List of Qualified Applicants**

**114.48.1**    The names of the candidates who meet the requirements of the job announcement shall be placed on the list of qualified applicants in the order of their scores. There must be a minimum of three (3) qualified applicants available for selection. Approval of the Civil Service Commission shall be required to proceed should there be fewer than three (3) qualified applicants.

**114.48.2**    Should the Director of Elections position become vacant within twenty-four (24) months of appointment, the Elections Commission may elect to appoint a successor from the current list of qualified applicants provided a minimum of three (3) persons remain available on the list, except that approval to appoint from this list may be obtained from the Civil Service Commission should there be fewer than three (3) persons available.

**Sec. 114.49 Selection of the Director of Elections**

- 114.49.1 In accordance with Charter Section 13.104, no less than thirty (30) days before the expiration of the Director's term, the Elections Commission shall select a Director for the next term. The appointment shall be effective in accordance with Rule 114.51- Appointment Date.
- 114.49.2 Selection of the Director of Elections from the list of qualified applicants shall be based on merit and fitness without regard to relationship, race, religion, sex, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital status, color, medical condition or other non-merit factors or otherwise prohibited nepotism or favoritism.
- 114.49.3 The Elections Commission shall establish a non-discriminatory selection process which may include scheduling each interested person from the list of qualified applicants for interview, conducting interviews by a diverse panel, asking job-related questions, and maintaining documentation of selection criteria.
- 114.49.4 The Elections Commission shall utilize appropriate job-related, non-discriminatory screening devices which may include but not be limited to resumes, updated applications, skills checklists, writing exercises, work samples, and performance reviews.
- 114.49.5 The Elections Commission shall notify the persons on the list of qualified applicants of the available position and selection process. The Notice shall include a minimum response period of five (5) business days and ten (10) business days in the event supplemental information is required.

**Sec. 114.50 Appointment of the Director of Elections**

- 114.50.1 Appointment to the position of Director of Elections shall be made pursuant exclusively to the provisions of Charter Section 13.104 and Civil Service Commission Rule 114, Article IX. Civil Service Commission Rules covering a civil service employee in another position in the same or different class, including but not limited to those Rules on Status and Layoff, shall not apply to appointment to the position of Director of Elections. Thus, by way of example but not limitation, a permanent civil service employee with greater seniority shall not have the right or preference for appointment to a vacant Director of Elections position nor the right to displace the incumbent Director of Elections with less seniority.

**Sec. 114.50 Appointment of the Director of Elections (cont.)**

- 114.50.2** The Director of Elections shall be appointed permanent civil service by the Elections Commission from a list of qualified applicants for a term of five (5) years. The term shall commence upon the appointment date of the person selected.
- 114.50.3** The record of appointment shall be on the prescribed form noting that the appointment has been made in accordance with Charter Section 13.104 and Civil Service Commission Rule 114, Article IX.
- 114.50.4** Pending the appointment of the Director of Elections, the Elections Commission may make a temporary out-of-class assignment or a provisional appointment. Temporary out-of-class assignment or provisional appointment shall not be made to bypass the established selection procedures provided in this Rule. Temporary out-of-class assignment or provisional appointment may be approved while an appointment through the regularly established procedures is pending and shall be limited to ninety (90) days. Any extension beyond the ninety (90) days must be approved by the Civil Service Commission in increments of no more than sixty (60) days apiece. The selection procedures provided in this Rule shall be effectuated expeditiously.

**Sec. 114.51 Appointment Date**

- 114.51.1** In accordance with Charter Section 13.104, no less than thirty (30) days before the expiration of the Director of Election's five (5)-year term, the Elections Commission shall appoint a Director of Elections for the next term. In this circumstance, the appointment date shall be the date on which the person starts work in a permanent civil service capacity as Director of Elections, which date may be no sooner than the first day following the last day of the term that is coming to an end.
- 114.51.2** Except as stated in Rule 114.51.4, if an appointment of the Director of Elections is made in some circumstance other than the impending completion of a Director of Election's five (5)-year term, the appointment date shall be the date on which the person starts work in a permanent civil service capacity as Director of Elections.
- 114.51.3** The Elections Commission and the Department of Human Resources shall expedite the appointment processing necessary to effectuate the appointment of the Director of Elections.
- 114.51.4** For the Director of Elections who is in office as of November 3, 2003, the appointment date shall be the date on which the Elections Commission

**Sec. 114.51 Appointment Date (cont.)**

**114.51.4 (cont.)**

acted to select the person to be Director of Elections in a permanent civil service capacity.

**Sec. 114.52 Probationary Period**

**114.52.1** The final phase of the selection process shall include a probationary period that conforms to the requirements of Rule 117 – Probationary Period, except that Rules on the Voluntary Resumption of the Probationary Period (Rule 117.8) shall not apply. The Elections Commission may release the Director of Elections at anytime during the probationary period. The decision of the Elections Commission to release the Director of Elections during the probationary period shall be final.

**114.52.2** In accordance with Rule 114.53.4, appointment of the incumbent to a new term shall not require a new probationary period.

**Sec. 114.53 Renewal of Term**

**114.53.1** In accordance with Charter Section 13.104, no less than thirty (30) days before the expiration of the Director's term, the Elections Commission shall select a Director for the next term. The Elections Commission may appoint the incumbent Director of Elections for an additional five (5)-year term.

**114.53.2** The Elections Commission may in its discretion renew the incumbent's term, without engaging in the competitive selection process specified in this Rule.

**114.53.3** In the alternative, the Elections Commission may in its discretion again engage in the competitive selection process specified in this Rule, and renew the incumbent's term in the event the incumbent successfully competes in the process.

**114.53.4** In accordance with Rule 114.52.2, renewal of the incumbent's term shall not require a new probationary period.

**Sec. 114.54 Employment Rights**

**114.54.1** Notwithstanding the designation of the Director of Elections as a permanent civil service appointment, and notwithstanding the rights that normally accompany such a designation, upon the end of the Director's term as defined in Rule 114.58.1, there shall be no accrued right to return



**Sec. 114.54 Employment Rights (cont.)****114.54.1 (cont.)**

to the position or receive special consideration for or claim to the position. Thus, a former Director has no special claim to return to the position or right to receive special consideration for the position. This provision shall not preclude a former Director from applying for the position or preclude consideration of experience as Director in evaluating candidates for the position.

**114.54.2** Except as stated herein, this Rule 114, Article IX is not intended to interfere with the ongoing relationship between the Elections Commission and the Director of Elections or undermine the independence of the Elections Commission as established by the City Charter. Except as stated herein, if the application of a Civil Service Commission Rule to the Director would seriously undermine the authority of the Elections Commission over the Director, that Rule shall not apply. By way of example but not limitation, notwithstanding the designation of the Director of Elections as a permanent civil service appointment, for purposes of Rule 120 (Leaves of Absence), the Director shall have only those leave rights customarily afforded department heads.

**114.54.3** The Director of Elections is both an officer and employee and shall be subject to those provisions in Rule 118 (Conflict of Interest) governing officers or employees. Further, the Director shall be subject to the provisions of Rule 118.2 governing part-time employment. However, in the case of the Director, the powers vested in the Human Resources Director under Rule 118.2 shall be vested exclusively in the Elections Commission, with no power of appeal to the Human Resources Director or the Civil Service Commission.

**114.54.4** This Rule 114, Article IX shall not abrogate those employment rights customarily afforded by federal, state, and local law to department heads.

**Sec. 114.55 Release from Term Appointment**

Should the Elections Commission decide not to renew the incumbent's term, the Director of Elections shall be released. The decision of the Elections Commission to renew or not renew the term appointment shall be final.

**Sec. 114.56 Removal for Cause**

**114.56.1** In accordance with Charter Section 13.104, following the successful completion of the probationary period and during the term appointment, the Elections Commission may remove the Director of Elections for cause

**Sec. 114.56 Removal for Cause (cont.)****114.56.1 (cont.)**

upon written charges and following a hearing. The Elections Commission shall present the written charges to the Director of Elections no less than thirty (30) days before the scheduled hearing. The hearing shall be held not less than thirty (30) days after notice of charges, unless the Director of Elections requests an earlier hearing date and the Elections Commission agrees to the request.

**114.56.2** The hearing shall be held no later than forty-five (45) days after notice of charges unless the Director of Elections and the Elections Commission agree to an extension, or in the absence of mutual agreement, either party seeks and obtains the approval of the Civil Service Commission for an extension. The Elections Commission shall render its decision no later than ten (10) days following the conclusion of the hearing.

**114.56.3** Pending a hearing and decision of the Elections Commission to remove the Director of Elections for conduct involving misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety, the Elections Commission may place the Director of Elections on unpaid administrative leave. Pending the hearing and decision of the Elections Commission on the removal of the Director of Elections, the Elections Commission may make a temporary out-of-class assignment or provisional appointment.

**114.56.4** For removal on charges other than those listed in Section 114.56.3, the incumbent shall continue to occupy the position of Director of Elections until the completion of the hearing and decision by the Elections Commission.

**Sec. 114.57 Appeal to the Civil Service Commission following Removal for Cause**

**114.57.1** In the event of removal for cause as set forth in this Rule and Charter Section 13.104, the Director of Elections shall have the right of appeal to the Civil Service Commission.

**114.57.2** A notice of termination from the Elections Commission to the Director of Elections detailing the specific reason(s) for the termination, shall serve as official notice of such termination.

**Sec. 114.57 Appeal to the Civil Service Commission following Removal for Cause (cont.)**

114.57.3 The notice of termination must include the following information:

- 1) The Director of Elections has the right to a hearing before the Civil Service Commission provided that a request for hearing is made in writing and is received by the Executive Officer within twenty (20) calendar days from the date of removal from the term appointment or from the date of mailing of the Notice of Termination whichever is later. In the event the 20<sup>th</sup> day falls on a non-business day, the deadline shall be extended to the close of business on the first (1<sup>st</sup>) business day following the 20<sup>th</sup> day.
- 2) The stated reason(s) for the termination must be enumerated. Records of warnings, reprimands and previous suspensions, if applicable, must be attached.
- 3) Recommendation by the Elections Commission on future employment restrictions.

114.57.4 Upon receipt of an appeal in the Civil Service Commission office, the Executive Officer shall place the matter on the next Regular or Special meeting agenda consistent with applicable public meeting laws to determine time frames for hearing the appeal.

114.57.5 The hearing of the appeal must be scheduled no later than sixty (60) days from the date of receipt of the appeal. Extension beyond sixty (60) days shall be at the discretion of the Civil Service Commission, based on such factors as whether the appellant and the Elections Commission have agreed to the extension; whether an extension is consistent with the purposes underlying Charter Section 13.104 and related Charter provisions; and whether an extension would serve the interests of justice.

114.57.6 Unless the appeal clearly and expressly states otherwise, it shall be treated by the Civil Service Commission as an appeal of both the decision of the Elections Commission to remove the Director of Elections and the recommendation of the Elections Commission on future employment restrictions.

If the appeal is clearly and expressly limited to only the recommendation of the Elections Commission as to future employment restrictions, the Civil Service Commission shall take one or more of the following actions:

- 1) Cancel any current examination and eligibility status;

**Sec. 114.57 Appeal to the Civil Service Commission following Removal for Cause**

**114.57.6 (cont.)**

- 2) Restrict future employment as it deems appropriate;
- 3) Return the person to the permanent civil service classification immediately held prior to acceptance of the position of Director of Elections. If necessary, layoff in the affected classes shall follow.

**114.57.7** In accordance with Charter Section 13.104, on appeal of the decision of the Elections Commission to remove the Director of Elections, the Civil Service Commission shall be limited to consideration of the record before the Elections Commission; however, the Civil Service Commission may independently evaluate and weigh evidence and may in its discretion consider evidence proffered to the Elections Commission that the Elections Commission excluded and may in its discretion exclude evidence that the Elections Commission considered. In its discretion, and depending on the facts of a particular case, the Civil Service Commission may consider the presence or absence of contemporaneous documentation by the Elections Commission of facts supporting the removal for cause, and/or the presence or absence of documentation of such facts in a regular performance appraisal of the Director, as probative of the validity of the removal for cause.

**114.57.8** With respect to the decision of the Elections Commission to remove the Director of Elections, the Civil Service Commission shall either:

- 1) Grant the appeal, vacate the decision of the Elections Commission, and order immediate reinstatement of the person to the position of Director of Elections. In reinstating the person, the Civil Service Commission may order payment of salary to the person for the period of the removal; or
- 2) Deny the appeal, uphold the decision of the Elections Commission, and declare the person dismissed from the position of Director of Elections. In denying the appeal, the Civil Service Commission may return the person to the permanent civil service classification immediately held prior to acceptance of the position of Director of Elections. If necessary, layoff in the affected classes shall follow.
  - a) If the Civil Service Commission upholds the decision of the Elections Commission to remove the Director of Elections, the appellant may elect to withdraw the appeal on future employment restrictions.

**Sec. 114.57** **Appeal to the Civil Service Commission following Removal for Cause**  
**(cont.)**

**114.57.8** (cont.)

b) Should the appellant not withdraw the appeal on future employment restrictions the Civil Service Commission may adopt the recommendations of the Elections Commission on future employment restrictions, cancel any current examination and eligibility status, or restrict future employment as it deems appropriate.

**114.57.9** The decision of the Civil Service Commission on the appeal shall be final

**Sec. 114.58** **End of Term**

**114.58.1** The term of the Director of Elections shall end upon release during the probationary period, removal for cause, death, appointment to another position in the City service, including a position in the classified service at the San Francisco Community College District or the San Francisco Unified School District, resignation or completion of the five (5)-year term without renewal of the appointment for another term. In the case of removal for cause, the term shall end:

1) If no appeal on the decision of the Elections Commission to remove the Director of Elections is filed, upon completion of the time period for filing an appeal with the Civil Service Commission as specified in this Rule; or,

2) If an appeal on the decision of the Elections Commission to remove the Director of Elections is filed within the time period for filing an appeal, upon the hearing and decision of the appeal by the Civil Service Commission, if the Civil Service Commission upholds the removal for cause.

**114.58.2** In the interim, between removal for cause by the Elections Commission and the conclusion of the appeal process on the decision to remove the Director of Elections, the Elections Commission may make a temporary out-of-class assignment or provisional appointment while the appeal process is underway.

## Rule 214

### Appointments

Applicability: Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

#### Article I: General Provisions

- Sec. 214.1    Personnel Requisitions
- Sec. 214.2    Permanent Appointment – Definition
- Sec. 214.3    Method of Appointment – Permanent Appointment
- Sec. 214.4    Temporary Appointment
- Sec. 214.5    Provisional Appointment
- Sec. 214.6    Restrictions on Provisional Appointment
- Sec. 214.7    Advancement from Part-Time Position to Full-Time
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#### Article II: Emergency And Temporary “Near List” Appointments

- Sec. 214.9    Temporary “Near List” Appointment Authorized
- Sec. 214.10    Emergency Provisional Appointment Pending Canvassing of Eligible List
- Sec. 214.11    Restriction on Compensation of Emergency Provisional Appointees
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**Article III: Appointment by Reinstatement**

**Sec. 214.13** **Reinstatement**

**Sec. 214.14** **Reinstatement Following Transfer**

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**Article IV: Reappointment**

**Sec. 214.16** **Reappointment after Resignation**

**Sec. 214.17** **Restrictions on Reappointment**

**Article IV: Appointment By Transfer**

**Sec. 214.18** **Transfer - General**

**Sec. 214.19** **Transfer from Position Not Full-Time**

**Sec. 214.20** **Transfers Occasioned by Reduction of Force Due to Technological Advances, Automation, or the Installation of New Equipment**

**Sec. 214.21** **Transfers Occasioned by the Transfer of Functions from One Department to Another**

**Sec. 214.22** **Limited-Term Transfer**

**Article VI: Exempt Appointment**

**Sec. 214.23** **Exclusions from Civil Service Appointment**

**Sec. 214.24** **Charter Limit on Certain Categories of Exempt Appointments**

## Rule 214

### Appointments

#### Article I: General Provisions

Applicability: Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

**Sec. 214.1**     **Appointment - General Provisions**

**214.1.1**     **Report of Appointment**

Except with the permission of the Human Resources Director, all appointments shall be reported by the appointing officer to the Department of Human Resources on the prescribed form prior to the appointee's starting date of employment.

**214.1.2**     **Validation of Appointment**

No appointee may begin working except with permission of the Human Resources Director until the appointing officer has received official notice of validation of appointment from the Department of Human Resources.

**214.1.3**     **Finality of Appointing Officer's Decision**

Except as otherwise provided in these Rules, ordinances, or the Charter, the decision of the appointing officer in all matters regarding appointment shall be final.

**Sec. 214.2**     **Permanent Appointment - Definition**

A permanent appointment is an appointment made as a result of certification from an eligible list to a permanent position.

**Sec. 214.3**     **Method of Appointment - Permanent Appointment**

Permanent appointments shall be made in the following order of priority:

**214.3.1**     by the return to duty of a permanent holdover;

**214.3.2**     by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees.



**Sec. 214.3 Method of Appointment - Permanent Appointment (cont.)**

214.3.3 by the appointing officer through use of any one of the following options:

- 1) advancement of a part-time employee to full-time status consistent with the requirements found elsewhere in this Rule; or
- 2) transfer; or
- 3) from requests for reinstatement other than by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees; or
- 4) by reappointment following resignation; or
- 5) by certification by the Police Department Personnel Division of eligibles from a regular list or reemployment register.

214.3.4 Exercise of one option will preclude the use of any other method of appointment except as a result of any settlement arising following an appeal or other litigation. Departments may also fill permanent vacancies through internal reassignment of permanent employees consistent with departmental procedures. Such reassignments are not within the jurisdiction of the Civil Service Commission or the Department of Human Resources except as specifically provided elsewhere in these Rules.

**Sec. 214.4 Temporary Appointment**

214.4.1 Temporary appointment shall be one of the following:

- 1) An appointment from an eligible list to a temporary position. Such appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 1040 hours; or
- 2) An appointment from an eligible list to a temporary position established to perform a special project or investigation. The establishment of such position shall require the express approval of the Human Resources Director. It must be readily foreseeable that the duties and responsibilities and products must be completed by the time limit of a maximum of the hourly equivalent of 260 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 2080 hours.

**Sec. 214.4    Temporary Appointment (cont.)**

3) When no eligible list exists or no eligible is available on an existing eligible list for a position in the class requisitioned by an appointing officer, and immediate service in the position is required by the appointing officer and another eligible list exists which is deemed by the Human Resources Director to be suitable to provide temporarily the service desired, the Human Resources Director shall certify for civil service temporary appointment an eligible from such eligible list.

**214.4.2    Expiration of Temporary Appointment**

1) Upon expiration of the maximum allowable time period or upon expiration of the appointee's temporary position, temporary appointees shall be separated as provided below.

2) Temporary appointees so separated shall be returned to the eligible list from which appointed if such list has not expired.

3) Temporary appointees returned to the eligible list or to the holdover roster shall be immediately available for certification to temporary positions:

- under another appointing officer; or
- to the same appointing officer to another position with the express approval of the Human Resources Director.

In the case of represented classes, the Human Resources Director shall provide prior notification to the appropriate bargaining representative of intention to authorize such immediate certification and shall, upon request, meet and confer concerning the proposed certification.

4) Uniformed Ranks of the Police Department and temporary appointees, except those appointed from a "near list", whose list has expired shall be ranked on the holdover roster for the class.

**214.4.3** Layoff due to lack of work or lack of funds or termination shall be as provided elsewhere in these Rules.

**Sec. 214.5    Provisional Appointment**

**214.5.1** Provisional appointment shall be an appointment to a permanent or temporary position when there is no available eligible.

**Sec. 214.5    Provisional Appointment (cont.)**

**214.5.1 (cont.)**

- 1) A provisional appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular work schedule of the employee; however, in no case may the maximum duration exceed 1040 hours in any class or in any department in a calendar year.
  - 2) Except with the express approval of the Human Resources Director, when an eligible list is adopted, all provisional appointments in the affected class shall expire.
- 214.5.2** Provisional appointments may be extended with the approval of the Human Resources Director for additional periods of time not to exceed, for each extension, the time limitations specified above.
- 214.5.3** Provisional appointees serve at the discretion of the appointing officer.
- 214.5.4** Provisional appointees shall be separated as provided below at the expiration of the maximum allowable time or upon expiration of the appointee's temporary position.
- 214.5.5** The Human Resources Director shall promulgate policies and procedures for making provisional appointments which shall include provisions that appointments shall be made on the basis of a combination of merit factors, affirmative action and, if promotive, consideration of performance appraisal ratings and seniority.
- 214.5.6** Layoff of provisional appointees due to lack of work, lack of funds or termination shall be as provided elsewhere in these Rules.
- 214.5.7** A civil service appointee who is laid off, terminated or who resigns from a provisional appointment shall return to the appointee's permanent position.
- 214.5.8** A provisional appointee resigning from employment shall complete the prescribed resignation form.
- 214.5.9** Provisional appointees shall acquire, by virtue of serving under provisional appointment, no right or preference for permanent appointment.

**Sec. 214.6**     **Restrictions on Provisional Appointment**

As provided in Charter Sections 10.105 and 18.110:

- 1) Provisional appointments for civil service positions for which no eligible list exists shall not exceed three years.
- 2) Provisional appointments may only be renewed beyond three years with the approval of the Board of Supervisors and upon certification by the Human Resources Director that for reasons beyond his or her control the Department of Human Resources has been unable to conduct examinations for these positions.
- 3) Unless provisional appointments are renewed as provided in this section or are transitioned to regular civil service appointment through either the competitive examination process or as provided in Charter Section 18.110, provisional employees appointed before July 1, 1996 shall be laid off by June 30, 1999.

**Sec. 214.7**     **Advancement from Part-Time Position to Full-Time**

After one year of continuous permanent satisfactory service in a part-time position, the senior appointee in a class in the department may be advanced by the appointing officer to a full-time position. Advancement from a part-time position shall require a new probationary period.

**Sec. 214.8**     **Separation of Temporary and Provisional Appointees Upon Expiration of Term of Employment**

- 214.8.1 No temporary or provisional appointment shall exceed the maximum allowable duration provided in these Rules, and upon expiration of that period of time, the appointee shall be separated from the position.
- 214.8.2 The appointee's separation shall be based upon the expiration of the maximum allowable duration or upon expiration of the appointee's temporary position. Such separation shall be without reference to the layoff or termination provisions of these Rules. The appointee shall be notified in writing:
  - 1) at the time of appointment as to the duration of such appointment; and
  - 2) at least ten (10) working days in advance of the final date.

## Rule 214

### Appointments

#### Article II: Emergency And Temporary "Near List" Appointments

Applicability: Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

**Sec. 214.9**     **Temporary "Near List" Appointments Authorized**

When no list of eligibles exists or no eligible is available on an existing list for a position in the class requisitioned by the appointing officer, and immediate service in the position is required by the appointing officer and another list exists which is deemed by the Human Resources Director to be suitable to provide temporarily the service desired, the Commission shall certify for civil service temporary appointment an eligible from such list.

**Sec. 214.10**    **Emergency Provisional Appointment Pending Canvassing of Eligible List**

**214.10.1** If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in Section A8.329 of the Charter, the Human Resources Director may authorize the appointing officer to make a provisional or emergency appointment thereto for a period not exceeding thirty (30) working days.

**214.10.2** Such provisional or emergency appointment, however, shall cease prior to the expiration of such thirty (30) working days at the time a civil service eligible reports for duty as provided in Section A8.329 of the Charter.

**Sec. 214.11**    **Restriction on Compensation of Emergency Provisional Appointees**

No person shall be compensated under any provisional or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this Rule for a period exceeding 130 working days in any fiscal or calendar year, and no claim or warrant therefore shall be approved, allowed or paid for any compensation in excess of such 130 working days in any fiscal or calendar year.

**Sec. 214.12 Mandate for Funding Department of Human Resources to Conduct Examinations**

If no eligibles are available for appointment to a permanent position in the class requested by the appointing officer, the Department of Human Resources or its designee shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, the Department of Human Resources or its designee shall report to the Mayor the estimated cost thereof, the Mayor shall request and the Board of Supervisors shall make supplemental appropriation therefore in the manner provided herein for supplemental appropriations.

## Rule 214

### Appointments

#### Article III: Appointment By Reinstatement

Applicability: Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

**Sec. 214.13**    **Reinstatement**

- 214.13.1** A permanent employee who accepts permanent appointment to a position in another class shall be permanently separated from any former position, with the following exception: the employee may be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the appointing officers in both the present department and the former department or the department(s) to which reinstatement is requested. A copy of the approved form(s) must be filed with the Department of Human Resources.
- 214.13.2** An employee serving a promotive probationary period shall be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the Human Resources Director.
- 1) A request for reinstatement under this section shall not extend the probationary period or infringe upon an appointing officer's authority to terminate an employee.
  - 2) An approved request for reinstatement shall remain in effect until the employee is either reinstated, separated, refuses an offer of reinstatement, or such a request is canceled by the Human Resources Director.
  - 3) Separation of the employee shall nullify all requests for reinstatement approved under this section.
  - 4) The employee shall receive one offer of reinstatement. Failure to accept a reinstatement offer shall forfeit all rights to reinstatement under this section.
  - 5) A reinstatement under this section shall be under the Rule of One.
  - 6) If more than one request for reinstatement under this section is on file, the person with the greater seniority in the class to which reinstatement is requested shall be reinstated first.

**Sec. 214.13 Reinstatement (cont.)**

214.13.3 Reinstatement to a position in a former class and department shall be with former civil service seniority standing in that department and no probationary period shall be required.

214.13.4 Reinstatement to a position in a former class in another department shall require a new civil service seniority date in that department from the date of such reinstatement and shall require a new probationary period.

**Sec. 214.14 Reinstatement Following Transfer**

An appointment by transfer shall cancel all rights to the position from which transferred except that, prior to the completion of the probationary period, a transferee may request reinstatement to a vacancy in a position in the same class and department from which transferred in accordance with the procedures established in this Rule.

**Sec. 214.15 Restrictions on Reinstatement**

Appointments by reinstatement are subject to the appointment provisions found elsewhere in this Rule.



## Rule 214

### Appointments

#### Article IV: Reappointment

Applicability: Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

##### Sec. 214.16 Reappointment after Resignation

- 214.16.1 A permanent appointee who has completed the probationary period who resigns and whose services have been certified as satisfactory by the appointing officer, or except as otherwise ordered by the Commission in the case of services certified as unsatisfactory, shall be permanently separated from such appointment except as follows:
- 214.16.2 A separate request must be filed with each department to which reappointment is desired. An approved copy of the reappointment form(s) must be filed with the Department of Human Resources.
- 214.16.3 Consistent with the above procedure, members of the Uniformed Ranks of the Police Department shall have two (2) years from the effective date of the resignation to request and to be reappointed.
- 214.16.4 If a vacancy does not exist in the class from which resigned from City and County Service, or, if otherwise approved by the Human Resources Director, subject to appeal to the Civil Service Commission, a resignee may re-enter the service to a vacancy in any former class in which the probationary period had been completed in any department with the approval of the appointing officer.
- 214.16.5 When reappointed, the resignee shall enter the service as a new appointee with no rights based on prior service except such as may be specifically provided elsewhere in these Rules, in the Vacation, Sick Leave and any other Ordinances as appropriate, and in the examination procedures with respect to credit for prior City and County Service.

##### Sec. 214.17 Restrictions on Reappointment

Reappointments are subject to the appointment provisions found elsewhere in this Rule.

## Rule 214

### Appointments

#### Article V: Appointment By Transfer

Applicability: Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

##### Sec. 214.18 Transfer - General

- 214.18.1 A transfer of a permanent appointee who has completed the probationary period to a position in the same class **under another appointing officer** shall be requested on the form prescribed by the Human Resources Director.
- 214.18.2 A properly completed transfer form approved by the appointing officer or designee of the department to which transfer is requested shall be filed in the requested department. A copy of the approved form shall be filed with the Department of Human Resources and in the employee's current department within two (2) business days of approval.
- 214.18.3 Appointees accepting a new appointment by transfer shall give a minimum period of notice prior to separation from their current department of fifteen (15) working days, unless the current department approves a shorter period of notice.
- 214.18.4 Appointments by transfer are subject to the appointment and probationary provisions of these Rules.
- 214.18.5 Appointment by transfer will cancel all other transfer requests which have been filed.

##### Sec. 214.19 Transfer from Position Not Full-Time

A permanent appointee to a part-time position or a position not full-time on an annual basis and who serves under such appointment continuously for one (1) year, may request transfer to a regular full-time position in accordance with the provisions of this Rule.

**Sec. 214.20 Transfers Occasioned by Reduction of Force Due to Technological Advances, Automation, or the Installation of New Equipment**

Permanent civil service employees who have completed their probationary period and who are subject to layoff because of technological advances, automation, the installation of new equipment, or the transfer of functions to another jurisdiction may submit a request to the Human Resources Director for transfer to a position within their capacities to perform, whether or not within the class for which they qualified for appointment. Such request for transfer shall be subject to the following:

- 214.20.1 Request for transfer shall be submitted on the form prescribed by the Human Resources Director and shall be approved by the appointing officer or designee of the department to which transfer is requested.
- 214.20.2 The position to which transfer is requested shall not be to a class with more than a five percent (5%) increase in compensation.
- 214.20.3 The Human Resources Director may administer any examinations which, in the judgment of the Human Resources Director, are deemed advisable to test the capacity of the employee to perform the duties in the position to which transfer is requested, unless the transfer is to a position in the same class or a closely related class.
- 214.20.4 Employees so transferred, who are not suited to the position, may be given an opportunity for further transfer to other positions within their capacities to perform.
- 214.20.5 In the event of layoff of an appointee who occupies a position through transfer under the provisions of this section, such layoff shall be in accordance with the applicable provisions of the Layoff Rule. Seniority shall be calculated from the date of certification in the class from which transferred.
- 214.20.6 Employees transferred under the provisions of this section may request reinstatement to the former class in accordance with the Reinstatement Rule.
- 214.20.7 In the event that more than one approved transfer to the same class is on file in the Department of Human Resources, preference shall be given to the appointee who has the longest service under civil service permanent appointment in the class from which layoff is to be made.
- 214.20.8 An appointee transferred under the provisions of this section shall serve a probationary period in the new class.

**Sec. 214.21 Transfers Occasioned by the Transfer of Functions from One Department to Another**

- 214.21.1 When, in accordance with Charter provisions, part of the functions and duties of any department are transferred to another department, the employees performing such functions and duties shall be transferred therewith.
- 214.21.2 Such employees shall retain in their new department the same salary and civil service seniority status as they had in the department from which transferred.
- 214.21.3 Employees transferred in accordance with this Rule shall not be required to serve a new probationary period.

**Sec. 214.22 Limited-Term Transfer**

**214.22.1 Definition**

The transfer of a permanent appointee to a vacant position in the same class under another appointing officer for a specified duration of time may be approved by the appointing officers of both departments and the Human Resources Director and shall be known as a "limited-term transfer."

**214.22.2 Purpose**

The purpose of a limited-term transfer is to more efficiently utilize and exchange human resources among the departments of the City and County; to allow employees exposure and training in other departments; and to provide a mechanism for reducing staffing levels during slow periods or periods of fiscal emergency and to temporarily increase staffing during peak work periods.

**214.22.3 Types of Limited-Term Transfers**

- 1) **Voluntary:** A limited-term transfer may be initiated on the written request of an employee on the form prescribed by the Human Resources Director. Upon receipt of a written request from an employee and no less than fifteen (15) working days prior to implementation, the designated union of the employee shall be provided written notice. The union shall have five (5) working days from the date of the notice to request a meeting with the appointing officer/designee. Within five (5) working days from the date of the union request, a meeting shall be held. If the union is unavailable to meet within the five (5) working days following the request

**214.22.3 Types of Limited-Term Transfers (cont.)****1) Voluntary: (cont.)**

to meet, the unavailability of the union shall constitute a waiver of the right to meet. Unavailability of the appointing officer/designee shall constitute an extension of the timelines. The timelines may also be extended through mutual written agreement.

**2) Mandatory:** A permanent or probationary employee may be transferred by the employee's appointing officer for a specified period up to a maximum of six (6) months in any calendar year to a position in the same class under another appointing officer. Such transfers shall be made by class in reverse order of seniority in the class in the department after all permanent and probationary employees in the class have been canvassed and all more senior employees have been notified and have waived the right to request a voluntary limited-term transfer. The employee shall receive at least five (5) working days written notice in advance of the effective date of the transfer and shall be given an opportunity, if requested, to meet and confer with the appointing officer/designee and the designated union representative. No permanent employee shall be placed on mandatory limited-term transfer if there are temporary or provisional employees in the same class in the department from which the transfer originates.

**214.22.4 Expiration and Extension**

1) Limited-term transfers will remain in force for the period specified unless abridgment is approved by both appointing officers.

2) Voluntary limited-term transfers may be extended for additional periods of time with the approval of the employee, the appointing officer and the Human Resources Director.

3) Upon expiration of the period of the transfer, the transferee shall be automatically reinstated to a permanent position in the class and department from which transferred.

**214.22.5 Probationary Period**

1) A limited-term transferee shall not serve a new probationary period; however, notwithstanding any other provision of these Rules, with the approval of the appointing officer in the department to which transferred, the time served during a limited-term transfer, or a portion thereof, may be counted toward the completion of the probationary period if the transferee requests and is granted a permanent transfer and commences a probationary period in the new department.

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**Sec. 214.22 Limited-Term Transfer (cont.)**

**214.22.5 Probationary Period (cont.)**

2) An appointee who is transferred under the provisions of this Rule while serving a probationary period in the department from which transferred shall complete the probationary period upon reinstatement to the original department; however, an appointing officer may, notwithstanding any other provision of these Rules, credit the time served during a limited-term transfer or a portion thereof toward the completion of the probationary period in the original department.

**214.22.6 Disciplinary Action**

A limited-term transferee is an appointee in the department to which transferred during the period of the transfer for the purpose of disciplinary action.

**214.22.7 Temporary Positions**

Limited-term transfers which are not made to permanent positions may be made to positions which are funded on a temporary basis with the certification of the Controller that funds for the payment of mandatory fringe benefits are available in the department to which transferred. Appointees so transferred retain all the rights and benefits of permanent appointees.

**214.22.8 Seniority**

Appointees returning to their original departments following a limited-term transfer are reinstated with full seniority. No deduction from seniority in the original department shall be made for any period of limited-term transfer.

**214.22.9 Layoff**

An appointee who is laid off while on a limited-term transfer shall be automatically reinstated to a permanent position in the class in the department from which transferred.

## Rule 214

### Appointments

#### Article VI: Exempt Appointment

**Applicability:** Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

##### Sec. 214.23 Exclusions from Civil Service Appointment

All permanent employees of the City and County shall be appointed through the civil service process by competitive examination unless exempted from the civil service examination and selection process in accordance with Charter provisions. Appointments excluded by Charter from the competitive civil service examination and selection process shall be known as exempt appointments. Any person occupying a position under exempt appointment shall not be subject to civil service selection, appointment, and removal procedures and shall serve at the pleasure of the appointing officer.

##### Sec. 214.24 Charter Limit on Certain Categories of Exempt Appointments

214.24.1 The proportion of full-time employees in the exempt categories included under Charter Sections 10.104-1 through 10.104-12 to the total number of civil service employees of the City and County shall not be greater than the proportion existing on July 1, 1994, except as authorized in this Article. As certified by the Civil Service Commission at its meeting of November 18, 1996, the ratio on July 1, 1994 of full-time exempt employees to the total full-time City and County work force was two percent (2%).

214.24.2 In accordance with Charter Section 10.104, the Civil Service Commission may, by express approval, authorize that full-time positions conforming to the criteria established in this Section in the categories defined in Charter Sections 10.104-1 through 10.104-12 in excess of the Charter limitation be excluded from civil service selection and removal procedures and be filled through exempt appointment.



**Sec. 214.24 Charter Limit on Certain Categories of Exempt Appointments (cont.)**

**214.24.3** Requests for exemption under this section must conform to the following:

- 1) The position to be exempted must be in one of the categories defined in Charter Sections 10.104-1 through 10.104-12.
- 2) The action of exempting a particular position shall not directly affect the civil service rights of an incumbent regularly occupying such position on a permanent civil service basis.
- 3) The Human Resources Director recommends the exemption and certifies that the exemption action shall not directly affect an incumbent civil service appointee to the position.
- 4) The request for exemption is made and approved by an appointing officer or an elected official; a request from a department under the City Administrator must be approved by the City Administrator.
- 5) The official making the request provides written justification as to the reasons the position should be exempted.

**214.24.4** An appointing officer or an elected official may submit a request to exempt a position under this section to the Civil Service Commission through the Human Resources Director. If the Director recommends approval, the request shall be transmitted to the Civil Service Commission for review and action; if the Director denies a request, the appointing officer shall be notified in writing of the denial and the reasons for such action.

**214.24.5** The decision of the Human Resources Director is appealable to the Civil Service Commission within thirty (30) calendar days of the date of the notice of denial. The Commission decision on the appeal shall be final.

**214.24.6** This section as adopted by the Civil Service Commission at its meeting of November 18, 1996 was approved by the Board of Supervisors on January 3, 1997 (Resolution Number 222-96-4).

Sec. 214.24 Charter Limit on Certain Categories of Exempt Appointments (cont.)

Sec. 214.24.7 Charter Limit on Categories 16, 17 and 18

214.24.8 Temporary and Seasonal Exemptions under Charter Section 10.104-16

- 1) Temporary and seasonal appointments shall be TEX, with full-time, part-time, or as-needed schedules.
- 2) No person, regardless of work schedule, shall exceed 1040 hours of work in any fiscal year.

214.24.9 Temporary Substitute/Backfill Exemption under Charter Section 10.104-17

- 1) An appointment proposed for exemption under Charter Section 10.104-17 shall be for a temporary substitute or back-fill for a civil service employee on an authorized leave of absence (\*e.g., an employee on pregnancy or other medical leave, etc.)
- 2) The Human Resources Director may approve an appointment in increments of up to 1040 hours (six months); however, the appointment shall not exceed a maximum duration of 4160 hours (not to exceed two years by Charter requirement, or a total of four six-month increments).

214.24.10 Special Project Exemption under Charter Section 10.104-18

- 1) An appointment authorized for exemption under Charter Section 10.104-18 must be to a position created for or dedicated to a special project, or for professional services, not to exceed three years by Charter requirement.
- 2) Funding for appointments to perform professional services as authorized under Charter Section 10.104-18 shall be for a limited term (e.g., a grant or a "one-time only" appropriation for a specific or special purpose). Departmental requests for such appointments must certify that the funding is limited, identify the funding source and anticipate duration of such funding source, and adequately describe the professional services to be performed.
- 3) Departmental requests for appointments to a special project as authorized under Charter Section 10.104-18 must adequately define the special project or professional service to be provided (including but not limited to a description of the project objective, scope of work, and the specific anticipated duration of the project).

## Rule 214

### Appointments

#### Article VII: POST Certification Advancement In Class

**Applicability:** Rule 214 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department

#### Sec. 214.25 Advancement In Class Based on POST Certification

- 214.25.1** Notwithstanding any other provision of these Civil Service Commission Rules, advancement in class based on POST Certification shall be administered as provided in this Rule 214, Article VII.
- 214.25.2** The Chief of the Police Department, subject to the authority of the Human Resources Director, shall have the authority to advance employees in those classes referenced in Section 214.25.3 below.
- 214.25.3** Persons receiving a permanent appointment to a class in accordance with Civil Service Commission Rules, may advance in class based upon obtaining POST Certification. This Rule shall apply to the following Classes.

Civil Service Class Title	Permanent Civil Service Class	Advancement POST Intermediate Certification	Advancement POST Advanced Certification
Police Officer	Q2	Q3	Q4
Assistant Inspector	Q35	Q36	Q37
Sergeant	Q50	Q51	Q52
Lieutenant	Q60	Q61	Q62
Captain	Q80	Q81	Q82

#### **214.25.4 Conditions of Advancement**

- a) Eligibility for advancement in class based on POST Certification shall be upon obtaining the certification. Corresponding compensation therein shall be subject to the terms and conditions of the Negotiated MOU and the procedures of the Department.
- b) Such advancement shall not be deemed promotive under the Rules of the Civil Service Commission and shall not require an eligibility examination or the existence of an eligible list.

**Sec. 214.25 Advancement In Class Based on POST Certification (cont.)**

**214.25.4 Conditions of Advancement (cont.)**

- c) Such advancement shall not alter an existing probationary period nor shall it require a new probationary period. Once a POST Certification has been obtained, the advance placement shall be carried forward when appointed from an eligible list to a permanent position in one of the above referenced Classes.
- d) Civil Service Status Seniority shall be determined by the date of the certification that resulted in the appointment to the Permanent Civil Service Class Q2, Q35, Q50, Q60 and Q80; and shall not be altered by advancement in Class as referenced in Section 214.25.3 above.

## **Rule 314 Appointments**

Applicability: Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

### **Article I: General Provisions**

Applicability: Article I, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

### **Article II: Limited Tenure Appointments**

~~Applicability: Article II, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department. The provisions of Article II, Rule 314 shall be limited to time of war as defined in Sec 314.10.~~

### **Article III: Temporary and Emergency Appointments**

~~Applicability: Article III, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.~~

### **Article IV: Appointment by Reinstatement**

Applicability: Article IV, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

### **Article V: Reappointment**

Applicability: Article V, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

### **Article VI: Appointment by Transfer**

Applicability: Article VI, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

### **Article VII: Exempt Appointment**

Applicability: Article VII, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

## **Rule 314 Appointments**

### **Article I: General Provisions**

Applicability: Article I, Rule 314 shall apply all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### **Sec. 314.1      Appointment - General Provisions**

##### **314.1.1      Report of Appointment**

Except with the permission of the Human Resources Director, all appointments shall be reported by the appointing officer to the Department of Human Resources on the prescribed form prior to the appointee's starting date of employment.

##### **314.1.2      Validation of Appointment**

No appointee may begin working except with permission of the Human Resources Director until the appointing officer has received official notice of validation of appointment from the Department of Human Resources.

##### **314.1.3      Finality of Appointing Officer's Decision**

Except as otherwise provided in these Rules, ordinances, or the Charter, the decision of the appointing officer in all matters regarding appointment shall be final.

#### **Sec. 314.2      Permanent Appointment - Definition**

A permanent appointment is an appointment made as a result of certification from an eligible list to a permanent position.

#### **Sec. 314.3      Method of Appointment - Permanent Appointment**

Permanent appointments shall be made in the following order of priority:

##### **314.3.1      by the return to duty of a permanent holdover;**

**Sec. 314.3**      **Method of Appointment - Permanent Appointment (cont.)**

**314.3.2**      by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees.

**314.3.3**      by the appointing officer through use of any one of the following options:

1)      advancement of a part-time or school-term employee to full-time status consistent with the requirements found elsewhere in this Rule; or

2)      transfer; or

3)      from requests for reinstatement other than by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees; or

4)      by reappointment following resignation; or

5)      by certification by the Department of Human Resources of eligibles from a regular list or reemployment register.

**314.3.4**      Exercise of one option will preclude the use of any other method of appointment except as a result of any settlement arising following an appeal or other litigation. Departments may also fill permanent vacancies through internal reassignment of permanent employees consistent with departmental procedures. Such reassignments are not within the jurisdiction of the Civil Service Commission or the Department of Human Resources except as specifically provided elsewhere in these Rules.

**Sec. 314.4**      **Temporary Appointment**

**314.4.1**      Temporary appointment shall be one of the following:

1)      An appointment from an eligible list to a temporary position. Such appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 1040 hours; or

**Sec 314.4      Temporary Appointment (cont.)**

**314.4.1      (cont.)**

2) An appointment from an eligible list to a temporary position established to perform a special project or investigation. The establishment of such position shall require the express approval of the Human Resources Director. It must be readily foreseeable that the duties and responsibilities and products must be completed by the time limit of a maximum of the hourly equivalent of 260 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 2080 hours.

3) When no eligible list exists or no eligible is available on an existing eligible list for a position in the class requisitioned by an appointing officer, and immediate service in the position is required by the appointing officer and another eligible list exists which is deemed by the Human Resources Director to be suitable to provide temporarily the service desired, the Human Resources Director shall certify for civil service temporary appointment an eligible from such eligible list.

**314.4.2      Expiration of Temporary Appointment**

1) Upon expiration of the maximum allowable time period or upon expiration of the appointee's temporary position, temporary appointees shall be separated as provided below.

2) Temporary appointees so separated shall be returned to the eligible list from which appointed if such list has not expired.

3) Temporary appointees returned to the eligible list or to the holdover roster shall be immediately available for certification to temporary positions:

- under another appointing officer; or
- to the same appointing officer to another position with the express approval of the Human Resources Director.

In the case of represented classes, the Human Resources Director shall provide prior notification to the appropriate bargaining representative of intention to authorize such immediate certification and shall, upon request, meet and confer concerning the proposed certification.



**Sec. 314.4**      **Temporary Appointment (cont.)**

**314.4.2**      **Expiration of Temporary Appointment (cont.)**

4) Temporary appointees, except those appointed from a "near list", whose list has expired shall be ranked on the holdover roster for the class.

**314.4.3**      Layoff due to lack of work or lack of funds or termination shall be as provided elsewhere in these Rules.

**Sec. 314.5**      **Provisional Appointment**

**314.5.1**      Provisional appointment shall be an appointment to a permanent or temporary position when there is no available eligible.

1) A provisional appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular work schedule of the employee; however, in no case may the maximum duration exceed 1040 hours in any class or in any department in a calendar year.

2) Except with the express approval of the Human Resources Director, when an eligible list is adopted, all provisional appointments in the affected class shall expire.

**314.5.2**      Provisional appointments may be extended with the approval of the Human Resources Director for additional periods of time not to exceed, for each extension, the time limitations specified above.

**314.5.3**      Provisional appointees serve at the discretion of the appointing officer.

**314.5.4**      Provisional appointees shall be separated as provided below at the expiration of the maximum allowable time or upon expiration of the appointee's temporary position.

**314.5.5**      The Human Resources Director shall promulgate policies and procedures for making provisional appointments which shall include provisions that appointments shall be made on the basis of a combination of merit factors, equal employment opportunity and, if promotive, consideration of performance appraisal ratings and seniority.

**314.5.6**      Layoff of provisional appointees due to lack of work, lack of funds or termination shall be as provided elsewhere in these Rules.

**Sec. 314.5**     **Provisional Appointment (cont.)**

314.5.7     A civil service appointee who is laid off, terminated or who resigns from a provisional appointment shall return to the appointee's permanent position.

314.5.8     A provisional appointee resigning from employment shall complete the prescribed resignation form.

314.5.9     Provisional appointees shall acquire, by virtue of serving under provisional appointment, no right or preference for permanent appointment.

**314.5.10**   **Restrictions on Provisional Appointment**

As provided in Charter Sections 10.105 and 18.110:

1) Provisional appointments for civil service positions for which no eligible list exists shall not exceed three (3) years.

2) Provisional appointments may only be renewed beyond three (3) years with the approval of the Board of Supervisors and upon certification by the Human Resources Director that for reasons beyond his or her control the Department of Human Resources has been unable to conduct examinations for these positions.

3) Unless provisional appointments are renewed as provided in this section or are transitioned to regular civil service appointment through either the competitive examination process or as provided in Charter Section 18.110, provisional employees appointed before July 1, 1996 shall be laid off by June 30, 1999.

**Sec. 314.6**     **Provisional Appointment - Non-Civil Service Appointment**

314.6.1     Non-Civil Service appointment made under the authority of these Rules shall be an appointment to a permanent or temporary position when either

1) there is no available eligible. It is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular work schedule of the employee; however, in no case may the maximum duration exceed 1040 hours in any class or in any department in a calendar or fiscal year or except with the express approval of the Human Resources Director, thirty (30) days from eligible list adoption, whichever is less; or

**Sec. 314.6      Provisional Appointment - Non-Civil Service Appointment (cont.)**

**314.6.1**      (cont.)

2) there is an emergency.

Such appointment is time limited to a maximum of 240 hours.

**314.6.2**      Non-civil service appointees serve at the discretion of the appointing officer.

**314.6.3**      Non-civil service appointees shall be separated as provided below at the expiration of the maximum allowable time or upon expiration of the appointee's temporary position.

**314.6.4**      The Human Resources Director shall promulgate policies and procedures for making non-civil service appointments which include provisions that appointments shall be made on the basis of a combination of merit factors, affirmative action and, if promotive, seniority.

**314.6.5**      Notification to signatory unions shall be as follows:

Employee organizations signatory to the Letter of Agreement adopted April 4, 1983, shall be notified on a biweekly basis of all non-civil service appointments authorized in the preceding two-week period, together with the duration of such appointments and the reason(s) for such duration. Union representatives of organizations signatory to the aforementioned agreement shall have the right to meet and confer with the Human Resources Director or designee following notification cited hereinabove.

**Sec. 314.7      Provisional Appointment - Limited Tenure Appointment**

**314.7.1**      Limited tenure appointment is an appointment made to a permanent or temporary positions under authority of this Rule in a class for which there is no available eligible.

**314.7.2**      All limited tenure appointments shall require the express prior approval of the Commission and shall be made pursuant to the stated intent of the Letter of Agreement and Compliance Agreement adopted April 4, 1983, as it pertains to the classes represented by the unions signatory to these Agreements.

**Sec. 314.7**      **Provisional Appointment - Limited Tenure Appointment**

314.7.3      Layoff due to lack of work, lack of funds, or termination shall be as provided elsewhere in these Rules.

314.7.4      A civil service appointee who is laid off, terminated, or who resigns from a limited tenure appointment shall return to the appointee's permanent position.

314.7.5      A limited tenure appointee resigning from employment shall complete the prescribed resignation form.

314.7.6      **Provisional Appointees - No Preference for Permanent Appointment**

Provisional appointees shall acquire, by virtue of serving under provisional appointment, no right or preference for permanent appointment.

**Sec. 314.8**      **Advancement from Part-Time Position to Full-Time**

After one (1) year of continuous permanent satisfactory service in a part-time only position, the senior appointee in a class in the department may be advanced by the appointing officer to a full-time position. Advancement from a part-time position shall require a new probationary period.

**Sec. 314.9**      **Separation of Temporary and Provisional Appointees Upon Expiration of Term of Employment**

314.9.1      No temporary or provisional appointment shall exceed the maximum allowable duration provided in these Rules, and upon expiration of that period of time, the appointee shall be separated from the position.

314.9.2      The appointee's separation shall be based upon the expiration of the maximum allowable duration or upon expiration of the appointee's temporary position. Such separation shall be without reference to the layoff or termination provisions of these Rules. The appointee shall be notified in writing:

- 1) at the time of appointment as to the duration of such appointment; and
- 2) at least ten (10) working days in advance of the final date.

## **Rule 314 Appointments**

### **Article II: Limited Tenure Appointments**

Incorporating former Charter Section 8.331 into the Civil Service Commission Rules pursuant to former Charter Section 8.320.1 Incorporating Former Charter Provisions (Proposition C - November 5, 1991 Election)

~~Applicability:~~ Article II, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department. The provisions of Article II, Rule 314 shall be limited to time of war as defined in Sec 314.10

#### **Sec. 314.10 ~~Limited Tenure Appointments - When Authorized~~**

~~When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under these Rules, the Human Resources Director may qualify applicants for wartime appointments to positions through informal and non-competitive tests.~~

#### **Sec. 314.11 ~~Selection of Limited Tenure Appointees~~**

~~Such tests and appointments resulting therefrom shall be governed solely by the provisions of these Rules and the tests shall be adequate in the judgment of the Human Resources Director to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in these Rules.~~

#### **Sec. 314.12 ~~Definition and Duration of Limited Tenure Appointments~~**

~~Appointments made under the provisions of this Rule shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided elsewhere in these Rules but in no event to exceed six (6) months beyond the cessation of hostilities.~~

#### **Sec. 314.13 ~~Layoff of Limited Tenure Appointees~~**

~~Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds.~~

~~Sec. 314.14~~ ~~Termination of Limited Tenure Appointees~~

~~Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the Human Resources Director without reference to the procedures governing removals set forth in Charter Section A8.341.~~

~~Sec. 314.15~~ ~~Restriction on Rights on Limited Tenure Appointees~~

~~Persons serving under limited tenure appointments under this Rule shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in the Charter or by Rules of the Civil Service Commission, which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures as provided in these Rules.~~

~~Sec. 314.16~~ ~~Non-Civil Service Appointments When No Eligible List~~

~~Non-civil service appointments in the absence of civil service eligibles, as provided in these Rules, shall not be authorized if applicants qualified for limited tenure appointments are available.~~

~~Sec. 314.17~~ ~~Department of Human Resources to Maintain Eligible Lists~~

~~The Department of Human Resources shall make every effort, consistent with current conditions, to maintain adequate registers of eligibles established through the regular examination procedure as provided in these Rules.~~

~~Sec. 314.18~~ ~~Civil Service Commission to Adopt Rules to Govern Limited Tenure Appointments~~

~~The Civil Service Commission shall adopt Rules to carry out the provisions of this Rule and to govern the administration of limited tenure appointments.~~

~~Sec. 314.19~~ ~~Additional Authority for Limited Tenure Appointments~~

~~314.19.1~~ ~~In time of national emergency declared by the President of the United States or by the Congress or while any act authorizing compulsory military service or training is in effect, the provisions of this Rule may also be made operative upon recommendation of the Civil Service Commission and approval of the Board of Supervisors by ordinance enacted by two thirds vote of the Board.~~

~~Sec. 314.19 Additional Authority for Limited Tenure Appointments (cont.)~~

~~314.19.2 Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six (6) months after repeal by the Board of Supervisors of the ordinance which authorized such appointments.~~

## **Rule 314- Appointments**

### **Article III: Temporary and Emergency Appointments**

~~Incorporating former Charter Section 8.331 into the Civil Service Commission Rules pursuant to former Charter Section 8.320-1 Incorporating Former Charter Provisions (Proposition C - November 5, 1991 Election)~~

~~Applicability: Article III, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.~~

#### **Sec. 314.20 - Temporary "Near List" Appointments Authorized**

~~When no list of eligibles exists or no eligible is available on an existing list for a position in the class requisitioned by the appointing officer, and immediate service in the position is required by the appointing officer and another list exists which is deemed by the Human Resources Director to be suitable to provide temporarily the service desired, the Commission shall certify for civil service temporary appointment an eligible from such list.~~

#### **Sec. 314.21 - Non-Civil Service Appointment Defined**

~~If no such other list deemed by the Human Resources Director to be suitable exists, the Human Resources Director pursuant to Civil Service Commission Rules may authorize the appointing officer to make a non-civil service or emergency appointment for a period not exceeding 130 working days.~~

#### **Sec. 314.22 - Duration of Non-Civil Service Appointment**

~~Non-civil service or emergency appointments extended beyond ninety (90) days must be approved by the Human Resources Director. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such 130 working days at the time a civil service eligible reports for duty as provided in Section A8.329 of the Charter.~~

#### **Sec. 314.23 - Emergency Appointment Pending Canvassing of Eligible List**

~~314.23.1 If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in Section A8.329 of the Charter, the Human Resources Director may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding thirty (30) working days.~~



~~Sec. 314.23~~ ~~Emergency Appointment Pending Canvassing of Eligible List (cont.)~~

~~314.23.2~~ Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such thirty (30) working days at the time a civil service eligible reports for duty as provided in Section A8.329 of the Charter.

~~Sec. 314.24~~ ~~Restriction on Compensation of Non-Civil Service Appointees~~

~~No person shall be compensated under any non-civil service or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this Rule for a period exceeding 130 working days in any fiscal or calendar year, and no claim or warrant therefore shall be approved, allowed or paid for any compensation in excess of such 130 working days in any fiscal or calendar year.~~

~~Sec. 314.25~~ ~~Mandate for Funding Department of Human Resources to Conduct Examinations~~

~~If no eligibles are available for appointment to a permanent position in the class requested by the appointing officer, the Department of Human Resources shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, the Department of Human Resources shall report to the Mayor the estimated cost thereof, the Mayor shall request and the Board of Supervisors shall make supplemental appropriation therefore in the manner provided herein for supplemental appropriations.~~

## **Rule 314 Appointments**

### **Article IV: Appointment by Reinstatement**

Applicability: Article IV, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### **Sec. 314.26      Reinstatement**

**314.26.1**      A permanent employee who accepts permanent appointment to a position in another class shall be permanently separated from any former position, with the following exception: the employee may be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the appointing officers in both the present department and the former department or the department(s) to which reinstatement is requested. A copy of the approved form(s) must be filed with the Department of Human Resources.

**314.26.2**      An employee serving a promotive probationary period shall be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the Human Resources Director.

1) A request for reinstatement under this section shall not extend the probationary period or infringe upon an appointing officer's authority to terminate an employee.

2) An approved request for reinstatement shall remain in effect until the employee is either reinstated, separated, refuses an offer of reinstatement, or such a request is canceled by the Human Resources Director.

3) Separation of the employee shall nullify all requests for reinstatement approved under this section.

4) The employee shall receive one (1) offer of reinstatement. Failure to accept a reinstatement offer shall forfeit all rights to reinstatement under this section.

5) A reinstatement under this section shall be under the Rule of One.

**Sec. 314.26**      **Reinstatement (cont.)**

**314.26.2**      (cont.)

6) If more than one (1) request for reinstatement under this section is on file, the person with the greater seniority in the class to which reinstatement is requested shall be reinstated first.

**314.26.3**      Reinstatement to a position in a former class and department shall be with former civil service seniority standing in that department and no probationary period shall be required.

**314.26.4**      Reinstatement to a position in a former class in another department shall require a new civil service seniority date in that department from the date of such reinstatement and shall require a new probationary period.

**Sec. 314.27**      **Reinstatement Following Transfer**

An appointment by transfer shall cancel all rights to the position from which transferred except that, prior to the completion of the probationary period, a transferee may request reinstatement to a vacancy in a position in the same class and department from which transferred in accordance with the procedures established in this Rule.

**Sec. 314.28**      **Restrictions on Reinstatement**

Appointments by reinstatement are subject to the appointment provisions found elsewhere in this Rule.

## Rule 314 Appointments

### Article V: Reappointment

Applicability: Article V, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Sec. 314.29**      **Reappointment after Resignation**

- 314.29.1      A permanent appointee who has completed the probationary period who resigns and whose services have been certified as satisfactory by the appointing officer, or except as otherwise ordered by the Commission in the case of services certified as unsatisfactory, shall be permanently separated from such appointment except as follows:
- 314.29.2      A separate request must be filed with each department to which reappointment is desired. An approved copy of the reappointment form(s) must be filed with the Department of Human Resources.
- 314.29.3      Consistent with the above procedure, members of the Uniformed Ranks of the Fire Department shall have two (2) years from the effective date of the resignation to request and to be reappointed.
- 314.29.4      If a vacancy does not exist in the class from which resigned from City and County Service, or, if otherwise approved by the Human Resources Director, subject to appeal to the Civil Service Commission, a resignee may re-enter the service to a vacancy in any former class in which the probationary period had been completed in any department with the approval of the appointing officer.
- 314.29.5      When reappointed, the resignee shall enter the service as a new appointee with no rights based on prior service except such as may be specifically provided elsewhere in these Rules, in the Vacation, Sick Leave and any other Ordinances as appropriate, and in the examination procedures with respect to credit for prior City and County Service.

**Sec. 314.30**      **Restrictions on Reappointment**

Reappointments are subject to the appointment provisions found elsewhere in this Rule.

## Rule 314

### Appointments

#### Article VI: Appointment by Transfer

Applicability: Article VI, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

##### Sec. 314.31      Transfer - General

- 314.31.1      A transfer of a permanent appointee who has completed the probationary period to a position in the same class under another appointing officer shall be requested on the form prescribed by the Human Resources Director.
- 314.31.2      A properly completed transfer form approved by the appointing officer or designee of the department to which transfer is requested shall be filed in the requested department. A copy of the approved form shall be filed with the Department of Human Resources and in the employee's current department within two (2) business days of approval.
- 314.31.3      Appointees accepting a new appointment by transfer shall give a minimum period of notice prior to separation from their current department of fifteen (15) working days, unless the current department approves a shorter period of notice.
- 314.31.4      Appointments by transfer are subject to the appointment and probationary provisions of these Rules.
- 314.31.5      Appointment by transfer will cancel all other transfer requests which have been filed.

##### Sec. 314.32      Transfer from Position Not Full-Time

A permanent appointee to a part-time position or a position not full-time on an annual basis and who serves under such appointment continuously for one year, may request transfer to a regular full-time position in accordance with the provisions of this Rule.

**Sec. 314.33**      **Transfers Occasioned by Reduction of Force Due to Technological Advances, Automation, or the Installation of New Equipment**

Permanent civil service employees who have completed their probationary period and who are subject to layoff because of technological advances, automation, the installation of new equipment, or the transfer of functions to another jurisdiction may submit a request to the Human Resources Director for transfer to a position within their capacities to perform, whether or not within the class for which they qualified for appointment. Such request for transfer shall be subject to the following:

- 314.33.1      Request for transfer shall be submitted on the form prescribed by the Human Resources Director and shall be approved by the appointing officer or designee of the department to which transfer is requested.
- 314.33.2      The position to which transfer is requested shall not be to a class with more than a five percent (5%) increase in compensation.
- 314.33.3      The Human Resources Director may administer any examinations which, in the judgment of the Human Resources Director, are deemed advisable to test the capacity of the employee to perform the duties in the position to which transfer is requested, unless the transfer is to a position in the same class or a closely related class.
- 314.33.4      Employees so transferred, who are not suited to the position, may be given an opportunity for further transfer to other positions within their capacities to perform.
- 314.33.5      In the event of layoff of an appointee who occupies a position through transfer under the provisions of this section, such layoff shall be in accordance with the applicable provisions of the Layoff Rule. Seniority shall be calculated from the date of certification in the class from which transferred.
- 314.33.6      Employees transferred under the provisions of this section may request reinstatement to the former class in accordance with the Reinstatement Rule.
- 314.33.7      In the event that more than one (1) approved transfer to the same class is on file in the Department of Human Resources, preference shall be given to the appointee who has the longest service under civil service permanent appointment in the class from which layoff is to be made.

**Sec. 314.33**      **Transfers Occasioned by Reduction of Force Due to Technological Advances, Automation, or the Installation of New Equipment (cont.)**

314.33.8      An appointee transferred under the provisions of this section shall serve a probationary period in the new class.

**Sec. 314.34**      **Transfers Occasioned by the Transfer of Functions from One Department to Another**

314.34.1      When, in accordance with Charter provisions, part of the functions and duties of any department are transferred to another department, the employees performing such functions and duties shall be transferred therewith.

314.34.2      Such employees shall retain in their new department the same salary and civil service seniority status as they had in the department from which transferred.

314.34.3      Employees transferred in accordance with this Rule shall not be required to serve a new probationary period.

**Sec. 314.35**      **Limited-Term Transfer**

314.35.1      **Definition**

The transfer of a permanent appointee to a vacant position in the same class under another appointing officer for a specified duration of time may be approved by the appointing officers of both departments and the Human Resources Director and shall be known as a "limited-term transfer."

314.35.2      **Purpose**

The purpose of a limited-term transfer is to more efficiently utilize and exchange human resources among the departments of the City and County; to allow employees exposure and training in other departments; and to provide a mechanism for reducing staffing levels during slow periods or periods of fiscal emergency and to temporarily increase staffing during peak work periods.

**Sec. 314.35**      **Limited-Term Transfer (cont.)****314.35.3**      **Types of Limited-Term Transfers**

1) **Voluntary:** A limited-term transfer may be initiated on the written request of an employee on the form prescribed by the Human Resources Director. Upon receipt of a written request from an employee and no less than fifteen (15) working days prior to implementation, the designated union of the employee shall be provided written notice. The union shall have five (5) working days from the date of the notice to request a meeting with the appointing officer/designee. Within five (5) working days from the date of the union request, a meeting shall be held. If the union is unavailable to meet within the five (5) working days following the request to meet, the unavailability of the union shall constitute a waiver of the right to meet. Unavailability of the appointing officer/designee shall constitute an extension of the timelines. The timelines may also be extended through mutual written agreement.

2) **Mandatory:** A permanent or probationary employee may be transferred by the employee's appointing officer for a specified period up to a maximum of six months in any calendar year to a position in the same class under another appointing officer. Such transfers shall be made by class in reverse order of seniority in the class in the department after all permanent and probationary employees in the class have been canvassed and all more senior employees have been notified and have waived the right to request a voluntary limited-term transfer. The employee shall receive at least five working days written notice in advance of the effective date of the transfer and shall be given an opportunity, if requested, to meet and confer with the appointing officer/designee and the designated union representative. No permanent employee shall be placed on mandatory limited-term transfer if there are temporary or provisional employees in the same class in the department from which the transfer originates.

**314.35.4**      **Expiration and Extension**

1) Limited-term transfers will remain in force for the period specified unless abridgment is approved by both appointing officers.

2) Voluntary limited-term transfers may be extended for additional periods of time with the approval of the employee, the appointing officer and the Human Resources Director.



**Sec. 314.35**      **Limited-Term Transfer (cont.)**

**314.35.4**      **Expiration and Extension (cont.)**

3) Upon expiration of the period of the transfer, the transferee shall be automatically reinstated to a permanent position in the class and department from which transferred.

**314.35.5**      **Probationary Period**

1) A limited-term transferee shall not serve a new probationary period; however, notwithstanding any other provision of these Rules, with the approval of the appointing officer in the department to which transferred, the time served during a limited-term transfer, or a portion thereof, may be counted toward the completion of the probationary period if the transferee requests and is granted a permanent transfer and commences a probationary period in the new department.

2) An appointee who is transferred under the provisions of this Rule while serving a probationary period in the department from which transferred shall complete the probationary period upon reinstatement to the original department; however, an appointing officer may, notwithstanding any other provision of these Rules, credit the time served during a limited-term transfer or a portion thereof toward the completion of the probationary period in the original department.

**314.35.6**      **Disciplinary Action**

A limited-term transferee is an appointee in the department to which transferred during the period of the transfer for the purpose of disciplinary action.

**314.35.7**      **Temporary Positions**

Limited-term transfers which are not made to permanent positions may be made to positions which are funded on a temporary basis with the certification of the Controller that funds for the payment of mandatory fringe benefits are available in the department to which transferred. Appointees so transferred retain all the rights and benefits of permanent appointees.

**Sec. 314.35**      **Limited-Term Transfer (cont.)**

**314.35.8**      **Seniority**

Appointees returning to their original departments following a limited-term transfer are reinstated with full seniority. No deduction from seniority in the original department shall be made for any period of limited-term transfer.

**314.35.9**      **Layoff**

An appointee who is laid off while on a limited-term transfer shall be automatically reinstated to a permanent position in the class in the department from which transferred.

## **Rule 314 Appointments**

### **Article VII: Exempt Appointment**

**Applicability:** Article VII, Rule 314 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Sec. 314.36**      **Exclusions from Civil Service Appointment**

All permanent employees of the City and County shall be appointed through the civil service process by competitive examination unless exempted from the civil service examination and selection process in accordance with Charter provisions. Appointments excluded by Charter from the competitive civil service examination and selection process shall be known as exempt appointments. Any person occupying a position under exempt appointment shall not be subject to civil service selection, appointment, and removal procedures and shall serve at the pleasure of the appointing officer.

**Sec. 314.37**      **Charter Limit on Certain Categories of Exempt Appointments**

- 314.37.1**      The proportion of full-time employees in the exempt categories included under Charter Sections 10.104-1 through 10.104-12 to the total number of civil service employees of the City and County shall not be greater than the proportion existing on July 1, 1994, except as authorized in this Article. As certified by the Civil Service Commission at its meeting of November 18, 1996, the ratio on July 1, 1994 of full-time exempt employees to the total full-time City and County work force was two percent (2%).
- 314.37.2**      In accordance with Charter Section 10.104, the Civil Service Commission may, by express approval, authorize that full-time positions conforming to the criteria established in this Section in the categories defined in Charter Sections 10.104-1 through 10.104-12 in excess of the Charter limitation be excluded from civil service selection and removal procedures and be filled through exempt appointment.
- 314.37.3**      Requests for exemption under this section must conform to the following:
- 1) The position to be exempted must be in one of the categories defined in Charter Sections 10.104-1 through 10.104-12.

**Sec. 314.37**      **Charter Limit on Certain Categories of Exempt Appointments**  
**(cont.)**

**314.37.3**      **(cont.)**

2) The action of exempting a particular position shall not directly affect the civil service rights of an incumbent regularly occupying such position on a permanent civil service basis.

3) The Human Resources Director recommends the exemption and certifies that the exemption action shall not directly affect an incumbent civil service appointee to the position.

4) The request for exemption is made and approved by an appointing officer or an elected official; a request from a department under the City Administrator must be approved by the City Administrator.

5) The official making the request provides written justification as to the reasons the position should be exempted.

**314.37.4**      An appointing officer or an elected official may submit a request to exempt a position under this section to the Civil Service Commission through the Human Resources Director. If the Director recommends approval, the request shall be transmitted to the Civil Service Commission for review and action; if the Director denies a request, the appointing officer shall be notified in writing of the denial and the reasons for such action.

**314.37.5**      The decision of the Human Resources Director is appealable to the Civil Service Commission within thirty (30) calendar days of the date of the notice of denial. The Commission decision on the appeal shall be final.

**314.37.6**      This section as adopted by the Civil Service Commission at its meeting of November 18, 1996 was approved by the Board of Supervisors on January 3, 1997 (Resolution Number 222-96-4).

Sec. 314.37 Charter Limit on Certain Categories of Exempt Appointments (cont.)

Sec. 314.37.7 Charter Limit on Categories 16, 17 and 18

314.37.8 Temporary and Seasonal Exemptions under Charter Section 10.104-16

- 1) Temporary and seasonal appointments shall be TEX, with full-time, part-time, or as-needed schedules.
- 2) No person, regardless of work schedule, shall exceed 1040 hours of work in any fiscal year.

314.37.9 Temporary Substitute/Backfill Exemption under Charter Section 10.104-17

- 1) An appointment proposed for exemption under Charter Section 10.104-17 shall be for a temporary substitute or back-fill for a civil service employee on an authorized leave of absence (\*e.g., an employee on pregnancy or other medical leave, etc.)
- 2) The Human Resources Director may approve an appointment in increments of up to 1040 hours (six months); however, the appointment shall not exceed a maximum duration of 4160 hours (not to exceed two years by Charter requirement, or a total of four six-month increments).

314.37.10 Special Project Exemption under Charter Section 10.104-18

- 1) An appointment authorized for exemption under Charter Section 10.104-18 must be to a position created for or dedicated to a special project, or for professional services, not to exceed three years by Charter requirement.
- 2) Funding for appointments to perform professional services as authorized under Charter Section 10.104-18 shall be for a limited term (e.g., a grant or a "one-time only" appropriation for a specific or special purpose). Departmental requests for such appointments must certify that the funding is limited, identify the funding source and anticipate duration of such funding source, and adequately describe the professional services to be performed.
- 3) Departmental requests for appointments to a special project as authorized under Charter Section 10.104-18 must adequately define the special project or professional service to be provided (including but not limited to a description of the project objective, scope of work, and the specific anticipated duration of the project).

## **Rule 414 Appointments**

### **Article I: General Provisions**

Applicability: Article I, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

### **~~Article II: Limited Tenure Appointments~~**

~~Applicability: Article II, Rule 414, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A. The provisions of Article II, Rule 414 shall be limited to time of war as defined in Sec 414.10.~~

### **~~Article III: Temporary and Emergency Appointments~~**

~~Applicability: Article III, Rule 414, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.~~

### **Article IV: Appointment by Reinstatement**

Applicability: Article IV, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

### **Article V: Reappointment**

Applicability: Article V, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

### **Article VI: Appointment by Transfer**

Applicability: Article VI, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

### **Article VII: Exempt Appointment**

Applicability: Article VII, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

## **Rule 414**

### **Appointments**

#### **Article I: General Provisions**

**Applicability:** Article I, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

**Sec. 414.1**      **Appointment - General Provisions**

**414.1.1**      **Report of Appointment**

All appointments shall be authorized by the MTA Director of Transportation/Designee on the prescribed form prior to the appointee's starting date of employment.

**414.1.2**      **Validation of Appointment**

No appointee may begin working until validation has been issued by the MTA Director of Transportation/Designee.

**414.1.3**      **Finality of Appointing Officer's Decision**

Except as otherwise provided in these Rules, ordinances, or the Charter, the decision of the MTA Director of Transportation/Designee in all matters regarding appointment within the MTA shall be final.

**Sec. 414.2**      **Permanent Appointment - Definition**

A permanent appointment is an appointment made as a result of certification from an eligible list to a permanent position.

**Sec. 414.3**      **Method of Appointment - Permanent Appointment**

Permanent appointments shall be made in the following order of priority:

**414.3.1**      by the return to duty of a permanent holdover;

**414.3.2**      by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees;

**Sec. 414.3**      **Method of Appointment - Permanent Appointment (cont.)**

414.3.3      by the appointing officer through use of any one of the following options:

- 1) advancement of a part-time employee to full-time status consistent with the requirements found elsewhere in this Rule; or
- 2) transfer; or
- 3) from requests for reinstatement other than by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees; or
- 4) by reappointment following resignation; or
- 5) by certification by the MTA of eligibles from an eligible list or reemployment register.

414.3.4      Exercise of one option will preclude the use of any other method of appointment except as a result of any settlement arising following an appeal or other litigation. The MTA department may also fill permanent vacancies through internal reassignment within classifications of permanent employees consistent with MTA procedures. Such reassignments are not within the jurisdiction of the Civil Service Commission.

**Sec. 414.4**      **Temporary Appointment**

414.4.1      Temporary appointment shall be one of the following:

- 1) An appointment from an eligible list to a temporary position. Such appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 1040 hours; or



**Sec. 414.4**     **Temporary Appointment (cont.)**

2) An appointment from an eligible list to a temporary position established to perform a special project or investigation. The establishment of such position shall require the express approval of the MTA Director of Transportation/Designee. It must be readily foreseeable that the duties and responsibilities and products must be completed by the time limit of a maximum of the hourly equivalent of 260 working days based on the regular daily work schedule of the employee, and in no case may the maximum exceed 2080 hours.

3) When no eligible list exists or no eligible is available on an existing eligible list for a position in the class requisitioned by MTA, and immediate service in the position is required and another eligible list exists which is deemed by the MTA Director of Transportation/Designee to be suitable to provide temporarily the service desired, the MTA Director of Transportation/Designee shall certify for civil service temporary appointment an eligible from such eligible list.

**414.4.2**     **Expiration of Temporary Appointment**

1) Upon expiration of the maximum allowable time period or upon expiration of the appointee's temporary position, temporary appointees shall be separated as provided below.

2) Temporary appointees so separated shall be returned to the eligible list from which appointed if such list has not expired.

3) Temporary appointees returned to the eligible list or to the holdover roster shall be immediately available for certification to temporary positions:

- under another appointing officer; or
- to the same appointing officer to another position with the express approval of the Human Resources Director.

In the case of represented classes, the MTA Director of Transportation/Designee shall provide prior notification to the appropriate bargaining representative of intention to authorize such immediate certification and shall, upon request, meet and confer concerning the proposed certification.

**Sec. 414.4**      **Temporary Appointment (cont.)**

**414.4.2**      **Expiration of Temporary Appointment (cont.)**

4) For employees represented by the Transport Workers Union, Locals 200 and 250A, temporary appointees, except those appointed from a "near list", whose list has expired shall be ranked on the holdover roster for the class.

**414.4.3**      Layoff due to lack of work or lack of funds or termination shall be as provided elsewhere in these Rules.

**Sec. 414.5**      **Provisional Appointment**

**414.5.1**      Provisional appointment shall be an appointment to a permanent or temporary position when there is no available eligible.

1) A provisional appointment is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular work schedule of the employee; however, in no case may the maximum duration exceed 1040 hours in any class or in any department in a calendar year.

2) Except with the express approval of MTA Director of Transportation/Designee, when an eligible list is adopted, all provisional appointments in the affected class shall expire.

**414.5.2**      Provisional appointments may be extended with the approval of the MTA Director of Transportation/Designee for additional periods of time not to exceed, for each extension, the time limitations specified above.

**414.5.3**      Provisional appointees serve at the discretion of the MTA Director of Transportation.

**414.5.4**      Provisional appointees shall be separated as provided below at the expiration of the maximum allowable time or upon expiration of the appointee's temporary position.

**414.5.5**      The MTA Director of Transportation/Designee shall promulgate policies and procedures for making provisional appointments which shall include provisions that appointments shall be made on the basis of a combination of merit factors, equal employment opportunity and, if promotive, consideration of performance appraisal ratings and seniority.

**Sec. 414.5    Provisional Appointment (cont.)**

**414.5.6**    Layoff of provisional appointees due to lack of work, lack of funds or termination shall be as provided elsewhere in these Rules.

**414.5.7**    A civil service appointee who is laid off, terminated or who resigns from a provisional appointment shall return to the appointee's permanent position.

**414.5.8**    A provisional appointee resigning from employment shall complete the prescribed resignation form.

**414.5.9**    Provisional appointees shall acquire, by virtue of serving under provisional appointment, no right or preference for permanent appointment.

**414.5.10**   **Restrictions on Provisional Appointment**

1) Provisional appointments for civil service positions for which no eligible list exists shall not exceed three years.

2) Provisional appointments may only be renewed beyond three years with the approval of the Board of Supervisors and upon certification by the MTA Director of Transportation/Designee that for reasons beyond its control MTA has been unable to conduct examinations for these positions.

3) Unless provisional appointments are renewed as provided in this section or are transitioned to regular civil service appointment through either the competitive examination process or as provided in Charter Section 18.110, provisional employees appointed before July 1, 1996 shall be laid off by June 30, 1999.

**Sec. 414.6**      **Provisional Appointment - Non-Civil Service Appointment**

Section 414.6 and Section 414.7 of Article I, Rule 414, apply only to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

**414.6.1**      Non-Civil Service appointment made under the authority of these Rules shall be an appointment to a permanent or temporary position when either

1) there is no available eligible. It is time limited to a maximum duration of the hourly equivalent of 130 working days based on the regular work schedule of the employee; however, in no case may the maximum duration exceed 1040 hours in any class or in any department in a calendar or fiscal year or except with the express approval of the MTA Director of Transportation/Designee, thirty (30) days from eligible list adoption, whichever is less; or

2) there is an emergency.

Such appointment is time limited to a maximum of 240 hours.

**414.6.2**      Non-civil service appointees serve at the discretion of the MTA Director of Transportation.

**414.6.3**      Non-civil service appointees shall be separated as provided below at the expiration of the maximum allowable time or upon expiration of the appointee's temporary position.

**414.6.4**      The MTA Director of Transportation/Designee shall promulgate policies and procedures for making non-civil service appointments which include provisions that appointments shall be made on the basis of a combination of merit factors, affirmative action and, if promotive, seniority.

**414.6.5**      Notification to signatory unions shall be as follows:

Employee organizations signatory to the Letter of Agreement adopted April 4, 1983, shall be notified on a biweekly basis of all non-civil service appointments authorized in the preceding two-week period, together with the duration of such appointments and the reason(s) for such duration. Union representatives of organizations signatory to the aforementioned agreement shall have the right to meet and confer with the MTA Director of Transportation/Designee or designee following notification cited here in above.

**Sec. 414.7**      **Provisional Appointment - Limited Tenure Appointment**

Section 414.6 and Section 414.7 of Article I, Rule 414, apply only to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

- 414.7.1 Limited tenure appointment is an appointment made to a permanent or temporary position under authority of this Rule in a class for which there is no available eligible.
- 414.7.2 All limited tenure appointments shall require the express prior approval of the Commission and shall be made pursuant to the stated intent of the Letter of Agreement and Compliance Agreement adopted April 4, 1983, as it pertains to the classes represented by the unions signatory to these Agreements.
- 414.7.3 Layoff due to lack of work, lack of funds, or termination shall be as provided elsewhere in these Rules.
- 414.7.4 A civil service appointee who is laid off, terminated, or who resigns from a limited tenure appointment shall return to the appointee's permanent position.
- 414.7.5 A limited tenure appointee resigning from employment shall complete the prescribed resignation form.
- 414.7.6 **Provisional Appointees - No Preference for Permanent Appointment**

Provisional appointees shall acquire, by virtue of serving under provisional appointment, no right or preference for permanent appointment.

**Sec. 414.8**      **Advancement from Part-Time Position to Full-Time**

After verification of satisfactory performance in a permanent part-time position, the senior appointee in a class in the MTA may be advanced by the MTA Director of Transportation/Designee to a full-time position. Advancement from a part-time position shall require a new probationary period.

**Sec. 414.9**     **Separation of Temporary and Provisional Appointees Upon Expiration of Term of Employment**

414.9.1     No temporary or provisional appointment shall exceed the maximum allowable duration provided in these Rules, and upon expiration of that period of time, the appointee shall be separated from the position.

414.9.2     The appointee's separation shall be based upon the expiration of the maximum allowable duration or upon expiration of the appointee's temporary position. Such separation shall be without reference to the layoff or termination provisions of these Rules. The appointee shall be notified in writing:

- 1) at the time of appointment as to the duration of such appointment; and
- 2) at least ten (10) working days in advance of the final date.

## Rule 414 Appointments

### Article II: Limited Tenure Appointments

~~Applicability: Article II, Rule 414, shall apply to all Service Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A. The provisions of Article II, Rule 414 shall be limited to time of war as defined in Sec 414.10.~~

#### Sec. 414.10 Limited Tenure Appointments When Authorized

~~When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under these Rules, the MTA Director of Transportation/Designee may qualify applicants for wartime appointments to positions through informal and non-competitive tests.~~

#### Sec. 414.11 Selection of Limited Tenure Appointees

~~Such tests and appointments resulting therefrom shall be governed solely by the provisions of these Rules and the tests shall be adequate in the judgment of the MTA Director of Transportation/Designee to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in these Rules.~~

#### Sec. 414.12 Definition and Duration of Limited Tenure Appointments

~~Appointments made under the provisions of this Rule shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided elsewhere in these Rules but in no event to exceed six (6) months beyond the cessation of hostilities.~~

#### Sec. 414.13 Layoff of Limited Tenure Appointees

~~Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds.~~

~~Sec. 414.14~~ ~~Termination of Limited Tenure Appointees~~

~~Limited tenure appointments may be terminated by the MTA Director of Transportation for good cause at any time without reference to the procedures governing removals set forth in Charter Section A8.341.~~

~~Sec. 414.15~~ ~~Restriction on Rights on Limited Tenure Appointees~~

~~Persons serving under limited tenure appointments under this Rule shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in the Charter or by Rules of the Civil Service Commission, which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures as provided in these Rules.~~

~~Sec. 414.16~~ ~~Non-Civil Service Appointments When No Eligible List~~

~~Non-civil service appointments in the absence of civil service eligibles, as provided in these Rules, shall not be authorized if applicants qualified for limited tenure appointments are available.~~

~~Sec. 414.17~~ ~~MTA to Maintain Eligible Lists~~

~~The MTA shall make every effort, consistent with current conditions, to maintain adequate registers of eligibles established through the regular examination procedure as provided in these Rules.~~

~~Sec. 414.18~~ ~~Civil Service Commission to Adopt Rules to Govern Limited Tenure Appointments~~

~~The Civil Service Commission shall adopt Rules to carry out the provisions of this Rule and to govern the administration of limited tenure appointments.~~



~~Sec. 414.19~~ Additional Authority for Limited Tenure Appointments

~~414.19.1~~ In time of national emergency declared by the President of the United States or by the Congress or while any act authorizing compulsory military service or training is in effect, the provisions of this Rule may also be made operative upon recommendation of the Civil Service Commission and approval of the Board of Supervisors by ordinance enacted by two thirds vote of the Board.

~~414.19.2~~ Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six (6) months after repeal by the Board of Supervisors of the ordinance which authorized such appointments.

## Rule 414 Appointments

### Article III: Temporary and Emergency Appointments

~~Applicability: Article III, Rule 414, shall apply to all Service Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.~~

#### Sec. 414.20 Temporary "Near List" Appointments Authorized

~~When no list of eligibles exists or no eligible is available on an existing list for a position in the class requisitioned, and immediate service in the position is required and another list exists which is deemed by the MTA Director of Transportation/Designee to be suitable to provide temporarily the service desired, the Commission shall certify for civil service temporary appointment an eligible from such list;~~

#### Sec. 414.21 Non Civil Service Appointment Defined

~~If no such other list deemed by the MTA Director of Transportation/Designee to be suitable exists, the MTA Director of Transportation/Designee pursuant to Civil Service Commission Rules may authorize a non civil service or emergency appointment for a period not exceeding 130 working days.~~

#### Sec. 414.22 Duration of Non Civil Service Appointment

~~Non civil service or emergency appointments extended beyond ninety (90) days must be approved by the MTA Director of Transportation/Designee. Such non civil service or emergency appointment, however, shall cease prior to the expiration of such 130 working days at the time a civil service eligible reports for duty as provided in Section A8.329 of the Charter.~~

#### Sec. 414.23 Emergency Appointment Pending Canvassing of Eligible List

~~414.23.1 If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in Section A8.329 of the Charter, the MTA Director of Transportation/Designee may authorize the appointing officer to make a non civil service or emergency appointment thereto for a period not exceeding thirty (30) working days.~~

~~Sec. 414.23~~ ~~Emergency Appointment Pending Canvassing of Eligible List~~

~~414.23.2~~ Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such thirty (30) working days at the time a civil service eligible reports for duty as provided in Section A8.329 of the Charter.

~~Sec. 414.24~~ ~~Restriction on Compensation of Non-Civil Service Appointees~~

~~—————~~ No person shall be compensated under any non-civil service or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this Rule for a period exceeding 130 working days in any fiscal or calendar year, and no claim or warrant therefore shall be approved, allowed or paid for any compensation in excess of such 130 working days in any fiscal or calendar year.

~~Sec. 414.25~~ ~~Mandate for Funding MTA to Conduct Examinations~~

~~—————~~ If no eligibles are available for appointment to a permanent position in the class requested, MTA shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, MTA Director of Transportation/Designee shall report to the Mayor the estimated cost thereof, the Mayor shall request and the Supervisors shall make supplemental appropriation therefore in the manner provided herein for supplemental appropriations.

## Rule 414 Appointments

### Article IV: Appointment by Reinstatement

**Applicability:** Article IV, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

**Sec. 414.26**            **Reinstatement**

**414.26.1**            A permanent employee who accepts permanent appointment to a position in another class shall be permanently separated from any former position, with the following exception: the employee may be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the appointing officers in both the present department and the former department or the department(s) to which reinstatement is requested. A copy of the approved form(s) must be maintained in the MTA Office of the Director of Transportation/Designee and the City's Department of Human Resources.

**414.26.2**            An employee serving a promotive probationary period shall be reinstated to a vacant position in any former class in which the probationary period had been completed upon the employee's written request on the prescribed form and with the approval of the MTA Director of Transportation/Designee.

1) A request for reinstatement under this section shall not extend the probationary period or infringe upon an appointing officer's authority to terminate an employee.

2) An approved request for reinstatement shall remain in effect until the employee is either reinstated, separated, refuses an offer of reinstatement, or such a request is canceled by the MTA Director of Transportation/Designee.

3) Separation of the employee shall nullify all requests for reinstatement approved under this section.

4) The employee shall receive one (1) offer of reinstatement. Failure to accept a reinstatement offer shall forfeit all rights to reinstatement under this section.

**Sec. 414.26**      **Reinstatement (cont.)**

**414.26.2**      **(cont.)**

5) A reinstatement under this section shall be under the applicable procedures of the Civil Service Commission.

6) If more than one (1) request for reinstatement under this section is on file, the person with the greater seniority in the class to which reinstatement is requested shall be reinstated first.

**414.26.3**      Reinstatement to a position in a former class and department shall be with former civil service seniority standing in that department and no probationary period shall be required.

**414.26.4**      Reinstatement to a position in a former class in another department shall require a new civil service seniority date in that department from the date of such reinstatement and shall require a new probationary period as provided elsewhere within these Rules.

**Sec. 414.27**      **Reinstatement Following Transfer**

An appointment by transfer shall cancel all rights to the position from which transferred except that, prior to the completion of the probationary period, a transferee may request reinstatement to a vacancy in a position in the same class and department from which transferred in accordance with the procedures established in this Rule.

**Sec. 414.28**      **Restrictions on Reinstatement**

Appointments by reinstatement are subject to the appointment provisions found elsewhere in this Rule.

## **Rule 414**

### **Appointments**

#### **Article V: Reappointment**

**Applicability:** Article V, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

**Sec. 414.29**      **Reappointment after Resignation**

**414.29.1**      A permanent appointee who has completed the probationary period who resigns and whose services have been certified as satisfactory by the appointing officer, or except as otherwise ordered by the Commission in the case of services certified as unsatisfactory, shall be permanently separated from such appointment except as follows:

**414.29.2**      Upon request on the prescribed form within a four (4) year period after the effective date of the resignation, the resignee, with the approval of the MTA Director of Transportation/Designee, may be appointed ahead of eligibles to a vacancy in a permanent position in the class from which resigned in any department.

**414.29.3**      A separate request must be filed with each department to which reappointment is desired. An approved copy of the reappointment form(s) must be filed with the office of the MTA Director of Transportation/Designee.

**414.29.4**      If a vacancy does not exist in the class from which resigned from City and County Service, or, if otherwise approved by the MTA Director of Transportation/Designee, subject to appeal to the Civil Service Commission, a resignee may re-enter the service to a vacancy in any former class in which the probationary period had been completed.

**414.29.5**      When reappointed, the resignee shall enter the service as a new appointee with no rights based on prior service except such as may be specifically provided elsewhere in these Rules, in the Vacation, Sick Leave and any other Ordinances as appropriate, and in the examination procedures with respect to credit for prior City and County Service.

**Sec. 414.30**      **Restrictions on Reappointment**

Reappointments are subject to the appointment provisions found elsewhere in this Rule.

## **Rule 414**

### **Appointments**

#### **Article VI: Appointment by Transfer**

**Applicability:** Article VI, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

**Sec. 414.31**      **Transfer - General**

- 414.31.1      A transfer of a permanent appointee who has completed the probationary period to a position in the same class under another appointing officer shall be requested on the form prescribed by the City's Human Resources Director.
  
- 414.31.2      A properly completed transfer form approved by the appointing officer or designee of the department to which transfer is requested shall be filed in the requested department as well as the employee's current department. A copy of the approved form shall also be filed with the office of the MTA Director of Transportation/Designee and the City's Department of Human Resources within two (2) business days of approval.
  
- 414.31.3      Appointees accepting a new appointment by transfer shall give a minimum period of notice prior to separation from their current department of fifteen (15) working days, unless the current department approves a shorter period of notice.
  
- 414.31.4      Appointments by transfer are subject to the appointment and probationary provisions of these Rules.
  
- 414.31.5      Appointment by transfer will cancel all other transfer requests which have been filed.

**Sec. 414.32**      **Transfer from Position Not Full-Time**

A permanent appointee to a part-time position or a position not full time on an annual basis and who serves under such appointment continuously for one (1) year, may request transfer to a regular full-time position in accordance with the provisions of this Rule.

**Sec. 414.33**      **Transfers Occasioned by Reduction of Force Due to Technological Advances, Automation, or the Installation of New Equipment**

Permanent civil service employees who have completed their probationary period and who are subject to layoff because of technological advances, automation, the installation of new equipment, or the transfer of functions to another jurisdiction may submit a request to the MTA Director of Transportation/Designee for transfer to a position within their capacities to perform, whether or not within the class for which they qualified for appointment. Such request for transfer shall be subject to the following:

- 414.33.1 Request for transfer shall be submitted on the prescribed form and shall be approved by the appointing officer or designee of the department to which transfer is requested.
- 414.33.2 The position to which transfer is requested shall not be to a class with more than a five percent (5%) increase in compensation.
- 414.33.3 The City's Human Resources Director or the MTA Director of Transportation may administer any examinations which, in the judgment of the City's Human Resources Director or the MTA Director of Transportation are deemed advisable to test the capacity of the employee to perform the duties in the position to which transfer is requested, unless the transfer is to a position in the same class or a closely related class.
- 414.33.4 Employees so transferred, who are not suited to the position, may be given an opportunity for further transfer to other positions within their capacities to perform.
- 414.33.5 In the event of layoff of an appointee who occupies a position through transfer under the provisions of this section, such layoff shall be in accordance with the applicable provisions of the Layoff Rule. Seniority shall be calculated from the date of certification in the class from which transferred.
- 414.33.6 Employees transferred under the provisions of this section may request reinstatement to the former class in accordance with the Reinstatement Rule.



**Sec. 414.33**      **Transfers Occasioned by Reduction of Force Due to Technological Advances, Automation, or the Installation of New Equipment (cont.)**

- 414.33.7      In the event that more than one approved transfer to the same class is on file, preference shall be given to the appointee who has the longest service under civil service permanent appointment in the class from which layoff is to be made.
- 414.33.8      An appointee transferred under the provisions of this section shall serve a probationary period in the new class.

**Sec. 414.34**      **Transfers Occasioned by the Transfer of Functions from One Department to Another**

- 414.34.1      When, in accordance with Charter provisions, part of the functions and duties of any department are transferred to another department, the employees performing such functions and duties shall be transferred therewith.
- 414.34.2      Such employees shall retain in their new department the same salary and civil service seniority status as they had in the department from which transferred.
- 414.34.3      Employees transferred in accordance with this Rule shall not be required to serve a new probationary period.

**Sec. 414.35**      **Limited-Term Transfer**

414.35.1      **Definition**

The transfer of a permanent appointee to a vacant position in the same class under another appointing officer for a specified duration of time may be approved by the appointing officers of both departments, the City's Human Resources Director and the MTA Director of Transportation/Designee and shall be known as a "limited-term transfer."

414.35.2      **Purpose**

The purpose of a limited-term transfer is to more efficiently utilize and exchange human resources among the departments of the City and County; to allow employees exposure and training in other departments; and to provide a mechanism for reducing staffing levels during slow periods or periods of fiscal emergency and to temporarily increase staffing during peak work periods.

**Sec. 414.35**      **Limited-Term Transfer (cont.)****414.35.3**      **Types of Limited-Term Transfers**

1) **Voluntary:** A limited-term transfer may be initiated on the written request of an employee on the prescribed form. Upon receipt of a written request from an employee and no less than fifteen (15) working days prior to implementation, the designated union of the employee shall be provided written notice. The union shall have five (5) working days from the date of the notice to request a meeting with the appointing officer/designee. Within five (5) working days from the date of the union request, a meeting shall be held. If the union is unavailable to meet within the five (5) working days following the request to meet, the unavailability of the union shall constitute a waiver of the right to meet. Unavailability of the appointing officer/designee shall constitute an extension of the timelines. The timelines may also be extended through mutual written agreement.

2) **Mandatory:** A permanent or probationary employee may be transferred by the employee's appointing officer for a specified period up to a maximum of six (6) months in any calendar year to a position in the same class under another appointing officer. Such transfers shall be made by class in reverse order of seniority in the class in the department after all permanent and probationary employees in the class have been canvassed and all more senior employees have been notified and have waived the right to request a voluntary limited-term transfer. The employee shall receive at least five (5) working days written notice in advance of the effective date of the transfer and shall be given an opportunity, if requested, to meet and confer with the appointing officer/designee and the designated union representative. No permanent employee shall be placed on mandatory limited-term transfer if there are temporary or provisional employees in the same class in the department from which the transfer originates.

**Sec. 414.35**      **Limited-Term Transfer (cont.)**

**414.35.4**      **Expiration and Extension**

- 1) Limited-term transfers will remain in force for the period specified unless abridgment is approved by both appointing officers.
- 2) Voluntary limited-term transfers may be extended for additional periods of time with the approval of the employee and the MTA Director of Transportation/Designee
- 3) Upon expiration of the period of the transfer, the transferee shall be automatically reinstated to a permanent position in the class and department from which transferred.

**414.35.5**      **Probationary Period**

- 1) A limited-term transferee shall not serve a new probationary period; however, notwithstanding any other provision of these Rules, with the approval of the appointing officer in the department to which transferred, the time served during a limited-term transfer, or a portion thereof, may be counted toward the completion of the probationary period if the transferee requests and is granted a permanent transfer and commences a probationary period in the new department.
- 2) An appointee who is transferred under the provisions of this Rule while serving a probationary period in the department from which transferred shall complete the probationary period upon reinstatement to the original department; however, an appointing officer may, notwithstanding any other provision of these Rules, credit the time served during a limited-term transfer or a portion thereof toward the completion of the probationary period in the original department.

**414.35.6**      **Disciplinary Action**

A limited-term transferee is an appointee in the department to which transferred during the period of the transfer for the purpose of disciplinary action.

**Sec. 414.35**      **Limited-Term Transfer (cont.)**

**414.35.7**      **Temporary Positions**

Limited-term transfers which are not made to permanent positions may be made to positions which are funded on a temporary basis with the certification of the Controller that funds for the payment of mandatory fringe benefits are available in the department to which transferred. Appointees so transferred retain all the rights and benefits of permanent appointees.

**414.35.8**      **Seniority**

Appointees returning to their original departments following a limited-term transfer are reinstated with full seniority. No deduction from seniority in the original department shall be made for any period of limited-term transfer.

**414.35.9**      **Layoff**

An appointee who is laid off while on a limited-term transfer shall be automatically reinstated to a permanent position in the class in the department from which transferred.

## **Rule 414**

### **Appointments**

#### **Article VII: Exempt Appointment**

**Applicability:** Article VII, Rule 414 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

**Sec. 414.36**            **Exclusions from Civil Service Appointment**

All permanent employees of the City and County shall be appointed through the civil service process by competitive examination unless exempted from the civil service examination and selection process in accordance with Charter provisions. Appointments excluded by Charter from the competitive civil service examination and selection process shall be known as exempt appointments. Any person occupying a position under exempt appointment shall not be subject to civil service selection, appointment, and removal procedures and shall serve at the pleasure of the appointing officer.

**Sec. 414.37**            **Charter Limit on Certain Categories of Exempt Appointments**

**414.37.1**            The proportion of full-time employees in the exempt categories included under Charter Sections 10.104-1 through 10.104-12 to the total number of civil service employees of the City and County shall not be greater than the proportion existing on July 1, 1994, except as authorized in this Article. As certified by the Civil Service Commission at its meeting of November 18, 1996, the ratio on July 1, 1994 of full-time exempt employees to the total full-time City and County work force was two percent (2%).

**414.37.2**            In accordance with Charter Section 10.104, the Civil Service Commission may, by express approval, authorize that full-time positions conforming to the criteria established in this Section in the categories defined in Charter Sections 10.104-1 through 10.104-12 in excess of the Charter limitation be excluded from civil service selection and removal procedures and be filled through exempt appointment.

Sec. 414.37      Charter Limit on Certain Categories of Exempt Appointments (cont.)

414.37.3      Requests for exemption under this section must conform to the following:

1) The position to be exempted must be in one of the categories defined in Charter Sections 10.104-1 through 10.104-12.

2) The action of exempting a particular position shall not directly affect the civil service rights of an incumbent regularly occupying such position on a permanent civil service basis.

3) The MTA Director of Transportation/Designee recommends the exemption and certifies that the exemption action shall not directly affect an incumbent civil service appointee to the position.

4) The request for exemption is made and approved by an appointing officer or an elected official; a request from a department under the City Administrator must be approved by the City Administrator.

5) The official making the request provides written justification as to the reasons the position should be exempted.

414.37.4      An appointing officer or an elected official may submit a request to exempt a position under this section to the Civil Service Commission through the Human Resources Director. If the Director recommends approval, the request shall be transmitted to the Civil Service Commission for review and action; if the Director denies a request, the appointing officer shall be notified in writing of the denial and the reasons for such action.

414.37.5      The decision of the MTA Director of Transportation/Designee is appealable to the Civil Service Commission within thirty (30) calendar days of the date of the notice of denial. The Commission decision on the appeal shall be final.

414.37.6      This section as adopted by the Civil Service Commission at its meeting of November 18, 1996 was approved by the Board of Supervisors on January 3, 1997 (Resolution Number 222-96-4).

**Sec. 414.37 Charter Limit on Certain Categories of Exempt Appointments (cont.)**

**414.37.7** Pursuant to Charter Section 8A.104: The MTA Director of Transportation/Designee may create new classifications and positions exempt from the Civil Service System for managerial employees in MTA bargaining units M and EM in addition to those exempt positions provided in Section 10.104; provided, however, that the total number of such exempt managerial positions within the MTA shall not exceed 2.75 percent of the MTA's total workforce, exclusive of the exempt positions provided in Section 10.104. This provision shall not be utilized to eliminate personnel holding existing permanent Civil Service managerial positions on November 2, 1999.

Persons serving in exempt managerial positions shall serve at the pleasure of the Director of Transportation.

The Civil Service Commission shall annually review both exempt and non-exempt classifications of the Agency to ensure compliance to Charter Section 8A.104.

**Sec. 414.37.8 Charter Limit on Categories 16, 17 and 18****414.37.9 Temporary and Seasonal Exemptions under Charter Section 10.104-16**

- 1) Temporary and seasonal appointments shall be T&S, with full-time, part-time, or as-needed schedules.
- 2) No person, regardless of work schedule, shall exceed 1040 hours of work in any fiscal year.

**414.37.10 Temporary Substitute/Backfill Exemption under Charter Section 10.104-17**

- 1) An appointment proposed for exemption under Charter Section 10.104-17 shall be for a temporary substitute or back-fill for a civil service employee on an authorized leave of absence (\*e.g., an employee on pregnancy or other medical leave, etc.)
- 2) The Human Resources Director may approve an appointment in increments of up to 1040 hours (six months); however, the appointment shall not exceed a maximum duration of 4160 hours (not to exceed two years by Charter requirement, or a total of four six-month increments).

Sec. 414.37 Charter Limit on Certain Categories of Exempt Appointments (cont.)

414.37.11 Special Project Exemption under Charter Section 10.104-18

- 1) An appointment authorized for exemption under Charter Section 10.104-18 must be to a position created for or dedicated to a special project, or for professional services, not to exceed three years by Charter requirement.
- 2) Funding for appointments to perform professional services as authorized under Charter Section 10.104-18 shall be for a limited term (e.g., a grant or a "one-time only" appropriation for a specific or special purpose). Departmental requests for such appointments must certify that the funding is limited, identify the funding source and anticipate duration of such funding source, and adequately describe the professional services to be performed.
- 3) Departmental requests for appointments to a special project as authorized under Charter Section 10.104-18 must adequately define the special project or professional service to be provided (including but not limited to a description of the project objective, scope of work, and the specific anticipated duration of the project).





**Proposed Revisions to Civil Service Rule Series 21**

**ATTACHMENT C**

## **Rule 121**

### **Layoff**

**Applicability:** Rule 121 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 121 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

**Article I**    **Rules Prescribed - Authority**

**Article II**    **Seniority**

**Article III**    **Order of Layoff**

**Article IV**    **Layoff - Provisional and Temporary Employees**

**Article V**    **Layoff - Probationary Employees**

**Article VI**    **Layoff - Permanent Employees**

# Rule 121

## Layoff

### Article I: Rules Prescribed - Authority

Applicability: Rule 121 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 121 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

#### Sec. 121.1      Rules Prescribed - Authority

- 121.1.1 Under the authority of Section 10.101 of the Charter of the City and County of San Francisco, the Civil Service Commission of the City and County of San Francisco does prescribe and adopt the following Rule which shall have the force and effect of law.
- 121.1.2 The Human Resources Director shall be responsible for administering and making effective the provisions of this Rule, and establishing such administrative controls as may be necessary.
- 121.1.3 In all matters pertaining to interpretation of this Rule, the decision of the Commission shall be final.

# Rule 121 Layoff

## Article II: Seniority

**Applicability:** Rule 121 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 121 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

### Sec. 121.2 Determination of Seniority

121.2.1 Except as may otherwise be provided in this Rule, seniority shall be determined as follows:

1) **Permanent**

Seniority for permanent appointees shall be determined by the date of certification which resulted in a permanent appointment to a position in a class in a department. Seniority for appointees granted status or permanent tenure to a class shall be determined by the date of certification in the class from which status or permanent tenure was granted.

2) **Temporary from Eligible List**

Seniority for temporary employees appointed from an eligible list shall be determined by the date of certification which resulted in a temporary appointment to a position in a class in a department.

3) **Limited Tenure**

~~Section 121.2.1.3 shall apply only to employees in classes represented by the Transport Workers Union (TWU), Local 200 and 250A, excluding MTA Service Critical classes.~~

~~Seniority for limited tenure appointees shall be determined by the date an appointee starts to work in a current continuous limited tenure appointment in a department. Seniority in the event of ties shall be determined by the appointing officer whose decision shall be final. For purposes of calculating the seniority of non civil service or limited tenure employees, all periods of time served in the most recent continuous temporary or limited tenure appointment shall be combined and the cumulative total derived thereby shall be used to determine seniority.~~

**Sec. 121.2**     **Determination of Seniority (cont.)**

- 121.2.2     Excluding involuntary leave as provided elsewhere in this Rule, seniority shall not be affected or reduced by current or previous periods of authorized leave of absence or authorized reduction in work schedules.
- 121.2.3     In calculating permanent seniority in a class, temporary seniority in the same class shall not be added to permanent seniority in a class.
- 121.2.4     In calculating temporary seniority in a class, permanent seniority in the same class shall be added to temporary seniority in a class.
- 121.2.5     Seniority acquired in a recognized craft apprenticeship program with the City and County shall be added to seniority in the journey-level class.

**Sec. 121.3**     **Tie Scores in Seniority**

- 121.3.1     In the event of ties, seniority of civil service appointees shall be determined by rank on the eligible list. In determining rank, earlier eligible lists have priority over later eligible lists and promotive lists have absolute priority over entrance lists.
- 121.3.2     In the event of a tie in rank among appointees from lists of eligibles adopted on or after December 6, 1991, the methods listed below shall be used to determine seniority in the following order of priority until the tie is broken. First, the appointee with the longest continuous service in the class under permanent civil service appointment regardless of department shall be ranked above appointees with lesser service in the class; then, the appointee with the longest continuous citywide service under permanent civil service appointment regardless of class shall be ranked above appointees with lesser citywide service; finally, if the tie has not been broken by the preceding methods, it shall be broken by lot in the manner prescribed by the Human Resources Director and conducted under the supervision of the Human Resources Director or a designee. The decision of the Human Resources Director shall be final and shall not be reconsidered by the Commission. In no case shall service before resignation and reappointment or discharge and reemployment be included in determining length of service for the purposes of this section.

**Sec. 121.4**    **Establishment and Verification of Seniority Roster**

- 121.4.1    When a layoff is imminent, an appointing officer shall notify the Department of Human Resources as to the class or classes affected.
  
- 121.4.2    If requested by the Human Resources Director, the appointing officer shall provide a seniority roster including, but not limited to, the name, status, certification date, and rank on eligible list of all employees in the affected classes and the number of such employees to be laid off.
  
- 121.4.3    The Human Resources Director, upon verification of the seniority roster, shall notify the appointing officer of the names of those employees to be laid off.
  
- 121.4.4    Whenever possible the appointing officer must notify affected employees sufficiently in advance of a layoff.

# Rule 121 Layoff

## Article III: Order of Layoff

Applicability: Rule 121 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 121 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

### Sec. 121.5    Order of Layoff

Except as may otherwise be provided in this Rule, layoff of employees shall be by inverse order of seniority in a class and department in the following order of absolute priority:

- 121.5.1    Provisional
- 121.5.2    Temporary From Eligible List
- 121.5.3    Probationary
- 121.5.4    Permanent

### ~~Sec. 121.6~~    ~~Order of Layoff for Employees Covered by Section 121.6~~

~~Section 121.6 shall apply only to employees in classes represented by the Transport Workers Union (TWU), Local 200 and 250A, excluding MTA Service Critical classes.~~

~~Except as may otherwise be provided in this Rule, layoff of employees shall be by inverse order of seniority in a class and department in the following order of absolute priority:~~

- ~~121.6.1~~    ~~Provisional/ Non Civil Service/Limited Tenure~~
- ~~121.6.2~~    ~~Temporary From Eligible List~~
- ~~121.6.3~~    ~~Probationary~~
- ~~121.6.4~~    ~~Permanent~~



**Sec. 121.7**     **Exceptions to Order of Layoff**

- 121.7.1     Provisional ~~or limited tenure~~ employees, who qualified for their positions as a result of meeting specific hiring criteria and who are appointed under specific funding guidelines which limit the duration of employment shall be laid off at the end of their designated tenure without effect on any other employees.
  
- 121.7.2     Persons appointed to positions requiring special qualifications or skills shall be laid off when the work requiring such special qualifications or skills is completed, providing such appointees shall have rights to continue employment within their class in positions where the special qualifications or skills are not required if their name has been reached for certification to a regular position.
  
- 121.7.3     In the event of a layoff, a person appointed to a position requiring special qualifications or skills as approved by the Human Resources Director shall continue in the position unless a more senior employee or holdover in the class in which the layoff occurs possesses the same qualifications and skills. The Human Resources Director may administer such tests as deemed necessary to determine possession of special qualifications and skills.
  
- 121.7.4     All exceptions to the order of layoff shall require the express approval of the Human Resources Director.

# Rule 121

## Layoff

### Article IV: Layoff - Provisional and Temporary Appointees

Applicability: Rule 121 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 121 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

#### Sec. 121.8 Layoff - Provisional Appointees

Except as provided, provisional appointees shall be laid off at the discretion of the appointing officer; except that entrance provisional employees shall be laid off prior to the layoff of any promotive provisional appointees in the same class. Provisional appointees who hold permanent status in another class and who are laid off shall revert to their permanent positions.

#### ~~Sec. 121.9 Layoff - Non-Civil Service Appointees~~

~~Section 121.9 shall apply only to employees in classes represented by the Transport Workers Union (TWU), Locals 200 and 250A, excluding MTA Service-Critical classes.~~

~~Non-civil service appointees shall be laid off at the discretion of the appointing officer. Non-civil service employees who were previously limited tenure or temporary civil service in a current continuous appointment shall be treated as limited tenure for the purposes of layoff.~~

#### ~~Sec. 121.10 Layoff - Limited Tenure Appointees~~

~~Section 121.10 shall apply only to classes represented by the Transport Workers Union (TWU), Locals 200 and 250A, excluding MTA Service-Critical classes.~~

~~The layoff of a limited tenure appointee shall be governed by the following provisions:~~

~~121.10.1 The limited tenure appointee with the least seniority in the class in the department shall be laid off first except if a more senior limited tenure appointee elects to be laid off. In the event of a conflict, the limited tenure appointee with the greater seniority shall have preference.~~

Sec. 121.10 Layoff Limited Tenure Appointees (cont.)

~~121.10.2 Entrance limited tenure employees shall be laid off prior to the layoff of any promotional limited tenure appointees in the same class.~~

~~121.10.3 Limited tenure appointees who hold permanent status in another class and who are laid off shall revert to their permanent positions.~~

Sec. 121.11 Temporary Appointees from Eligible List

121.11.1 Order of layoff for temporary appointees shall be by class within a department, by inverse order of seniority except if a more senior temporary appointee elects to be laid off. In the event of a conflict, the temporary appointee with the greater seniority shall have preference.

121.11.2 The names of temporary appointees who are laid off shall be returned to the eligible lists from which appointed for further certification if such lists are still in existence.

# **Rule 121**

## **Layoff**

### **Article V: Layoff - Probationary Appointees**

Applicability: Rule 121 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 121 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

#### **Sec. 121.12 Layoff - Probationary Appointees**

- 121.12.1** Probationary appointees shall be laid off in inverse order of the date of permanent certification, except if a more senior probationary or permanent appointee elects to be laid off. In the event of a conflict, the probationary or permanent appointee with the greater seniority shall have preference.
- 121.12.2** As provided elsewhere in these Rules, a probationary appointee, regardless of length of service, may displace any temporary appointee including part-time exempt, in the same class in any department.

## **Rule 121 Layoff**

### **Article VI: Layoff - Permanent Appointees**

**Applicability:** Rule 121 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 121 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

#### **Sec. 121.13    Layoff - Permanent Appointees**

**121.13.1** Layoff of permanent appointees shall be by class in a department in inverse order of seniority except if a more senior permanent appointee elects to be laid off. In the event of a conflict, the permanent appointee with the greater seniority shall have preference.

**121.13.2** Layoff shall be treated separately under each appointing officer except that permanent and probationary employees may displace other permanent or probationary employees in the same class with less seniority in any department.

#### **Sec. 121.14    Reinstatement from Entrance Appointment**

An employee laid off from an entrance appointment shall be either:

**121.14.1** Restored to a position in a class and department which the employee held on a permanent basis immediately prior to appointment in the class from which laid off. If necessary, layoffs in the classes affected shall follow;

**121.14.2** or, as directed by the Human Resources Director, appointed in rank order of seniority to a position not filled by a permanent employee in any other City department in the class held on a permanent basis immediately prior to appointment in the class from which laid off;

**Sec. 121.14 Reinstatement from Entrance Appointment (cont.)**

- 121.14.3 or, if options 1 and 2 are exhausted or if the employee had no permanent status prior to appointment in the class from which laid off; the employee, subject to the approval of the Commission, may be appointed to a position in a class similarly related to the class from which the layoff occurred provided such action shall not adversely affect an incumbent certified from an eligible list. The Human Resources Director shall designate and recommend such classes to the Commission.

**Sec. 121.15 Requirement for Probationary Period**

Reinstatement to a position other than the position in the class and department in which permanently employed immediately prior to appointment in the class from which laid off shall require the appointee to serve a new probationary period.

**Sec. 121.16 Seniority Date Upon Reinstatement**

- 121.16.1 Employees who are reinstated to a position held on a permanent basis immediately prior to appointment in the class from which laid off shall return with their original seniority date in the class.
- 121.16.2 Employees who are reinstated to a position in which they have had no prior permanent service shall have seniority calculated from the date of certification to the class from which laid off.

**Sec. 121.17 Layoff - Promotive Appointees**

An employee laid off from a promotive appointment shall be either:

- 121.17.1 Restored to a position in the class and department from which promoted. If necessary, layoffs in the classes affected shall follow;
- 121.17.2 Or, as directed by the Human Resources Director, appointed in rank order of seniority in the class to a position not filled by a permanent appointee in the class from which promoted in any other City department;
- 121.17.3 Or, if options 1 and 2 are exhausted, the employee, subject to the approval of the Commission, may be appointed to a position in a class similarly related to the class from which the layoff occurred or to an appropriate lower rank class provided such action shall not adversely affect the permanent incumbents. The Human Resources Director shall designate and recommend such classes to the Commission.

**Sec. 121.17 Layoff - Promotive Appointees (cont.)**

- 121.17.4 An employee who has completed the probationary period in a promotive appointment that is two or more steps higher in an occupational series than the permanent position from which promoted may be returned to a position in the City and County service in the next lower ranks. If necessary, layoffs in the classes affected shall follow.
- 121.17.5 For the purposes of this section, seniority in the intermediate class or classes shall be calculated from the date of certification in the higher class or in a class designated by the Human Resources Director as similarly related to the intermediate class.
- 121.17.6 If the employee laid off is the least senior employee in the intermediate rank(s), the employee shall be placed on holdover list(s) for such intermediate rank(s) and shall be restored to the class from which promoted.
- 121.17.7 Promotive employees who do not wish to be reinstated to a former class, a similarly-related class, or an intermediate class may waive such reinstatement and elect to be laid off or placed on involuntary leave. Such waiver shall not affect the employee's status on a holdover roster for the class from which laid off.

**Sec. 121.18 Higher Class Not Filled by Promotional Examination**

- 121.18.1 The Commission may order that the provisions of this Rule shall apply to appointees in higher classes in a class series even though the examination for such higher class was not held as a promotive examination or where appointees were blanketed in to such higher classes. If necessary, layoffs in the classes affected shall follow.
- 121.18.2 For the purposes of this section, seniority in the intermediate class or classes shall be calculated from the date of certification in the higher class or in a class designated by the Human Resources Director, as similarly related to the intermediate class.

**Sec. 121.19 Requirement for Probationary Period**

Reinstatement to a position other than the position in the class and department from which promoted shall require the appointee to serve a new probationary period.

**Sec. 121.20 Reinstatement with Employee's Original Seniority in the Class**

Employees who are reinstated from a promotive appointment are restored with their original seniority in the class, if any.

## **Rule 321**

### **Layoff**

Applicability: Rule 321 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

<u>Article I</u>	<u>Rules Prescribed - Authority</u>
<u>Article II</u>	<u>Seniority</u>
<u>Article III</u>	<u>Order of Layoff</u>
<u>Article IV</u>	<u>Layoff - Provisional and Temporary Employees</u>
<u>Article V</u>	<u>Layoff - Probationary Employees</u>
<u>Article VI</u>	<u>Layoff - Permanent Employees</u>



## **Rule 321 Layoff**

### **Article I: Rules Prescribed - Authority**

Applicability: Rule 321 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### **Sec. 321.1      Rules Prescribed - Authority**

- 321.1.1**      Under the authority of Section 10.101 of the Charter of the City and County of San Francisco, the Civil Service Commission of the City and County of San Francisco does prescribe and adopt the following Rule which shall have the force and effect of law.
- 321.1.2**      The Human Resources Director shall be responsible for administering and making effective the provisions of this Rule, and establishing such administrative controls as may be necessary.
- 321.1.3**      In all matters pertaining to interpretation of this Rule, the decision of the Commission shall be final.

## Rule 321 Layoff

### Article II: Seniority

Applicability: Rule 321 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### Sec. 321.2      Determination of Seniority

321.2.1      Except as may otherwise be provided in this Rule, seniority shall be determined as follows:

1)      **Permanent**

Seniority for permanent appointees shall be determined by the date of certification which resulted in a permanent appointment to a position in a class in a department. Seniority for appointees granted status or permanent tenure to a class shall be determined by the date of certification in the class from which status or permanent tenure was granted.

2)      **Temporary from Eligible List**

Seniority for temporary employees appointed from an eligible list shall be determined by the date of certification which resulted in a temporary appointment to a position in a class in a department.

3)      ~~Limited Tenure~~

~~Seniority for limited tenure appointees shall be determined by the date an appointee starts to work in a current continuous limited tenure appointment in a department. Seniority in the event of ties shall be determined by the appointing officer whose decision shall be final. For purposes of calculating the seniority of non civil service or limited tenure employees, all periods of time served in the most recent continuous temporary or limited tenure appointment shall be combined and the cumulative total derived thereby shall be used to determine seniority.~~

321.2.2      Excluding involuntary leave as provided elsewhere in this Rule, seniority shall not be affected or reduced by current or previous periods of authorized leave of absence or authorized reduction in work schedules.

#### Sec. 321.2      Determination of Seniority (cont.)

- 321.2.3 In calculating permanent seniority in a class, temporary seniority in the same class shall not be added to permanent seniority in a class.
- 321.2.4 In calculating temporary seniority in a class, permanent seniority in the same class shall be added to temporary seniority in a class.
- 321.2.5 Seniority acquired in a recognized craft apprenticeship program with the City and County shall be added to seniority in the journey-level class.

**Sec. 321.3**      **Tie Scores in Seniority**

- 321.3.1 In the event of ties, seniority of civil service appointees shall be determined by rank on the eligible list. In determining rank, earlier eligible lists have priority over later eligible lists and promotive lists have absolute priority over entrance lists.
- 321.3.2 Ties in seniority among members of the Uniformed Ranks of the San Francisco Fire Department appointed from lists adopted on or after December 6, 1991 shall be determined by a Rule adopted by the Fire Commission. This Rule and any amendments thereto shall be subject to the approval of the Civil Service Commission, and when so approved by the Commission, shall be deemed as included in this subsection.

**Sec. 321.4**      **Establishment and Verification of Seniority Roster**

- 321.4.1 When a layoff is imminent, an appointing officer shall notify the Department of Human Resources as to the class or classes affected.
- 321.4.2 If requested by the Human Resources Director, the appointing officer shall provide a seniority roster including, but not limited to, the name, status, certification date, and rank on eligible list of all employees in the affected classes and the number of such employees to be laid off.
- 321.4.3 The Human Resources Director, upon verification of the seniority roster, shall notify the appointing officer of the names of those employees to be laid off.
- 321.4.4 Whenever possible the appointing officer must notify affected employees sufficiently in advance of a layoff.

## Rule 321 Layoff

### Article III: Order of Layoff

Applicability: Rule 321 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### Sec. 321.5      Order of Layoff

Except as may otherwise be provided in this Rule, layoff of employees shall be by inverse order of seniority in a class and department in the following order of absolute priority:

- 321.5.1      Provisional - Non-Civil Service
- ~~321.5.2      Provisional - Limited Tenure~~
- 321.5.3      Provisional
- 321.5.4      Temporary From Eligible List
- 321.5.5      Probationary
- 321.5.6      Permanent

#### Sec. 321.6      Exceptions to Order of Layoff

- 321.6.1      Provisional ~~or limited tenure~~ employees, who qualified for their positions as a result of meeting specific hiring criteria and who are appointed under specific funding guidelines which limit the duration of employment shall be laid off at the end of their designated tenure without effect on any other employees.
- 321.6.2      Persons appointed to positions requiring special qualifications or skills shall be laid off when the work requiring such special qualifications or skills is completed, providing such appointees shall have rights to continue employment within their class in positions where the special qualifications or skills are not required if their name has been reached for certification to a regular position.
- 321.6.3      In the event of a layoff, a person appointed to a position requiring special qualifications or skills as approved by the Human Resources Director shall continue in the position unless a more senior employee or holdover in the class in which the layoff occurs possesses the same qualifications and skills. The Human Resources Director may administer such tests as deemed necessary to determine possession of special qualifications and skills.

**Sec. 321.6**      **Exceptions to Order of Layoff (cont.)**

**321.6.4**      All exceptions to the order of layoff shall require the express approval of the Human Resources Director.

## Rule 321 Layoff

### Article IV: Layoff - Provisional and Temporary Appointees

Applicability: Rule 321 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

Sec. 321.7      Layoff - Provisional Appointees

Except for provisional limited tenure appointees, as provided in Sec. 321.9, provisional appointees shall be laid off at the discretion of the appointing officer, except that entrance provisional employees shall be laid off prior to the layoff of any promotive provisional appointees in the same class. Provisional appointees who hold permanent status in another class and who are laid off shall revert to their permanent positions.

~~Sec. 321.8~~      ~~Layoff - Non-Civil Service Appointees~~

~~Non-civil service appointees shall be laid off at the discretion of the appointing officer. Non-civil service employees who were previously limited tenure or temporary civil service in a current continuous appointment shall be treated as limited tenure for the purposes of layoff.~~

Sec. 321.9      Layoff - Limited Tenure Appointees

The layoff of a limited tenure appointee shall be governed by the following provisions:

~~321.9.1~~      ~~The limited tenure appointee with the least seniority in the class in the department shall be laid off first except if a more senior limited tenure appointee elects to be laid off. In the event of a conflict, the limited tenure appointee with the greater seniority shall have preference.~~

~~321.9.2~~      ~~Entrance limited tenure employees shall be laid off prior to the layoff of any promotional limited tenure appointees in the same class.~~

~~321.9.3~~      ~~Limited tenure appointees who hold permanent status in another class and who are laid off shall revert to their permanent positions.~~

**Sec. 321.10**     **Temporary Appointees from Eligible List**

**321.10.1**     Order of layoff for temporary appointees shall be by class within a department, by inverse order of seniority except if a more senior temporary appointee elects to be laid off. In the event of a conflict, the temporary appointee with the greater seniority shall have preference.

**321.10.2**     The names of temporary appointees who are laid off shall be returned to the eligible lists from which appointed for further certification if such lists are still in existence.

## **Rule 321 Layoff**

### **Article V: Layoff - Probationary Appointees**

Applicability: Rule 321 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### **Sec. 321.11      Layoff - Probationary Appointees**

- 321.11.1** Probationary appointees shall be laid off in inverse order of the date of permanent certification, except if a more senior probationary or permanent appointee elects to be laid off. In the event of a conflict, the probationary or permanent appointee with the greater seniority shall have preference.
- 321.11.2** As provided elsewhere in these Rules, a probationary appointee, regardless of length of service, may displace any temporary appointee including part-time exempt, in the same class in any department.



## **Rule 321 Layoff**

### **Article VI: Layoff - Permanent Appointees**

**Applicability:** Rule 321 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### **Sec. 321.12      Layoff - Permanent Appointees**

- 321.12.1** Layoff of permanent appointees shall be by class in a department in inverse order of seniority except if a more senior permanent appointee elects to be laid off. In the event of a conflict, the permanent appointee with the greater seniority shall have preference.
- 321.12.2** Layoff shall be treated separately under each appointing officer except that permanent and probationary employees may displace other permanent or probationary employees in the same class with less seniority in any department.

#### **Sec. 321.13      Reinstatement from Entrance Appointment**

An employee laid off from an entrance appointment shall be either:

- 321.13.1** Restored to a position in a class and department which the employee held on a permanent basis immediately prior to appointment in the class from which laid off. If necessary, layoffs in the classes affected shall follow;
- 321.13.2** or, as directed by the Human Resources Director, appointed in rank order of seniority to a position not filled by a permanent employee in any other city department in the class held on a permanent basis immediately prior to appointment in the class from which laid off;
- 321.13.3** or, if options 1 and 2 are exhausted or if the employee had no permanent status prior to appointment in the class from which laid off, the employee, subject to the approval of the Commission, may be appointed to a position in a class similarly related to the class from which the layoff occurred provided such action shall not adversely affect an incumbent certified from an eligible list. The Human Resources Director shall designate and recommend such classes to the Commission.

**Sec. 321.14**     **Requirement for Probationary Period**

Reinstatement to a position other than the position in the class and department in which permanently employed immediately prior to appointment in the class from which laid off shall require the appointee to serve a new probationary period.

**Sec. 321.15**     **Seniority Date Upon Reinstatement**

**321.15.1**     Employees who are reinstated to a position held on a permanent basis immediately prior to appointment in the class from which laid off shall return with their original seniority date in the class.

**321.15.2**     Employees who are reinstated to a position in which they have had no prior permanent service shall have seniority calculated from the date of certification to the class from which laid off.

**Sec. 321.16**     **Layoff - Promotive Appointees**

An employee laid off from a promotive appointment shall be either:

**321.16.1**     Restored to a position in the class and department from which promoted. If necessary, layoffs in the classes affected shall follow;

**321.16.2**     Or, as directed by the Human Resources Director, appointed in rank order of seniority in the class to a position not filled by a permanent appointee in the class from which promoted in any other city department;

**321.16.3**     Or, if options 1 and 2 are exhausted, the employee, subject to the approval of the Commission, may be appointed to a position in a class similarly related to the class from which the layoff occurred or to an appropriate lower rank class provided such action shall not adversely affect the permanent incumbents. The Human Resources Director shall designate and recommend such classes to the Commission.

**321.16.4**     An employee who has completed the probationary period in a promotive appointment that is two or more steps higher in an occupational series than the permanent position from which promoted may be returned to a position in the City and County service in the next lower ranks. If necessary, layoffs in the classes affected shall follow.

**Sec. 321.16**    **Layoff - Promotive Appointees (cont.)**

- 321.16.5    For the purposes of this section, seniority in the intermediate class or classes shall be calculated from the date of certification in the higher class or in a class designated by the Human Resources Director as similarly related to the intermediate class.
- 321.16.6    If the employee laid off is the least senior employee in the intermediate rank(s), the employee shall be placed on holdover list(s) for such intermediate rank(s) and shall be restored to the class from which promoted.
- 321.16.7    Promotive employees who do not wish to be reinstated to a former class, a similarly-related class, or an intermediate class may waive such reinstatement and elect to be laid off or placed on involuntary leave. Such waiver shall not affect the employee's status on a holdover roster for the class from which laid off.

**Sec. 321.17**    **Higher Class Not Filled by Promotional Examination**

- 321.17.1    The Commission may order that the provisions of this Rule shall apply to appointees in higher classes in a class series even though the examination for such higher class was not held as a promotive examination or where appointees were blanketed in to such higher classes. If necessary, layoffs in the classes affected shall follow.
- 321.17.2    For the purposes of this section, seniority in the intermediate class or classes shall be calculated from the date of certification in the higher class or in a class designated by the Human Resources Director, as similarly related to the intermediate class.

**Sec. 321.18**    **Requirement for Probationary Period**

Reinstatement to a position other than the position in the class and department from which promoted shall require the appointee to serve a new probationary period.

**Sec. 321.19**    **Reinstatement with Employee's Original Seniority in the Class**

Employees who are reinstated from a promotive appointment are restored with their original seniority in the class, if any.

## **Rule 421**

### **Layoff**

**Applicability:** Rule 421 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 421 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

<u>Article I</u>	<u>Rules Prescribed - Authority</u>
<u>Article II</u>	<u>Seniority</u>
<u>Article III</u>	<u>Order of Layoff</u>
<u>Article IV</u>	<u>Layoff - Provisional and Temporary Appointees</u>
<u>Article V</u>	<u>Layoff - Probationary Appointees</u>
<u>Article VI</u>	<u>Layoff - Permanent Appointees</u>

## **Rule 421 Layoff**

### **Article I: Rules Prescribed - Authority**

**Applicability:** Rule 421 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 421 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Sec. 421.1      Rules Prescribed - Authority**

- 421.1.1**      Under the authority of Section 10.101 of the Charter of the City and County of San Francisco, the Civil Service Commission of the City and County of San Francisco does prescribe and adopt the following Rule which shall have the force and effect of law.
  
- 421.1.2**      The MTA Director of Transportation/Designee shall be responsible for administering and making effective the provisions of this Rule, and establishing such administrative controls as may be necessary.
  
- 421.1.3**      In all matters pertaining to interpretation of this Rule, the decision of the Commission shall be final.

## Rule 421 Layoff

### Article II: Seniority

**Applicability:** Rule 421 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 421 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### Sec. 421.2      Determination of Seniority

421.2.1      Except as may otherwise be provided in this Rule, seniority shall be determined as follows:

1)      **Permanent**

Seniority for permanent appointees shall be determined by the date of certification which resulted in a permanent appointment to a position in a class in a department. Seniority for appointees granted status or permanent tenure to a class shall be determined by the date of certification in the class from which status or permanent tenure was granted.

2)      **Temporary from Eligible List**

Seniority for temporary employees appointed from an eligible list shall be determined by the date of certification which resulted in a temporary appointment to a position in a class in a department.

3)      ~~Limited Tenure~~

~~Section 421.2.1 (3) of Article II, Rule 421, apply only to all Service Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.~~

~~Seniority for limited tenure appointees shall be determined by the date an appointee starts to work in a current continuous limited tenure appointment in a department. Seniority in the event of ties shall be determined by the MTA Director of Transportation/Designee whose decision shall be final. For purposes of calculating the seniority of non civil service or limited tenure employees, all periods of time served in the most recent continuous temporary or limited tenure appointment shall be combined and the cumulative total derived thereby shall be used to determine seniority.~~

**Sec. 421.2**      **Determination of Seniority (cont.)**

- 421.2.2      Excluding involuntary leave as provided elsewhere in this Rule, seniority shall not be affected or reduced by current or previous periods of authorized leave of absence or authorized reduction in work schedules.
- 421.2.3      In calculating permanent seniority in a class, temporary seniority in the same class shall not be added to permanent seniority in a class.
- 421.2.4      In calculating temporary seniority in a class, permanent seniority in the same class shall be added to temporary seniority in a class.
- 421.2.5      Seniority acquired in a recognized craft apprenticeship program with the City and County shall be added to seniority in the journey-level class.

**Sec. 421.3**      **Tie Scores in Seniority**

- 421.3.1      In the event of ties, seniority of civil service appointees shall be determined by rank on the eligible list. In determining rank, earlier eligible lists have priority over later eligible lists and promotive lists have absolute priority over entrance lists.
- 421.3.2      In the event of a tie in rank among appointees from lists of eligibles adopted on or after December 6, 1991, the methods listed below shall be used to determine seniority in the following order of priority until the tie is broken. First, the appointee with the longest continuous service in the class under permanent civil service appointment regardless of department shall be ranked above appointees with lesser service in the class; then, the appointee with the longest continuous citywide service under permanent civil service appointment regardless of class shall be ranked above appointees with lesser citywide service; finally, if the tie has not been broken by the preceding methods, it shall be broken by lot in the manner prescribed by the MTA Director of Transportation/Designee and conducted under the supervision of the MTA Director of Transportation/Designee. The decision of the MTA Director of Transportation/Designee shall be final and shall not be reconsidered by the Commission. In no case shall service before resignation and reappointment or discharge and reemployment be included in determining length of service for the purposes of this section.

**Sec. 421.4**      **Establishment and Verification of Seniority Roster**

- 421.4.1      When a layoff is imminent, the MTA Director of Transportation/Designee shall notify the City's Department of Human Resources as to the class or classes affected.
  
- 421.4.2      If requested by the City's Human Resources Director, the MTA Director of Transportation/Designee shall provide a seniority roster including, but not limited to, the name, status, certification date, and rank on eligible list of all employees in the affected classes and the number of such employees to be laid off.
  
- 421.4.3      The MTA Director of Transportation/Designee, upon verification of the seniority roster, shall notify the City's Director of Human Resources of the names of those employees to be laid off.
  
- 421.4.4      Whenever possible the MTA Director of Transportation/Designee must notify affected employees sufficiently in advance of a layoff.



## Rule 421 Layoff

### Article III: Order of Layoff

**Applicability:** Rule 421 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 421 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### Sec. 421.5      Order of Layoff

Except as may otherwise be provided in this Rule, layoff of employees shall be by inverse order of seniority in a class and department in the following order of absolute priority:

- 421.5.1      ~~Provisional /Non-Civil Service/Limited Tenure~~
- 421.5.2      Temporary From Eligible List
- 421.5.3      Probationary
- 421.5.4      Permanent

#### Sec. 421.6      Exceptions to Order of Layoff

- 421.6.1      ~~Provisional or limited tenure~~ employees, who qualified for their positions as a result of meeting specific hiring criteria and who are appointed under specific funding guidelines which limit the duration of employment shall be laid off at the end of their designated tenure without effect on any other employees.
- 421.6.2      Persons appointed to positions requiring special qualifications or skills shall be laid off when the work requiring such special qualifications or skills is completed, providing such appointees shall have rights to continue employment within their class in positions where the special qualifications or skills are not required if their name has been reached for certification to a regular position.
- 421.6.3      In the event of a layoff, a person appointed to a position requiring special qualifications or skills as approved by the MTA Director of Transportation/Designee shall continue in the position unless a more senior employee or holdover in the class in which the layoff occurs possesses the same qualifications and skills. The MTA Director of Transportation/Designee may administer such tests as deemed necessary to determine possession of special qualifications and skills.

**Sec. 421.6**      **Exceptions to Order of Layoff (cont.)**

**421.6.4**      All exceptions to the order of layoff shall require the express approval of the MTA Director of Transportation/Designee.

## Rule 421 Layoff

### Article IV: Layoff - Provisional and Temporary Appointees

Applicability: Rule 421 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 421 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### Sec. 421.7      Layoff - Provisional Appointees

Except as provided, provisional appointees shall be laid off at the discretion of the MTA Director of Transportation/Designee; except that entrance provisional employees shall be laid off prior to the layoff of any promotive provisional appointees in the same class. Provisional appointees who hold permanent status in another class and who are laid off shall revert to their permanent positions.

#### Sec. 421.8      Layoff - Non-Civil Service Appointees

~~Section 421.8 of Article IV, Rule 421, shall apply only to all Service Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.~~

~~Non-civil service appointees shall be laid off at the discretion of the MTA Director of Transportation/Designee. Non-civil service employees who were previously limited tenure or temporary civil service in a current continuous appointment shall be treated as limited tenure for the purposes of layoff.~~

#### Sec. 421.9      Layoff - Limited Tenure Appointees

~~Section 421.9 of Article IV, Rule 421, shall apply only to Service Critical classes of the Municipal Transportation Agency (MTA) represented by Transport Workers Union (TWU) - Locals 200 and 250A.~~

~~The layoff of a limited tenure appointee shall be governed by the following provisions:~~

~~421.9.1      The limited tenure appointee with the least seniority in the class in the department shall be laid off first except if a more senior limited tenure appointee elects to be laid off. In the event of a conflict, the limited tenure appointee with the greater seniority shall have preference.~~

~~Sec. 421.9~~ Layoff Limited Tenure Appointees (cont.)

~~Section 421.9 of Article IV, Rule 421, shall apply only to Service Critical classes of the Municipal Transportation Agency (MTA) represented by Transport Workers Union (TWU) Locals 200 and 250A.~~

~~421.9.2~~ Entrance limited tenure employees shall be laid off prior to the layoff of any promotional limited tenure appointees in the same class.

~~421.9.3~~ Limited tenure appointees who hold permanent status in another class and who are laid off shall revert to their permanent positions.

Sec. 421.10 Temporary Appointees from Eligible List

421.10.1 Order of layoff for temporary appointees shall be by class within a department, by inverse order of seniority except if a more senior temporary appointee elects to be laid off. In the event of a conflict, the temporary appointee with the greater seniority shall have preference.

421.10.2 The names of temporary appointees who are laid off shall be returned to the eligible lists from which appointed for further certification if such lists are still in existence.

## **Rule 421 Layoff**

### **Article V: Layoff - Probationary Appointees**

**Applicability:** Rule 421 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 421 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Sec. 421.11      Layoff - Probationary Appointees**

- 421.11.1** Probationary appointees shall be laid off in inverse order of the date of permanent certification, except if a more senior probationary or permanent appointee elects to be laid off. In the event of a conflict, the probationary or permanent appointee with the greater seniority shall have preference.
- 421.11.2** As provided elsewhere in these Rules, a probationary appointee, regardless of length of service, may displace any temporary appointee including part-time exempt, in the same class in any department.

## **Rule 421 Layoff**

### **Article VI: Layoff - Permanent Appointees**

**Applicability:** Rule 421 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 421 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Sec. 421.12      Layoff - Permanent Appointees**

- 421.12.1      Layoff of permanent appointees shall be by class in a department in inverse order of seniority except if a more senior permanent appointee elects to be laid off. In the event of a conflict, the permanent appointee with the greater seniority shall have preference.
- 421.12.2      Layoff shall be treated separately under each appointing officer except that permanent and probationary employees may displace other permanent or probationary employees in the same class with less seniority in any department.

#### **Sec. 421.13      Reinstatement from Entrance Appointment**

An employee laid off from an entrance appointment shall be either:

- 421.13.1      Restored to a position in a class and department which the employee held on a permanent basis immediately prior to appointment in the class from which laid off. If necessary, layoffs in the classes affected shall follow;
- 421.13.2      or, as directed by the City's Human Resources Director, appointed in rank order of seniority to a position not filled by a permanent employee in any other city department in the class held on a permanent basis immediately prior to appointment in the class from which laid off;

**Sec. 421.13    Reinstatement from Entrance Appointment (cont.)**

421.13.3    or, if options 1 and 2 are exhausted or if the employee had no permanent status prior to appointment in the class from which laid off, the employee, subject to the approval of the Commission, may be appointed to a position in a class similarly related to the class from which the layoff occurred provided such action shall not adversely affect an incumbent certified from an eligible list. The City's Human Resources Director shall designate classes between departments and recommend such classes to the Commission. The MTA Director of Transportation/Designee shall make such designations and recommendations for classes within MTA.

**Sec. 421.14    Requirement for Probationary Period**

Reinstatement to a position other than the position in the class and department in which permanently employed immediately prior to appointment in the class from which laid off shall require the appointee to serve a new probationary period.

**Sec. 421.15    Seniority Date Upon Reinstatement**

421.15.1    Employees who are reinstated to a position held on a permanent basis immediately prior to appointment in the class from which laid off shall return with their original seniority date in the class.

421.15.2    Employees who are reinstated to a position in which they have had no prior permanent service shall have seniority calculated from the date of certification to the class from which laid off.

**Sec. 421.16    Layoff - Promotive Appointees**

An employee laid off from a promotive appointment shall be either:

421.16.1    Restored to a position in the class and department from which promoted. If necessary, layoffs in the classes affected shall follow;

421.16.2    Or, as directed by the City's Human Resources Director, appointed in rank order of seniority in the class to a position not filled by a permanent appointee in the class from which promoted in any other city department;

**Sec. 421.16**     **Layoff - Promotive Appointees (cont.)**

- 421.16.3     Or, if options 1 and 2 are exhausted, the employee, subject to the approval of the Commission, may be appointed to a position in a class similarly related to the class from which the layoff occurred or to an appropriate lower rank class provided such action shall not adversely affect the permanent incumbents. The City's Human Resources Director shall designate classes between departments and recommend such classes to the Commission. The MTA Director/Designee shall make such designations and recommendations for classes within MTA.
- 421.16.4     An employee who has completed the probationary period in a promotive appointment that is two or more steps higher in an occupational series than the permanent position from which promoted may be returned to a position in the City and County service in the next lower ranks. If necessary, layoffs in the classes affected shall follow.
- 421.16.5     For the purposes of this section, seniority in the intermediate class or classes shall be calculated from the date of certification in the higher class or in a class designated by the City's Human Resources Director or the MTA Director of Transportation/Designee as similarly related to the intermediate class.
- 421.16.6     If the employee laid off is the least senior employee in the intermediate rank(s), the employee shall be placed on holdover list(s) for such intermediate rank(s) and shall be restored to the class from which promoted.
- 421.16.7     Promotive employees who do not wish to be reinstated to a former class, a similarly-related class, or an intermediate class may waive such reinstatement and elect to be laid off or placed on involuntary leave. Such waiver shall not affect the employee's status on a holdover roster for the class from which laid off.

**Sec. 421.17**     **Higher Class Not Filled by Promotional Examination**

- 421.17.1     The Commission may order that the provisions of this Rule shall apply to appointees in higher classes in a class series even though the examination for such higher class was not held as a promotive examination or where appointees were blanketed in to such higher classes. If necessary, layoffs in the classes affected shall follow.



**Sec. 421.17**     **Higher Class Not Filled by Promotional Examination (cont.)**

**421.17.2**     For the purposes of this section, seniority in the intermediate class or classes shall be calculated from the date of certification in the higher class or in a class designated by the City's Human Resources Director or the MTA Director of Transportation/Designee, as similarly related to the intermediate class.

**Sec. 421.18**     **Requirement for Probationary Period**

Reinstatement to a position other than the position in the class and department from which promoted shall require the appointee to serve a new probationary period.

**Sec. 421.19**     **Reinstatement with Employee's Original Seniority in the Class**

Employees who are reinstated from a promotive appointment are restored with their original seniority in the class, if any.

**Proposed Revisions to Civil Service Rule Series 22**

**ATTACHMENT D**

## **Rule 122**

### **Employee Separation Procedures**

**Applicability:** Rule 122 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV. If there is any conflict in the provisions of this Rule and relevant Charter Sections, the Charter language prevails.

**Article I: Separation Procedures**

**Article II: Termination of Temporary Employee**

**Article III: Termination of ~~Limited Tenure~~ Provisional Employee**

**Applicability:** Article III, Rule 122, shall apply to employees in classes represented by the Transport Workers Union (TWU) - Locals 200 and 250A; except MTA Service-Critical classes. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

**Article IV: Dismissal of Permanent Employee**

**Article V: Resignation - Services Unsatisfactory**

**Article VI: Absence from Duty Without Leave (Automatic Resignation)**

**Article VII: Request to Remove Non-Permanent Ban**

**Applicability:** Article VII, Rule 122, shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

## Rule 122 Employee Separation Procedures

### Article I: Separation Procedures

**Applicability:** Rule 122 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volume II, III and IV. If there is any conflict in the provisions of this Rule and relevant Charter Sections, the Charter language prevails.

#### **Sec. 122.1      Rules of Procedure Governing Separation Hearings**

**122.1.1** This Article prescribes the procedures governing the separation of the following:

Except as otherwise noted, Section 122.1.1 shall apply only to employees in classes represented by the Transport Workers Union (TWU) - Locals 200 and 250A; excluding MTA Service-Critical classes.

1. Temporary employee from a list
2. Dismissal of permanent employee

**122.1.2** This Article prescribes the procedures governing the separation of the following:

Except as otherwise noted, Section 122.1.2 shall apply only to employees in classes represented by the Transport Workers Union (TWU) - Locals 200 and 250A; excluding MTA Service-Critical classes.

1. Temporary employee from a list
2. ~~Limited tenure~~ Provisional employee
3. Dismissal of permanent employee

**122.1.3** A notice of termination on the form prescribed by the Human Resources Director from the appointing officer to the employee detailing the specific reason(s) for the termination, shall serve as official notice of such termination. The notice of termination shall be sent by certified mail or personally delivered. Copies of the termination form must be filed in the Department of Human Resources.

**Sec. 122.1**    **Rules of Procedure Governing Separation Hearings (cont.)**

122.1.4    The notice of termination must include the following information:

- 1) The employee has the right to a hearing before the Civil Service Commission provided that a request for hearing is made in writing and is received by the Executive Officer within twenty (20) calendar days from the date of termination of appointment or from the date of mailing of the Notice of Termination whichever is later. In the event the 20<sup>th</sup> day falls on a non-business day, the deadline shall be extended to the close of business of the first (1<sup>st</sup>) business day following the 20<sup>th</sup> day.
- 2) The decision of the Civil Service Commission may affect any future employment with the City and County of San Francisco.
- 3) Representation by an attorney or authorized representative of the employee's choice at the inquiry;
- 4) Notification of date, time and place of inquiry a reasonable time in advance; and
- 5) Inspection by the employee's attorney or authorized representative of those records and materials on file with the Executive Officer which related to the termination.

122.1.5    Any interested party may request a continuance of the inquiry.

122.1.6    The stated reason(s) for the termination must be enumerated. Records of warnings, reprimands and previous suspensions, if applicable to the reasons for termination, must be attached to the termination form.

122.1.7    To the extent practicable, the departmental representative who has the most complete personal knowledge of the facts which constitute the basis for the termination shall appear when the matter is to be considered by the Commission. The matter will be heard in accordance with the procedures provided elsewhere in these Rules. Interested parties may record the inquiry if they provide the necessary equipment.

**Sec. 122.2**    **Eligibility Status Pending Commission Action on Termination or Dismissal**

Except as otherwise ordered by the Human Resources Director, pending action of the Commission on termination of any appointment or upon preferential of charges for dismissal, the name of the appointee shall be placed under waiver for all appointment(s) on any eligible list on which the person has standing and shall be otherwise ineligible for any employment in the City and County service.

**Sec. 122.3**    **Effect of Commission Approval of Termination or Dismissal**

Unless specifically ordered otherwise by the Commission, approval of termination or dismissal shall result in the cancellation of all current examination and eligibility status, and all future applications will require the approval of the Human Resources Director, after completion of one (1) year's satisfactory work experience outside the City and County service and by recommendation of the department head or Human Resources Director, the person shall be ineligible for future employment with the department from which separated.

**Sec. 122.4**    **Effect of Failure to Request Commission Review of Termination or Dismissal**

**122.4.1**    Failure to request a Commission review within the twenty (20) day period as provided elsewhere within this Rule shall result in the following actions:

- 1) The adoption of the departmental recommendation as approved by the Human Resources Director; or approval of the separation, if such action is appropriate; and/or
- 2) Dismissal from the City and County service; and/or
- 3) The cancellation of all current examination and eligibility status; and/or
- 4) All future applications shall be subject to the review and approval of the Human Resources Director after satisfactory completion of one (1) year's work experience outside the City and County service; and/or
- 5) By recommendation of the department head or Human Resources Director, the separated employee may not be employed with the same department in the future.

**122.4.2**    This action shall be final and shall not be subject to reconsideration unless the person can present evidence in writing of being unable to communicate with the Commission within thirty (30) days of being able to so communicate. All requests for reconsideration shall be in writing and shall be processed in accordance with the procedure for reconsideration provided elsewhere in these Rules.

## **Rule 122**

### **Employee Separation Procedures**

#### **Article II: Termination of Temporary Employee**

**Applicability:** Rule 122 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volume II, III and IV. If there is any conflict in the provisions of this Rule and relevant Charter Sections, the Charter language prevails.

#### **Sec. 122.5 Procedure for Termination of Temporary Employee**

**122.5.1** A temporary employee may be terminated for cause by an appointing officer at any time. The notification and hearing procedure shall be in accordance with the provisions of this Rule.

**122.5.2** The Commission shall take one or more of the following actions:

- 1) Declare the person dismissed from the service and remove the name of the person from the eligible list;
- 2) Order the name of the person removed from any other list or lists on which the person has eligibility;
- 3) Restrict future employment as it deems appropriate;
- 4) Return the name of the person to the eligible list from which appointed without restriction or under such conditions for further appointment as it deems appropriate. If the list from which the terminated employee was appointed has expired, the name of the employee may be placed on a reemployment register for the class for an additional period of eligibility of twelve (12) months under such conditions for further appointment as the Commission deems appropriate.

## Rule 122 Employee Separation Procedures

### Article III: Termination of ~~Limited Tenure~~ Provisional Employee

Applicability: Article III, Rule 122, shall apply to employees in classes represented by the Transport Workers Union (TWU) - Locals 200 and 250A; except MTA Service-Critical classes. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV.

#### Sec. 122.6 Procedure for Termination of ~~Limited Tenure~~ Provisional Employee

122.6.1 A ~~limited tenure~~ provisional employee may be terminated for good cause by an appointing officer at any time with the approval of the Commission. The notification and hearing procedure shall be in accordance with the provisions of this Rule.

122.6.2 The Commission shall take one or more of the following actions:

- 1) Approve the termination and declare the person dismissed from the service.
- 2) Order the name of the person removed from any regular eligible list or lists on which the person may have standing.
- 3) Restrict future employment as it deems appropriate.
- 4) Disapprove the termination and reinstate the person to the department.



## **Rule 122**

### **Employee Separation Procedures**

#### **Article IV: Dismissal of Permanent Employee**

**Applicability:** Rule 122 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV. If there is any conflict in the provisions of this Rule and relevant Charter Sections, the Charter language prevails.

#### **Sec. 122.7    Procedure for Dismissal of Regular Permanent Employee**

##### **122.7.1    Dismissal of Permanent Employee**

A permanent employee who has completed the probationary period may be dismissed for cause upon written charges and after having an opportunity to be heard in her/his own defense.

##### **122.7.2    Notification of Time and Place of Hearing**

When the charges are made, the appointing officer shall notify the person in writing of the time and place where the charges will be heard by mailing such statement via certified mail to the employee's last known address. Such hearing shall not be held within five (5) working days of the date on which the notice is mailed. The employee may be represented by counsel or other representatives of the employee's choice.

##### **122.7.3    Hearing Officer - Sources**

The hearing itself, as required by Charter, shall be conducted by a hearing officer under contract to the appointing officer chosen as follows in each case: From organizations such as the American Arbitration Association or the State Conciliation Service which customarily provide hearing officers; or from a list of qualified hearing officers certified by the Civil Service Commission, which shall be kept current and contain at all times at least three (3) names.

**Sec. 122.7 Procedure for Dismissal of Regular Permanent Employee (cont.)**

**122.7.4 Hearing Officer - Method of Selection**

The Civil Service Commission shall certify its list of hearing officers by the following method:

- 1) The Commission shall cause to be published in a newspaper of general circulation an announcement of openings for hearing officers. This announcement shall run either for a period of five (5) working days or for two (2) weekends at the discretion of the Civil Service Commission;
- 2) The Commission shall include in its list only such applicants as to satisfy the following criteria: have at least one (1) year of experience in the conduct of judicial hearings in the capacity of a hearing officer and have experience in the resolution of disputes involving the interpretation of labor-management contracts;
- 3) The Executive Officer shall post the list of panel members so selected for a period of five (5) working days during which time employees, public employee organizations or City departments may seek to demonstrate in writing that any member of the panel is unacceptable. The Executive Officer shall review such challenges and shall determine whether on the basis of the challenge the individual should be eliminated from the approved list.

**122.7.5 Hearing Officer - Challenge of Employee**

The employee may challenge the competence of the hearing officer who is scheduled to hear the employee's case on the basis that the hearing officer is in some demonstrable manner biased or prejudiced against the employee and that, therefore, the employee will not be afforded a fair hearing. The challenge must be made in the following manner:

- 1) The challenge must be by written affidavit;
- 2) The challenge must be received by the appointing officer at least twenty four (24) hours prior to the commencement of the hearing;

**Sec. 122.7 Procedure for Dismissal of Regular Permanent Employees (cont.)****122.7.5 Hearing Officer - Challenge of Employee (cont.)**

3) Should the challenge cause the department to incur expense through the cancellation of the hearing officer, shorthand reporter, etc., such expenses shall be borne by the employee in keeping with the section on costs below. If the employee has been placed on suspension pending the hearing, any delay in the hearing occasioned through challenge or replacement of a hearing officer shall be considered a delay of the hearing by act of the accused employee and shall extend indefinitely the thirty (30)-day period referred to in Charter Section A8.341;

4) In the event that the appointing officer shall determine that the hearing officer cannot afford the employee a fair hearing, the appointing officer shall immediately make arrangement to obtain the services of another hearing officer in accordance with the methods stated above.

**122.7.6 Hearing Officer - Evidence to be Considered**

The hearing officer shall decide the case on the basis of the evidence presented. The hearing officer shall determine whether the accused employee has adhered to the applicable orders, Rules, regulations, ordinances, Charter provisions, or applicable sections of any memoranda of agreement or memoranda of understanding. The hearing officer shall be prohibited from considering the relative merits or social desirability of such orders, Rules, regulations, ordinances, Charter provisions or sections of memoranda of agreement or memoranda of understanding as may be applicable to the case.

**122.7.7 Hearing Officer - Decision**

Within five (5) working days of the close of the hearing, unless specifically exempted for good cause by the appointing officer, the hearing officer shall notify the appointing officer in writing of a decision in the case. The hearing officer shall be limited to the following options in deciding the case:

1) The hearing officer may exonerate the employee in which case the record may, at the discretion of the hearing officer, be expunged and the employee may receive back pay for all time lost;

**Sec. 122.7 Procedure for Dismissal of Regular Permanent Employee (cont.)**

**122.7.7 Hearing Officer - Decision (cont.)**

2) The hearing officer may find the employee guilty as charged, in which case the following provisions apply:

- the hearing officer may order the employee returned to work but without back pay for any time not worked between the time charges were made and the time of the hearing or the time the hearing officer renders a decision, whichever is longer;

- the hearing officer may suspend the employee without pay but may not at her/his discretion, order back pay for any periods not worked prior to the hearing; or

- the hearing officer may dismiss the employee.

**122.7.8 Notification of Decision of Hearing Officer**

Within five (5) working days after the appointing officer receives written notification of the decision of the hearing officer, the appointing officer shall inform the employee in writing of the decision of the hearing officer and shall, by copies of this correspondence and the written notification from the hearing officer, inform the Civil Service Commission of the decision and the action taken.

**122.7.9 Costs**

1) The department bringing charges against an employee shall pay all fees for hearing officers and court reporters, and, if required, the cost of preparation of the transcript with the following exception:

2) If additional costs are incurred as a result of any request of the employee (such as costs occasioned by the untimely postponement of a hearing, challenges of hearing officer, etc.), all such additional costs, such as cancellation fees or fees when court reporters cannot be notified of the cancellation of a hearing within their established and customary limits, shall be borne by the employee.

**Sec. 122.8 Procedure for Hearing on Charges Against an Employee When the Appointing Officer Neglects or Refuses to Act**

- 122.8.1** When the appointing officer neglects or refuses to act pertaining to the removal of any employee subject to the civil service provisions of the Charter, the Commission may hear and determine any charge filed by a citizen, or by any member of or by an authorized agent of the Commission. In rendering its decision, the Commission shall determine the charges and may exonerate, suspend or dismiss the accused employee in accordance with the provisions of Charter Section A8.341.
- 122.8.2** The appointing officer or the departmental representative shall appear when the matter is to be considered. The matter will be heard in accordance with this procedure provided elsewhere in these Rules.

## **Rule 122**

### **Employee Separation Procedures**

#### **Article V: Resignation - Services Unsatisfactory**

**Applicability:** Rule 122 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV. If there is any conflict in the provisions of this Rule and relevant Charter Sections, the Charter language prevails.

#### **Sec. 122.9 Procedure for Review of Resignation - Services Unsatisfactory**

##### **122.9.1 Notice of Proposed Action**

If the services of a resignee are to be designated as unsatisfactory, the appointing officer or designated representative shall notify the resignee of intention to so certify the resignation. The resignee shall be informed of the reasons for this determination and shall be offered an opportunity for review by the appointing officer or designated representative.

##### **122.9.2 Action by Appointing Officer**

As a result of review, if such review is requested by the resignee, the appointing officer may amend or sustain the certification of services.

##### **122.9.3 Notification to Employee**

If the appointing officer amends the resignation, the resignee shall immediately be notified by copy of the resignation form with services clearly marked satisfactory. If the appointing officer sustains the original determination, the appointing officer shall immediately notify the resignee on the separation form prescribed by the Department of Human Resources.

##### **122.9.4 Report Requirement**

A resignation certified by the appointing officer as services unsatisfactory shall be accompanied with a statement of the reasons for this action and shall contain a statement that the notification and review procedure outlined above was completed.

**Sec. 122.9 Procedure for Review of Resignation - Services Unsatisfactory (cont.)****122.9.5 Commission Review**

The Commission shall consider the resignations of persons whose services have been designated as unsatisfactory provided that a request for review is made in writing and is received in the Commission office within twenty (20) calendar days of the date of mailing of the Notice of Separation designating the services as unsatisfactory. In the event the 20<sup>th</sup> day falls on a non-business day, the deadline shall be extended to the close of business on the first (1<sup>st</sup>) business day following the 20<sup>th</sup> day. The Commission shall take one or more of the following actions:

- 1) Accept the resignation as certified;
- 2) Remove the name of the resignee from other eligible lists on which the eligible's name appears;
- 3) Restrict participation in future examinations as it deems just;
- 4) Restrict future employment as it deems just;
- 5) Accept the resignation as certified and order that future employment be without restriction including the right to request reappointment; or
- 6) Remand the resignation to the appointing officer for reconsideration.

**122.9.6 Failure to Request Review**

1) Failure to request a Commission review within the twenty (20)-day period provided above shall result in the adoption of the departmental recommendation as approved by the Human Resources Director; or the cancellation of all current examination and eligibility status; and all future applications shall be subject to the review and approval of the Human Resources Director after satisfactory completion of one (1) year's work experience outside City and County service.

2) This action shall be final and shall not be subject to reconsideration unless the person can present evidence in writing of being unable to communicate with the Commission within thirty (30) days of being able to so communicate. All requests for reconsideration shall be in writing and shall be processed in accordance with the procedure for reconsideration provided elsewhere in these Rules.

**Sec. 122.9 Procedure for Review of Review of Resignation - Services Unsatisfactory (cont.)**

**122.9.7 Hearing Procedures**

Hearings pursuant to this Rule shall be conducted in accordance with the procedures provided elsewhere in these Rules.

**122.9.8 Waiver of Employment**

Pending final action, the resignee shall be ineligible for all employment.



## Rule 122

### Employee Separation Procedures

#### Article VI: Absence from Duty Without Leave

**Applicability:** Rule 122 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superceded by a collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in Rule 122 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service Critical classes as covered in Volumes II, III and IV. If there is any conflict in the provisions of this Rule and relevant Charter Sections, the Charter language prevails.

#### Sec. 122.10    When Five Days or Less

Absence from duty without proper authorization for any period of time up to and including five (5) or less working days shall be cause for disciplinary action by the appointing officer.

#### Sec. 122.11    When Over Five Days - Automatic Resignation

- 122.11.1** Absence from duty without proper authorization in excess of five (5) continuous working days shall constitute abandonment of the position and shall be reported to the Department of Human Resources and recorded as an automatic resignation. The appointing officer shall notify the employee on the form prescribed by the Human Resources Director. The employee shall be notified by certified mail.
- 122.11.2** The automatic resignation shall be subject to appeal to the Commission, if so requested by the person in writing, within fifteen (15) calendar days of the mailing date of the notice of automatic resignation. The fifteen (15) days includes the date on which the notice was mailed. The Commission shall hear such appeal. The decision of the Commission shall be final and not be reconsidered.
- 122.11.3** Failure to appeal within the fifteen (15) day period shall result in the adoption of the recommendation of the department head as approved by the Human Resources Director, or the cancellation of all current examination and eligibility status; the review and approval of the Human Resources Director, of all future applications after satisfactory completion of one (1) year's work experience outside the City and County service.

**Sec. 122.11** **When Over Five Days - Automatic Resignation (cont.)**

- 122.11.4 If the person can present evidence in writing of being unable to communicate with the appointing officer within thirty (30) calendar days of being able to so communicate, the automatic resignation may then be subject to reconsideration by the Commission. All requests for reconsideration will be in writing and will be processed in accordance with the procedures for reconsideration provided elsewhere in these Rules.
- 122.11.5 Pending final action under this Rule, an individual under automatic resignation shall be placed under waiver on all eligible lists on which the individual's name appears.
- 122.11.6 In considering the appeal of an automatic resignation, the Commission shall take one or more of the following actions:
- 1) deny the appeal and approve the resignation;
  - 2) order the name of the person removed from any other eligible list or lists on which the person's name appears;
  - 3) restrict participation in further examinations as it sees fit;
  - 4) return the name to the eligible list under such conditions for further appointment as it deem appropriate; or
  - 5) disapprove the resignation.

**Sec. 122.12** **Hearing Procedures**

Hearings conducted under this Rule shall be conducted in accordance with the procedures provided elsewhere in these Rules.

## **Rule 122**

### **Employee Separation Procedures**

#### **Article VII: Request to Remove Non-Permanent Ban**

**Applicability:** Article VII, Rule 122, shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Sec. 122.13    Those Individuals Covered Under Rule 122, Article VII**

Former employees of the City and County of San Francisco who were banned from future employment in one or more department(s) in accordance with the provisions of Civil Service Rule 122 may request reconsideration of any non-permanent ban if it has been five (5) or more years since the ban was imposed. For the purpose of this Rule, any Citywide ban imposed before April 21, 2014 is considered a permanent ban not subject to reconsideration.

#### **Sec. 122.14    Reconsideration**

Individuals as defined in Section 122.13 may submit a written request to the Human Resources Director for reconsideration of a ban on their future employment. It shall be the responsibility of the requesting individual to submit to the Human Resources Director all available documentation and information regarding the separation. The individual must also provide reasons for the request for reconsideration of the employment restriction.

#### **Sec. 122.15    Action of the Human Resources Director**

The Human Resources Director shall consider the request and the recommendation from the affected department(s). The Human Resources Director may request additional information deemed necessary to make a recommendation to the Civil Service Commission. The decision of the Civil Service Commission is final.

## **Rule 322**

### **Employee Separation Procedures**

Applicability: Rule 322 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Article I: Separation Procedures**

**Article II: Termination of Temporary Employee**

**Article III: Termination of ~~Limited Tenure~~ Provisional Employee**

**Article IV: Dismissal of Permanent Employee**

**Article V: Resignation - Services Unsatisfactory**

**Article VI: Absence from Duty Without Leave (Automatic Resignation)**

**Article VII: Request to Remove Non-Permanent Ban**

## Rule 322 Employee Separation Procedures

### Article I: Separation Procedures

**Applicability:** Rule 322 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Sec. 322.1**      **Rules of Procedure Governing Separation Hearings**

**322.1.1**      This Article prescribes the procedures governing the separation of the following:

1. Temporary employee from a list
2. ~~Limited tenure employee~~ Provisional
3. Dismissal of permanent employee

**322.1.2**      A notice of termination on the form prescribed by the Human Resources Director from the appointing officer to the employee detailing the specific reason(s) for the termination, shall serve as official notice of such termination. The notice of termination shall be sent by certified mail or personally delivered. Copies of the termination form must be filed in the Department of Human Resources.

**322.1.3**      The notice of termination must include the following information:

- 1) The employee has the right to a hearing before the Civil Service Commission provided that a request for hearing is made in writing and is received by the Executive Officer within twenty (20) calendar days from the date of termination of appointment or from the date of mailing of the Notice of Termination whichever is later. In the event the 20th day falls on a non-business day, the deadline shall be extended to the close of business of the first business day following the 20th day.
- 2) The decision of the Civil Service Commission may affect any future employment with the City and County of San Francisco.
- 3) Representation by an attorney or authorized representative of the employee's choice at the inquiry;
- 4) Notification of date, time and place of inquiry a reasonable time in advance; and

**Sec. 322.1**      **Rules of Procedure Governing Separation Hearings**

322.1.3      (cont.)

5) Inspection by the employee's attorney or authorized representative of those records and materials on file with the Executive Officer which related to the termination.

322.1.4      Any interested party may request a continuance of the inquiry.

322.1.5      The stated reason(s) for the termination must be enumerated. Records of warnings, reprimands and previous suspensions, if applicable to the reasons for termination, must be attached to the termination form.

322.1.6      To the extent practicable, the departmental representative who has the most complete personal knowledge of the facts which constitute the basis for the termination shall appear when the matter is to be considered by the Civil Service Commission. The matter will be heard in accordance with the procedures provided elsewhere in these Rules. Interested parties may record the inquiry if they provide the necessary equipment.

**Sec. 322.2**      **Eligibility Status Pending Civil Service Commission Action on Termination or Dismissal**

Except as otherwise ordered by the Human Resources Director, pending action of the Civil Service Commission on termination of any appointment or upon preferral of charges for dismissal, the name of the appointee shall be placed under waiver for all appointment(s) on any eligible list on which the person has standing and shall be otherwise ineligible for any employment in the City and County service.

**Sec. 322.3**      **Effect of Commission Approval of Termination or Dismissal**

Unless specifically ordered otherwise by the Commission, approval of termination or dismissal shall result in the cancellation of all current examination and eligibility status, and all future applications will require the approval of the Human Resources Director, after completion of one (1) year's satisfactory work experience outside the City and County service and by recommendation of the department head or Human Resources Director, the person shall be ineligible for future employment with the department from which separated.

**Sec. 322.4**      **Effect of Failure to Request Civil Service Commission Review of Termination or Dismissal**

322.4.1      Failure to request a Civil Service Commission review within the twenty (20) day period as provided elsewhere within this Rule shall result in the following actions:

- 1)    The adoption of the departmental recommendation as approved by the Human Resources Director; or approval of the separation, if such action is appropriate; and/or
- 2)    Dismissal from the City and County service; and/or
- 3)    The cancellation of all current examination and eligibility status; and/or
- 4)    All future applications shall be subject to the review and approval of the Human Resources Director after satisfactory completion of one year's work experience outside the City and County service; and/or
- 5)    By recommendation of the department head or Human Resources Director, the separated employee may not be employed with the same department in the future.

322.4.2      This action shall be final and shall not be subject to reconsideration unless the person can present evidence in writing of being unable to communicate with the Commission within thirty (30) days of being able to so communicate. All requests for reconsideration shall be in writing and shall be processed in accordance with the procedure for reconsideration provided elsewhere in these Rules.

## **Rule 322**

### **Employee Separation Procedures**

#### **Article II: Termination of Temporary Employee**

**Applicability:** Rule 322 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Sec. 322.5**      **Procedure for Termination of Temporary Employee**

**322.5.1**      A temporary employee may be terminated for cause by an appointing officer at any time. The notification and hearing procedure shall be in accordance with the provisions of this Rule.

**322.5.2**      The Commission shall take one or more of the following actions:

- 1) Declare the person dismissed from the service and remove the name of the person from the eligible list;
- 2) Order the name of the person removed from any other list or lists on which the person has eligibility;
- 3) Restrict future employment as it deems appropriate.



## Rule 322

### Employee Separation Procedures

#### Article III: Termination of ~~Limited Tenure~~ Provisional Employee

Applicability: Rule 322 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### Sec. 322.6      Procedure for Termination of ~~Limited Tenure~~ Provisional Employee

322.6.1      A ~~limited tenure~~ provisional employee may be terminated for good cause by an appointing officer at any time with the approval of the Commission. The notification and hearing procedure shall be in accordance with the provisions this Rule.

322.6.2      The Commission shall take one or more of the following actions:

- 1) Approve the termination and declare the person dismissed from the service.
- 2) Order the name of the person removed from any regular eligible list or lists on which the person may have standing.
- 3) Restrict future employment as it deems appropriate.
- 4) Disapprove the termination and reinstate the person to the department.

## **Rule 322**

### **Employee Separation Procedures**

#### **Article IV: Dismissal of Permanent Employee**

Applicability: Rule 322 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Sec. 322.7**      **Procedure for Hearing on Charges Against an Employee When the Appointing Officer Neglects or Refuses to Act**

322.7.1      When the appointing officer neglects or refuses to act pertaining to the removal of any employee subject to the civil service provisions of the Charter, the Commission may hear and determine any charge filed by a citizen, or by any member of or by an authorized agent of the Commission. In rendering its decision, the Commission shall determine the charges and may exonerate, suspend or dismiss the accused employee in accordance with the provisions of Charter Section A8.341.

322.7.2      The appointing officer or the departmental representative shall appear when the matter is to be considered. The matter will be heard in accordance with this procedure provided elsewhere in these Rules.

## **Rule 322**

### **Employee Separation Procedures**

#### **Article V: Resignation - Services Unsatisfactory**

Applicability: Rule 322 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

#### **Sec. 322.8      Procedure for Review of Resignation - Services Unsatisfactory**

##### **322.8.1      Notice of Proposed Action**

If the services of a resignee are to be designated as unsatisfactory, the appointing officer or designated representative shall notify the resignee of intention to so certify the resignation. The resignee shall be informed of the reasons for this determination and shall be offered an opportunity for review by the appointing officer or designated representative.

##### **322.8.2      Action by Appointing Officer**

As a result of review, if such review is requested by the resignee, the appointing officer may amend or sustain the certification of services.

##### **322.8.3      Notification to Employee**

If the appointing officer amends the resignation, the resignee shall immediately be notified by copy of the resignation form with services clearly marked satisfactory. If the appointing officer sustains the original determination, the appointing officer shall immediately notify the resignee on the separation form prescribed by the Department of Human Resources.

##### **322.8.4      Report Requirement**

A resignation certified by the appointing officer as services unsatisfactory shall be accompanied with a statement of the reasons for this action and shall contain a statement that the notification and review procedure outlined above was completed.

**Sec. 322.8**      **Procedure for Review of Resignation - Services Unsatisfactory**  
**(cont.)**

**322.8.5**      **Civil Service Commission Review**

The Civil Service Commission shall consider the resignations of persons whose services have been designated as unsatisfactory provided that a request for review is made in writing and is received in the Civil Service Commission office within twenty (20) calendar days of the date of mailing of the Notice of Separation designating the services as unsatisfactory. In the event the 20<sup>th</sup> day falls on a non-business day, the deadline shall be extended to the close of business on the first (1<sup>st</sup>) business day following the 20<sup>th</sup> day. The Commission shall take one (1) or more of the following actions:

- 1) Accept the resignation as certified;
- 2) Remove the name of the resignee from other eligible lists on which the eligible's name appears;
- 3) Restrict participation in future examinations as it deems just;
- 4) Restrict future employment as it deems just;
- 5) Accept the resignation as certified and order that future employment be without restriction including the right to request reappointment; or
- 6) Remand the resignation to the appointing officer for reconsideration.

**322.8.6**      **Failure to Request Review**

- 1) Failure to request a Civil Service Commission review within the twenty (20)-day period provided above shall result in the adoption of the departmental recommendation as approved by the Human Resources Director; or the cancellation of all current examination and eligibility status; and all future applications shall be subject to the review and approval of the Human Resources Director after satisfactory completion of one (1) year's work experience outside the City and County service.

**Sec. 322.8**      **Procedure for Review of Resignation - Services Unsatisfactory**  
**(cont.)**

**322.8.6**      **Failure to Request Review (cont.)**

2) This action shall be final and shall not be subject to reconsideration unless the person can present evidence in writing of being unable to communicate with the Civil Service Commission within thirty (30) days of being able to so communicate. All requests for reconsideration shall be in writing and shall be processed in accordance with the procedure for reconsideration provided elsewhere in these Rules.

**322.8.7**      **Hearing Procedures**

Hearings pursuant to this Rule shall be conducted in accordance with the procedures provided elsewhere in these Rules.

**322.8.8**      **Waiver of Employment**

Pending final action, the resignee shall be ineligible for all employment.

## **Rule 322**

### **Employee Separation Procedures**

#### **Article VI: Absence from Duty Without Leave**

Applicability: Rule 322 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Sec. 322.9**      **When Five Days or Less**

Absence from duty without proper authorization for any period of time up to and including five (5) or less working days shall be cause for disciplinary action by the appointing officer.

**Sec. 322.10**      **When Over Five Days - Automatic Resignation**

- 322.10.1      Absence from duty without proper authorization in excess of five (5) continuous working days shall constitute abandonment of the position and shall be reported to the Department of Human Resources and recorded as an automatic resignation. The appointing officer shall notify the employee on the form prescribed by the Human Resources Director. The employee shall be notified by certified mail.
- 322.10.2      The automatic resignation shall be subject to appeal to the Civil Service Commission, if so requested by the person in writing, within fifteen (15) calendar days of the mailing date of the notice of automatic resignation. The fifteen (15) days includes the date on which the notice was mailed. The Civil Service Commission shall hear such appeal. The decision of the Civil Service Commission shall be final and not be reconsidered.
- 322.10.3      Failure to appeal within the fifteen (15) day period shall result in the adoption of the recommendation of the department head as approved by the Human Resources Director, or the cancellation of all current examination and eligibility status; the review and approval of the Human Resources Director, of all future applications after satisfactory completion of one (1) year's work experience outside the City and County service.
- 322.10.4      If the person can present evidence in writing of being unable to communicate with the appointing officer within thirty (30) calendar days of being able to so communicate, the automatic resignation may then be subject to reconsideration by the Civil Service Commission. All requests for reconsideration will be in writing and will be processed in accordance with the procedures for reconsideration provided elsewhere in these Rules.

**Sec. 322.10**      **When Over Five Days - Automatic Resignation (cont.)**

**322.10.5**      Pending final action under this Rule, an individual under automatic resignation shall be placed under waiver on all eligible lists on which the individual's name appears.

**322.10.6**      In considering the appeal of an automatic resignation, the Civil Service Commission shall take one or more of the following actions:

- 1)    deny the appeal and approve the resignation;
- 2)    order the name of the person removed from any other eligible list or lists on which the person's name appears,
- 3)    restrict participation in further examinations as it sees fit,
- 4)    return the name to the eligible list under such conditions for further appointment as it deem appropriate, or
- 5)    disapprove the resignation.

**Sec. 322.11**      **Hearing Procedures**

Hearings conducted under this Rule shall be conducted in accordance with the procedures provided elsewhere in these Rules.

## Rule 322

### Employee Separation Procedures

#### Article VII: Request to Remove Non-Permanent Ban

**Applicability:** Article VII, Rule 322, shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department.

**Sec. 322.12**      **Those Individuals Covered Under Rule 322, Article VII**

Former employees of the City and County of San Francisco who were banned from future employment in one or more department(s) in accordance with the provisions of Civil Service Rule 322 may request reconsideration of any non-permanent ban if it has been five (5) or more years since the ban was imposed. For the purpose of this Rule, any City-wide ban imposed before April 21, 2014 is considered a permanent ban not subject to reconsideration.

**Sec. 322.13**      **Reconsideration**

Individuals as defined in Section 322.12 may submit a written request to the Human Resources Director for reconsideration of a ban on their future employment. It shall be the responsibility of the requesting individual to submit to the Human Resources Director all available documentation and information regarding the separation. The individual must also provide reasons for the request for reconsideration of the employment restriction.

**Sec. 322.14**      **Action of the Human Resources Director**

The Human Resources Director shall consider the request and the recommendation from the affected department(s). The Human Resources Director may request additional information deemed necessary to make a recommendation to the Civil Service Commission. The decision of the Civil Service Commission is final.





## **Rule 422**

### **Employee Separation Procedures**

Applicability: Rule 422 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 422 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Article I: Separation Procedures**

#### **Article II: Termination of Temporary Employee**

#### **Article III: Termination of ~~Limited Tenure~~ Provisional Employee**

Applicability: Article III, Rule 422, shall apply only to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A, except that the provisions of Rule 422 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Article IV: Dismissal of Permanent Employee**

#### **Article V: Resignation - Services Unsatisfactory**

#### **Article VI: Absence from Duty Without Leave (Automatic Resignation)**

#### **Article VII: Request to Remove Department Ban**

## Rule 422 Employee Separation Procedures

### Article I: Separation Procedures

**Applicability:** Article I, Rule 422 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### Sec. 422.1      Rules of Procedure Governing Separation Hearings

**422.1.1**      This Article prescribes the procedures governing the separation of the following:

1. Temporary employee from a list
2. ~~Limited tenure employee~~ Provisional
3. Dismissal of permanent employee

**422.1.2**      A notice of termination on the prescribed form from the MTA Director of Transportation/Designee to the employee detailing the specific reason(s) for the termination, shall serve as official notice of such termination. The notice of termination shall be sent by certified mail or personally delivered. Copies of the termination form must be filed in the City's Department of Human Resources.

**422.1.3**      The notice of termination must include the following information:

- 1) The employee has the right to a hearing before the Civil Service Commission provided that a request for hearing is made in writing and is received by the Executive Officer within twenty (20) calendar days from the date of termination of appointment or from the date of mailing of the Notice of Termination whichever is later. In the event the 20th day falls on a non-business day, the deadline shall be extended to the close of business of the first business day following the 20th day.
- 2) The decision of the Civil Service Commission may affect any future employment with the City and County of San Francisco.
- 3) Representation by an attorney or authorized representative of the employee's choice at the inquiry;

**Sec. 422.1 Rules of Procedure Governing Separation Hearings (cont.)**

**422.1.3 (cont.)**

4) Notification of date, time and place of inquiry a reasonable time in advance; and

5) Inspection by the employee's attorney or authorized representative of those records and materials on file with the Executive Officer which related to the termination.

422.1.4 Any interested party may request a continuance of the inquiry.

422.1.5 The stated reason(s) for the termination must be enumerated. Records of warnings, reprimands and previous suspensions, if applicable to the reasons for termination, must be attached to the termination form.

422.1.6 To the extent practicable, the departmental representative who has the most complete personal knowledge of the facts which constitute the basis for the termination shall appear when the matter is to be considered by the Civil Service Commission. The matter will be heard in accordance with the procedures provided elsewhere in these Rules. Interested parties may record the inquiry if they provide the necessary equipment.

**Sec. 422.2 Eligibility Status Pending Civil Service Commission Action on Termination or Dismissal**

Except as otherwise ordered by the MTA Director of Transportation/Designee, pending action of the Civil Service Commission on termination of any appointment or upon preferring of charges for dismissal, the name of the appointee shall be placed under waiver for all appointment(s) on any eligible list on which the person has standing and shall be otherwise ineligible for any employment in the City and County service.

**Sec. 422.3 Effect of Civil Service Commission Approval of Termination or Dismissal**

Unless specifically ordered otherwise by the Civil Service Commission, approval of termination or dismissal shall result in the cancellation of all current examination and eligibility status, and all future applications will require the approval of the City's Human Resources Director, after completion of one (1) year's satisfactory work experience outside the City and County service and by recommendation of the department head or Human Resources Director, the person shall be ineligible for future employment with the department from which separated.

**Sec. 422.4**      **Effect of Failure to Request Civil Service Commission Review of Termination or Dismissal**

**422.4.1**      Failure to request a Civil Service Commission review within the twenty (20) day period as provided elsewhere within this Rule shall result in the following actions:

- 1) The adoption of the departmental recommendation by MTA Director of Transportation/Designee; or approval of the separation, if such action is appropriate; and/or
- 2) Dismissal from the City and County service; and/or
- 3) The cancellation of all current examination and eligibility status; and/or
- 4) All future applications in City departments other than MTA shall be subject to the review and approval of the City's Human Resources Director after satisfactory completion of one year's work experience outside City and County service; and/or
- 5) By recommendation of the department head or Human Resources Director the separated employee may not be employed within MTA in the future.

**422.4.2**      This action shall be final and shall not be subject to reconsideration unless the person can present evidence in writing of being unable to communicate with the Commission within thirty (30) days of being able to so communicate. All requests for reconsideration shall be in writing and shall be processed in accordance with the procedure for reconsideration provided elsewhere in these Rules.

## **Rule 422**

### **Employee Separation Procedures**

#### **Article II: Termination of Temporary Employee**

**Applicability:** Article II, Rule 422, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 422 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Sec. 422.5      Procedure for Termination of Temporary Employee**

**422.5.1**      A temporary employee may be terminated for cause by the MTA Director of Transportation/Designee at any time. The notification and hearing procedure shall be in accordance with the provisions of this Rule.

**422.5.2**      The Commission shall take one or more of the following actions:

- 1) Declare the person dismissed from the service and remove the name of the person from the eligible list;
- 2) Order the name of the person removed from any other list or lists on which the person has eligibility;
- 3) Restrict future employment as it deems appropriate;
- 4) Return the name of the person to the eligible list from which appointed without restriction or under such conditions for further appointment as it deems appropriate. If the list from which the terminated employee was appointed has expired, the name of the employee may be placed on a reemployment register for the class for an additional period of eligibility of twelve (12) months under such conditions for further appointment as the Commission deems appropriate.

## Rule 422

### Employee Separation Procedures

#### Article III: Termination of ~~Limited Tenure~~ Provisional Employee

Applicability: Article III, Rule 422, shall apply only to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A, except that the provisions of Rule 422 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### Sec. 422.6 Procedure for Termination of ~~Limited Tenure~~ Provisional Employee

422.6.1 A ~~limited tenure~~ provisional employee may be terminated for good cause by the MTA Director of Transportation/Designee at any time with the approval of the Civil Service Commission. The notification and hearing procedure shall be in accordance with the provisions this Rule.

422.6.2 The Commission shall take one or more of the following actions:

- 1) Approve the termination and declare the person dismissed from the service,
- 2) Order the name of the person removed from any regular eligible list or lists on which the person may have standing,
- 3) Restrict future employment as it deems appropriate,
- 4) Disapprove the termination and reinstate the person to the department.

## **Rule 422**

### **Employee Separation Procedures**

#### **Article IV: Dismissal of Permanent Employee**

**Applicability:** Article IV, Rule 422, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 422 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Sec. 422.7      Procedure for Dismissal of Regular Permanent Employee**

##### **422.7.1      Dismissal of Permanent Employee**

A permanent employee who has completed the probationary period may be dismissed for cause upon written charges and after having an opportunity to be heard in her/his own defense.

##### **422.7.2      Notification of Time and Place of Hearing**

When the charges are made, the MTA Director of Transportation/Designee shall notify the person in writing of the time and place where the charges will be heard by mailing such statement via certified mail to the employee's last known address. Such hearing shall not be held within five (5) working days of the date on which the notice is mailed. The employee may be represented by counsel or other representatives of the employee's choice.

##### **422.7.3      Hearing Officer - Sources**

The hearing itself, as required by Charter, shall be conducted by a hearing officer under contract to the MTA chosen as follows in each case: From organizations such as the American Arbitration Association or the State Conciliation Service which customarily provide hearing officers; or from a list of qualified hearing officers certified by the Civil Service Commission, which shall be kept current and contain at all times at least three (3) names.



**Sec. 422.7**      **Procedure for Dismissal of Regular Permanent Employee (cont.)**

**422.7.4**      **Hearing Officer - Method of Selection**

The Civil Service Commission shall certify its list of hearing officers by the following method:

- 1) The Commission shall cause to be published in a newspaper of general circulation an announcement of openings for hearing officers. This announcement shall run either for a period of five (5) working days or for two (2) weekends at the discretion of the Civil Service Commission;
- 2) The Commission shall include in its list only such applicants as to satisfy the following criteria: have at least one (1) year of experience in the conduct of judicial hearings in the capacity of a hearing officer and have experience in the resolution of disputes involving the interpretation of labor-management contracts;
- 3) The Executive Officer shall post the list of panel members so selected for a period of five (5) working days during which time employees, public employee organizations or city departments may seek to demonstrate in writing that any member of the panel is unacceptable. The Executive Officer shall review such challenges and shall determine whether on the basis of the challenge the individual should be eliminated from the approved list.

**422.7.5**      **Hearing Officer - Challenge of Employee**

The employee may challenge the competence of the hearing officer who is scheduled to hear the employee's case on the basis that the hearing officer is in some demonstrable manner biased or prejudiced against the employee and that, therefore, the employee will not be afforded a fair hearing. The challenge must be made in the following manner:

- 1) The challenge must be by written affidavit;
- 2) The challenge must be received by the MTA Director of Transportation/Designee at least twenty four (24) hours prior to the commencement of the hearing;

**Sec. 422.7 Procedure for Dismissal of Regular Permanent Employee (cont.)**

**422.7.5 Hearing Officer - Challenge of Employee (cont.)**

3) Should the challenge cause the department to incur expense through the cancellation of the hearing officer, shorthand reporter, etc., such expenses shall be borne by the employee in keeping with the section on costs below. If the employee has been placed on suspension pending the hearing, any delay in the hearing occasioned through challenge or replacement of a hearing officer shall be considered a delay of the hearing by act of the accused employee and shall extend indefinitely the thirty (30)-day period referred to in Charter Section A8.341;

4) In the event that the MTA Director of Transportation/Designee shall determine that the hearing officer cannot afford the employee a fair hearing, MTA shall immediately make arrangements to obtain the services of another hearing officer in accordance with the methods stated above.

**422.7.6 Hearing Officer - Evidence to be Considered**

The hearing officer shall decide the case on the basis of the evidence presented. The hearing officer shall determine whether the accused employee has adhered to the applicable orders, Rules, regulations, ordinances, Charter provisions, or applicable sections of any memoranda of agreement or memoranda of understanding. The hearing officer shall be prohibited from considering the relative merits or social desirability of such orders, Rules, regulations, ordinances, Charter provisions or sections of memoranda of agreement or memoranda of understanding as may be applicable to the case.

**422.7.7 Hearing Officer - Decision**

Within five (5) working days of the close of the hearing, unless specifically exempted for good cause by the MTA Director of Transportation/Designee, the hearing officer shall notify the MTA Director of Transportation/Designee in writing of a decision in the case. The hearing officer shall be limited to the following options in deciding the case:

1) The hearing officer may exonerate the employee in which case the record may, at the discretion of the hearing officer, be expunged and the employee may receive back pay for all time lost;

**Sec. 422.7**      **Procedure for Dismissal of Regular Permanent Employee (cont.)**

**422.7.7**      **Hearing Officer - Decision (cont.)**

2) The hearing officer may find the employee guilty as charged, in which case the following provisions apply:

- the hearing officer may order the employee returned to work but without back pay for any time not worked between the time charges were made and the time of the hearing or the time the hearing officer renders a decision, whichever is longer;
- the hearing officer may suspend the employee without pay but may not at her/his discretion, order back pay for any periods not worked prior to the hearing; or
- the hearing officer may dismiss the employee.

**422.7.8**      **Notification of Decision of Hearing Officer**

Within five (5) working days after the MTA Director of Transportation/Designee receives written notification of the decision of the hearing officer, the MTA Director of Transportation/Designee shall inform the employee in writing of the decision of the hearing officer and shall, by copies of this correspondence and the written notification from the hearing officer, inform the Civil Service Commission of the decision and the action taken.

**422.7.9**      **Costs**

1) MTA shall pay all fees for hearing officers and court reporters, and, if required, the cost of preparation of the transcript with the following exception:

2) If additional costs are incurred as a result of any request of the employee (such as costs occasioned by the untimely postponement of a hearing, challenges of hearing officer, etc.), all such additional costs, such as cancellation fees or fees when court reporters cannot be notified of the cancellation of a hearing within their established and customary limits, shall be borne by the employee.

**Sec. 422.8**      **Procedure for Hearing on Charges Against an Employee When the MTA Director of Transportation Neglects or Refuses to Act**

**422.8.1**      When the MTA Director of Transportation neglects or refuses to act pertaining to the removal of any employee subject to the civil service provisions of the Charter, the Commission may hear and determine any charge filed by a citizen, or by any member of or by an authorized agent of the Commission. In rendering its decision, the Commission shall determine the charges and may exonerate, suspend or dismiss the accused employee in accordance with the provisions of Charter Section A8.341.

**422.8.2**      The MTA Director of Transportation/Designee shall appear when the matter is to be considered. The matter will be heard in accordance with this procedure provided elsewhere in these Rules.

## **Rule 422**

### **Employee Separation Procedures**

#### **Article V: Resignation - Services Unsatisfactory**

**Applicability:** Article V, Rule 422, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 422 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

#### **Sec. 422.9      Procedure for Review of Resignation - Services Unsatisfactory**

##### **422.9.1      Notice of Proposed Action**

If the services of a resignee are to be designated as unsatisfactory, the MTA Director of Transportation/Designee shall notify the resignee of intention to so certify the resignation. The resignee shall be informed of the reasons for this determination and shall be offered an opportunity for review by the MTA appointing officer or designated representative.

##### **422.9.2      Action by the MTA Director of Transportation/Designee**

As a result of review, if such review is requested by the resignee, the MTA Director of Transportation/Designee may amend or sustain the certification of services.

##### **422.9.3      Notification to Employee**

If the MTA Director of Transportation/Designee amends the resignation, the resignee shall immediately be notified by copy of the resignation form with services clearly marked satisfactory. If the MTA Director of Transportation/Designee sustains the original determination, the resignee shall immediately be notified on the prescribed separation form.

##### **422.9.4      Report Requirement**

A resignation certified by the MTA Director of Transportation/Designee as services unsatisfactory shall be accompanied with a statement of the reasons for this action and shall contain a statement that the notification and review procedure outlined above was completed.

**Sec. 422.9 Procedure for Review of Resignation - Services Unsatisfactory (cont.)****422.9.5 Commission Review**

The Commission shall consider the resignations of persons whose services have been designated as unsatisfactory provided that a request for review is made in writing and is received in the Commission office within twenty (20) calendar days of the date of mailing of the Notice of Separation designating the services as unsatisfactory. In the event the 20<sup>th</sup> day falls on a non-business day, the deadline shall be extended to the close of business on the first business day following the 20<sup>th</sup> day. The Commission shall take one or more of the following actions:

- 1) Accept the resignation as certified;
- 2) Remove the name of the resignee from other eligible lists on which the eligible's name appears;
- 3) Restrict participation in future examinations as it deems just;
- 4) Restrict future employment as it deems just;
- 5) Accept the resignation as certified and order that future employment be without restriction including the right to request reappointment; or
- 6) Remand the resignation to the MTA Director of Transportation/Designee for reconsideration.

**422.9.6 Failure to Request Review**

- 1) Failure to request a Commission review within the twenty (20)-day period provided above shall result in the adoption of the MTA departmental recommendation as; or the cancellation of all current examination and eligibility status; and all future applications other than at MTA shall be subject to the review and approval of the City's Human Resources Director after satisfactory completion of one (1) year's work experience outside the City and County service.
- 2) This action shall be final and shall not be subject to reconsideration unless the person can present evidence in writing of being unable to communicate with the Commission within thirty (30) days of being able to so communicate. All requests for reconsideration shall be in writing and shall be processed in accordance with the procedure for reconsideration provided elsewhere in these Rules.

**Sec. 422.9**      **Procedure for Review of Review of Resignation - Services**  
**Unsatisfactory (cont.)**

**422.9.7**      **Hearing Procedures**

Hearings pursuant to this Rule shall be conducted in accordance with the procedures provided elsewhere in these Rules.

**422.9.8**      **Waiver of Employment**

Pending final action, the resignee shall be ineligible for all employment.

## Rule 422

### Employee Separation Procedures

#### Article VI: Absence from Duty Without Leave

**Applicability:** Article VI, Rule 422 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 422 may be superceded in whole or in part by the collective bargaining agreement for those employees subject to Charter Section 8.409. However, all definitions in this Rule are applicable to employees in all classes.

**Sec. 422.10**      **When Five Days or Less**

Absence from duty without proper authorization for any period of time up to and including five (5) or less working days shall be cause for disciplinary.

**Sec. 422.11**      **When Over Five Days - Automatic Resignation**

- 422.11.1**      Absence from duty without proper authorization in excess of five (5) continuous working days shall constitute abandonment of the position and shall be recorded as an automatic resignation. The MTA Director of Transportation/Designee shall notify the employee on the prescribed form. The employee shall be notified by certified mail.
- 422.11.2**      The automatic resignation shall be subject to appeal to the Commission, if so requested by the person in writing, within fifteen (15) calendar days of the mailing date of the notice of automatic resignation. The fifteen (15) days includes the date on which the notice was mailed. The Commission shall hear such appeal. The decision of the Commission shall be final and not be reconsidered.
- 422.11.3**      Failure to appeal within the fifteen (15) day period shall result in the adoption of the recommendation of the department head as approved by the Human Resources Director, the cancellation of all current examination and eligibility status; the review and approval of the City's Human Resources Director, of all future applications in departments other than MTA after satisfactory completion of one (1) year's work experience outside the City and County service.
- 422.11.4**      If the person can present evidence in writing of being unable to communicate with the MTA Director of Transportation/Designee within thirty (30) calendar days of being able to so communicate, the automatic resignation may then be subject to reconsideration by the Commission. All requests for reconsideration will be in writing and will be processed in accordance with the procedures for reconsideration provided elsewhere in these Rules.



**Sec. 422.11**     **When Over Five Days - Automatic Resignation (cont.)**

422.11.5     Pending final action under this Rule, an individual under automatic resignation shall be placed under waiver on all eligible lists on which the individual's name appears.

422.11.6     In considering the appeal of an automatic resignation, the Commission shall take one or more of the following actions:

- 1)     deny the appeal and approve the resignation;
- 2)     order the name of the person removed from any other eligible list or lists on which the person's name appears,
- 3)     restrict participation in further examinations as it sees fit,
- 4)     return the name to the eligible list under such conditions for further appointment as it deem appropriate, or
- 5)     disapprove the resignation.

**Sec. 422.12**     **Hearing Procedures**

Hearings conducted under this Rule shall be conducted in accordance with the procedures provided elsewhere in these Rules.

## Rule 422

### Employee Separation Procedures

#### Article VII: Request to Remove Department Ban

Applicability: Article VII, Rule 422, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

**Sec. 422.13**      **Those Individuals Covered Under Rule 422, Article VII**

The provisions of Rule 422, Article VII shall apply only to those individuals who were employees of the City and County of San Francisco and who were separated from employment five (5) years or more and who have been banned from any future employment in a department.

**Sec. 422.14**      **Reconsideration**

Individuals as defined in Sec. 422.13 may submit a written request to the Human Resources Director for reconsideration of a ban from working in a department. It shall be the responsibility of the requesting individual to submit to the Human Resources Director all available documentation and information regarding the separation. The individual must also provide reasons for the request for reconsideration of the permanent employment restriction.

**Sec. 422.15**      **Action of the Human Resources Director**

The Human Resources Director shall consider the request and the recommendation from the affected department(s). The Human Resources Director may request additional information deemed necessary to make a recommendation to the Civil Service Commission. The decision of the Civil Service Commission is final.

**Charter Amendment on NCS and Emergency  
Appointments - 1932**

**ATTACHMENT E**

# CHARTER AMENDMENTS

## Charter Amendment No. 1

### EMERGENCY APPOINTMENTS

Amending Section 149 of the Charter, which proposes to permit employees engaged by the City during unemployment emergency to be exempt from civil service examinations during such emergency period.

## CHARTER AMENDMENT NO. 1

### Section 149

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 149 thereof, providing for emergency appointments in the classified service.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County of San Francisco at the general election to be held on the 8th day of November, 1932, a proposal to amend Section 149 of the Charter of said City and County as follows:

### Emergency Appointments

Section 149. When no list of eligibles is available for a position in the class requisitioned by the appointing officer, the Commission may certify for civil service temporary appointment an eligible from another list deemed by the Commission to be suitable to temporarily provide the service desired; or may authorize the appointing officer to make a non-civil service emergency appointment thereto for a period not exceeding ninety days and only until a regular appointment under the provisions of this Charter can be made. If a non-civil service emergency appointment is authorized, the Commission shall immediately hold an examination and establish an eligible list for such position. If

its annual appropriation is insufficient to meet the cost of said examination, it shall report to the Mayor the estimated cost thereof, and the Mayor shall request and the Supervisors shall make supplemental appropriation therefor in the manner provided herein for supplemental appropriations. No person shall be compensated under any non-civil service emergency appointment or appointments as authorized under the provisions of this paragraph for a period exceeding ninety days in any fiscal year, and no claim or warrant therefor shall be approved, allowed or paid for any compensation in excess of such ninety days.

Whenever the Board of Supervisors by a three-fourths vote of all its members shall declare that an unemployment emergency exists throughout the City and County because of extraordinary conditions due to unemployment, and shall fix the period during which such unemployment emergency shall be officially recognized, the Civil Service Commission shall then have power to exempt from civil service examinations during such emergency period all places of employment that may be created by special appropriation to relieve such unemployment emergency; provided, that no action shall be taken under the provisions of this paragraph that will adversely affect the rights of civil service eligibles for employment in the usual temporary and permanent positions that are provided for in the Annual Salary Ordinance. The Civil Service Commission shall adopt special rules for the government of appointments to the emergency positions that may be created under the authority of this paragraph.

Ordered Submitted—Board of Supervisors, San Francisco, Sept. 23, 1932.

Ayes: Supervisors Breyer, Canepa, Colman, Gallagher, Hayden, McSheehy, Miles, Peyser, Power, Roncovieri, Shannon, Stanton.

Absent: Supervisors Brown, Havenner, Spaulding.

I hereby certify that the foregoing order was adopted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

**Charter Amendment on Limited Tenure (LT) - 1942**

# **ATTACHMENT F**

ment and in other governmental jurisdictions and making reports and recommendations thereon and publication thereof as herein provided. No expenditures shall be made therefrom except on authorization of board of supervisors. In the event of the expenditure of any of said funds, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said salary survey fund.

Where compensations for services commonly paid on an hourly or a per diem basis are established on a weekly, semi-monthly or monthly salary basis for city and county service, such salary shall be based on the prevailing hourly or per diem rate, where this can be established, and the application thereto of the normal or average hours or days of actual working time, in the city and county service, including an allowance for annual vacation. Every person employed in the city and county service shall, after one year's service, be allowed a vacation with pay of two calendar weeks, annually, as long as he continues in his employment.

Ordered Submitted—Board of Supervisors, San Francisco, September 14, 1942.

Ayes: Supervisors Brown, Colman, Green, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

No: Supervisor Gallagher.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,  
Clerk.

### PROPOSITION 35

**LIMITED TENURE APPOINTMENTS**—ADDS new Section 145.1 to Charter. Provides for informal, non-competitive tests for city employment during war-time. Limits tenure of such employments for duration of war and six months thereafter.

### PROPOSITION No. 35

#### CHARTER AMENDMENT—LIMITED TENURE APPOINTMENTS

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding a new section thereto to be known as Section 145.1, Limited Tenure Appointments, relating to limited tenure appointments in time of war when eligibles from regularly established lists are not available for appointment.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco, at an election to be held therein on November 3, 1942, a proposal to amend the Charter of said City and County by adding Section 145.1 thereto, Limited Tenure Appointments, relating to limited tenure appointments in time of war when eligibles from regularly established lists are not available for appointment.

#### LIMITED TENURE APPOINTMENTS

Section 145.1. When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under section 145 hereof, the civil service commission may qualify applicants for wartime appointments to entrance positions through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the civil service commission adopted pursuant thereto and the tests shall be adequate in the judgment of the civil service commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in section 145 hereof. Appointments made under the provisions of this section shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided in section 145 hereof but in no event to exceed six months beyond the cessation of hostilities. Applicants who qualify for limited tenure appointments under the provisions of this section shall be appointed to positions in order of priority of filing applications. Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the civil service commission without reference to the procedures governing removals set forth in section 154 hereof. Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this charter or by rule of the civil service commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in section 145 of the charter.

Non-civil service appointments in the absence of civil service eligibles as provided in section 149 of this charter shall not be authorized if applicants qualified for limited tenure appointments are available. The civil service commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in section 145 hereof. If its annual appropriation is insufficient to meet the cost of the examinations required to establish registers of eligibles through the examination procedures set forth in section 145 hereof, or to qualify applicants for limited tenure appointments as herein provided, the commission shall report to the mayor the estimated cost thereof and the mayor shall request and the supervisors shall make supplemental appropriations therefor in the manner provided herein for supplemental appropriations.

The civil service commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments.

Ordered Submitted: Board of Supervisors, San Francisco, September 10, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee, Meyer, O'Garra, Shannon, Uhl.

Absent: Supervisors Green, Mead, Roncovieri.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,  
Clerk.



**Excerpt from November 1991 Ballot Measure  
Proposition C**

# **ATTACHMENT G**

# Civil Service Rules

# C

## PROPOSITION C

Shall certain Civil Service hiring regulations be removed from the Charter and placed under the control of the Civil Service Commission?

YES   
NO 

## Analysis

by Ballot Simplification Committee

**THE WAY IT IS NOW:** The rules on qualification of applicants for City employment, tests, lists of persons eligible to become employees, certain temporary appointments and dismissal of employees during their probationary period are part of the Charter. The Charter can be changed only by the voters. Other employment rules are in the Rules of the Civil Service Commission. The Civil Service Commission can change these Rules after public hearings. Generally, the City must also meet and confer with employee organizations representing employees affected by the rule changes.

**THE PROPOSAL:** Proposition C is a charter amendment that would remove from the Charter the rules on qualification of applicants for City

employment, tests, lists of persons eligible to become employees, certain temporary appointments and dismissal of employees during their probationary period and place them in the Rules of the Civil Service Commission. This measure would allow these rules to be changed by the Civil Service Commission after public hearings and, where required, meeting and conferring with employee organizations.

**A "YES" VOTE MEANS:** If you vote yes, you want to remove these rules from the Charter and place them in the Civil Service Commission Rules.

**A "NO" VOTE MEANS:** If you vote no, you want to keep these rules in the Charter.

### Controller's Statement on "C"

City Controller Edward Harrington has issued the following statement on the fiscal impact of Proposition C:

Since this measure takes charter provisions which at present can only be changed by a vote of the electorate and incorporates them as Civil Service Rules which may be administratively revised, in my opinion, there is no direct cost effect. However, future rule changes could increase or decrease costs in presently indeterminable, but possibly substantial, amounts.

### How Supervisors Voted on "C"

On July 24, 1991, the Board of Supervisors voted 10-1 on the question of placing Proposition C on the ballot.

The Supervisors voted as follows:

**YES:** Supervisors Roberta Achtenberg, Angela Alioto, Harry Britt, Jim Gonzalez, Terence Hallinan, Tom Hsieh, Willie B. Kennedy, Carole Migden, Kevin F. Shelley, and Doris M. Ward.

**NO:** Supervisor Bill Maher.

ARGUMENTS FOR AND AGAINST THIS MEASURE AND ITS FULL TEXT IMMEDIATELY FOLLOW THIS PAGE.



# Civil Service Rules

## PROPONENT'S ARGUMENT IN FAVOR OF PROPOSITION C

As part of the Civil Service Fiscal Reform package, we need Proposition C to begin the long-overdue modernization of our Civil Service operations.

During the past year, the Civil Service Commission conducted an in-depth study of ways to improve operations and reduce costs. The Commission conducted four months of public hearings, listening to hundreds of individual's testimony.

The Commission concluded, "The present Civil Service Charter provisions lead to excessive delays, red tape, and millions of dollars of unproductive operating expenses for City Departments." With the passage of Propositions C, D and E, the Commission estimates the City workforce could be reduced by 2%, for an annual savings of \$20 to \$30 million.

Proposition C modernizes some of the archaic personnel procedures now in the Charter. Ten Charter sections consisting of detailed personnel rules would become Civil Service Commission Rules. These Rules would be updated by the Commission.

The Commission would continue as appropriate to hold public hearings and meet and confer sessions with employee organizations before making any changes in these Rules.

The ten Charter sections that would become Commission Rules

deal with qualification of applicants, examinations, protests of exams and eligible lists, examination procedures for veterans and employees on military leave, duration of eligible lists, limited tenure appointments, temporary and emergency appointments and dismissals during the probations period.

Proposition C will not eliminate checks and balances written into the Charter to insure fairness and equity in the current hiring and firing policies. It will not affect the merit system.

Your *Yes Vote on Proposition C* will allow the City to begin the long-overdue modernization needed for our Civil Service operations.

**VOTE YES ON PROPOSITION C.**

Submitted by the Board of Supervisors and the Mayor

This argument was adopted by the Board of Supervisors on August 19, 1991.

Ayes: Supervisors Achtenberg, Alioto, Britt, Gonzalez, Hallinan, Kennedy, Maher, Shelley and Ward.

Absent: Supervisor Migden.

## REBUTTAL TO PROPONENT'S ARGUMENT IN FAVOR OF PROPOSITION C

*Don't be tricked.* In recent years the Civil Service Commission has abandoned its role as an independent enforcement agency. It is now a rubber-stamp commission that allows political appointees to do whatever they want — at great cost.

Gone is fairness in the top levels of City employment. Back is favoritism. People with the right friends have the most access to high-paying City jobs; and Civil Service does nothing to prevent this.

The departments are the ones claiming "cost savings" because they want a free hand to pick whomever they want for City jobs. The Chamber of Commerce wants you to vote for this so they can get their friends City jobs.

Civil Service is supposed to make sure that jobs are filled from lists of qualified candidates. Civil Service is responsible for exams, so if any candidate who makes the list is not qualified, it's the

Commission's own fault.

Civil Service has also neglected to develop certain lists altogether, particularly for top positions. That way, the departments can choose whomever they like for lucrative jobs.

If the Commission were doing what the Charter mandates, we wouldn't have so many high-paid, overlapping bureaucracies.

We are not afraid of change; we are afraid of what will happen if you give the Commission, and by extension the Mayor and his department heads, a free hand in hiring.

We need our resources to go toward services, not patronage.

**VOTE NO ON PROPOSITION C.**

Citizens Against Political Patronage

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

# Civil Service Rules

# C

## OPPONENT'S ARGUMENT AGAINST PROPOSITION C

Don't be misled by fancy words and false promises.

Under the guise of "modernizing civil service," this proposition opens the door to *political patronage* in City employment.

Voters have spoken on this issue many times — as recently as last November, when "exemptions" for top deputies in the Public Utilities Commission were handily defeated. The last time the City tried to sneak these same "modernizations" past the electorate, you voted it down overwhelmingly.

This proposal will not correct problems in Charter rules; The real problem is the City's failure to live within the rules.

This measure will not save money — *it will cost money*. Lots of

*it. The payroll will become further bloated with high-paid political appointments, exempt and "temporary" positions — all of which cost real money. This diverts funds from necessary services to reward friends of department heads and politicians.*

The real reform that is needed is for the City to live within the merit system by providing regular, non-biased civil service exams, not by giving the people in power the right to change the rules to meet their whims.

**VOTE NO ON PROPOSITION C** — stop political patronage.

Citizens Against Political Patronage

## REBUTTAL TO OPPONENT'S ARGUMENT AGAINST PROPOSITION C

Propositions C, D and E will begin the process of modernizing the Civil Service System — a job that is long overdue.

Under current rules, an individual who scored 70% on a test must be hired, even though there are candidates for this job who scored 95% the next time a test was given.

The opponents of Proposition C agree the system isn't working. Yet they urge you to maintain the status quo. That doesn't make good business sense.

Proposition C, D and E, the Civil Service Fiscal Reform Package, could save the City an estimated \$20 million to \$30 million a year in unnecessary spending, while broadening job opportunities.

Proposition C will not eliminate checks and balances written into the Charter to ensure fairness and equity in the current hiring and firing policies. It will not affect the merit system. It will in no way encourage or increase patronage. Proposition C has nothing to do with the number of exempt appointments or high-paying jobs in

City Government.

Proposition C will begin the process of modernizing the inefficient, slow and costly personnel procedures currently being used. The public hearing process, before the independent Civil Service Commission, will be maintained to ensure the fairness of the process. Allowing personnel procedures to be updated through public hearings and meetings DOES NOT increase patronage.

Vote YES on Proposition C.

Submitted by the Mayor and the Board of Supervisors

This argument was adopted by the Board of Supervisors on August 26, 1991.

Ayes: Supervisors Achtenberg, Alioto, Gonzalez, Hallinan, Hsieh, Kennedy, Maher, Migden, Shelley and Ward.

Absent: Supervisor Britt.

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

**C**

# Civil Service Rules

## PAID ARGUMENTS IN FAVOR OF PROPOSITION C

For good government and a modern personnel system, support transfer of Civil Service procedures from the Charter to Commission rules.

*Susan Sutherland, President*  
San Francisco League of Women Voters

Proposition C, will reform the city's outdated civil service system, without harming merit hiring protections.

The Charter currently restricts the Civil Service Commission's ability to produce examinations and lists of job applicants in a timely way.

Proposition C will give greater flexibility to the Commission, reducing the costs of operating the examination process while producing better hiring lists.

Join business, labor and our elected officials in voting *Yes* on *Proposition C*.

*Donald D. Doyle, President*  
San Francisco Chamber of Commerce

City workers ought to be able to bargain over workplace rules. Currently our system is so rigid that it takes years to offer exams for positions. Vote "yes" to modernize our out-of-date system.

*Mayor Art Agnos*

CIVIL SERVICE REFORM IS URGENTLY NEEDED IN SAN FRANCISCO.

PROPOSITIONS C, D AND E WILL PROVIDE SAN FRANCISCO WITH A FAIR AND MODERATE CIVIL SERVICE FISCAL REFORM PROGRAM THAT OFFERS:

- ESTIMATED SAVING OF \$20 MILLION TO \$30 MILLION PER YEAR
- MORE EFFICIENT PERSONNEL MANAGEMENT
- BROADER JOB OPPORTUNITIES FOR CITY WORKERS
- FEWER TEMPORARY APPOINTMENTS
- MORE JOBS FILLED ON A PERMANENT BASIS

WE URGE YOU TO VOTE FOR PROPOSITIONS C, D and E.

San Francisco Chamber of Commerce  
Service Employees International Union Joint Council #2

Civil Service Commission

*Grant Mickins, President*

*A. Lee Munson, Immediate Past President*

*Cleo Donovan, Vice President*

*Juan Rios, Commissioner*

*Emi R. Uyehara, Commissioner*

*Supervisor Carole Migden, Chair, San Francisco*

Democratic Party

*L. Kirk Miller, Chair, Republican County Central Committee*

*Sam T. Harper, Immediate Past Chair, Republican County*

Central Committee

San Francisco Democratic Party.

## PAID ARGUMENT AGAINST PROPOSITION C

Proposition C is not reform — it's a power grab!

San Francisco government hardly needs more politics in its hiring practices.

The mayor repeatedly abuses his hiring authority. He circumvents merit selection, favors outsiders, and creates fat-salaried posts for political patronage.

Proposition C is the latest power grab!

San Francisco was spilling with red budget ink this year. City workers went without raises, and deep cuts were made in health programs. Despite these sacrifices, the mayor created a new — \$120,000.00 — position in Civil Service.

Why? So Mayor Agnos could replace the general manager with his own political appointee — while keeping the old general manager on payroll. We're now paying two people the salary of general manager!

More padding is going on at Social Services and Health Departments.

Imagine the outcome if the merit selection laws are stripped away.

Proposition C is a power grab!

*Richard D. Hongisto, Assessor*

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

## TEXT OF PROPOSED CHARTER AMENDMENT PROPOSITION C

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by deleting sections 8.320, 8.321, 8.322, 8.323, 8.324, 8.328, 8.330, 8.331, 8.332, 8.340 thereof, relating to qualifications, examinations, eligible lists, provisional appointments and dismissal during probation, and adding new section 8.320-1 incorporating the provisions of the above sections into Civil Service Commission rules.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1991, a proposal to amend the Charter of said city and county by deleting sections 8.320, 8.321, 8.322, 8.323, 8.324, 8.328, 8.330, 8.331, 8.332, 8.340 thereof, and adding new section 8.320-1 to read as follows:

NOTE: Additions or substitutions are indicated by bold face type; deletions are indicated by strike-out type.

### 8.320-1 Incorporating Former Charter Provisions

The provisions of the following sections of the Charter, in the form existing prior to November 1, 1991, shall be incorporated in the rules of the Civil Service Commission, and shall remain in effect until or unless amended by the Civil Service Commission pursuant to its charter authority and subject to any applicable meet and confer or bargaining requirements under state law.

#### 8.320 Qualification of Applicants

#### 8.321 Examination of Applicants

#### 8.322 Protest of Written Questions and Answers

#### 8.323 Protest of Tentative List of Eligibles

#### 8.324 Veterans Preference in Examinations

#### 8.328 Promotional Examinations for Employees on Military Leave

#### 8.330 Duration of List of Eligibles

#### 8.331 Limited Tenure Appointments

#### 8.332 Temporary and Emergency Appointments

#### 8.340 Dismissal during Probationary Period

#### 8.220 Qualifications of Applicants

(a) Any person having the qualifications prescribed by Section 8.100 of this Charter may submit himself or herself for any examination under conditions established by the Civil Service Commission.

(b) Applicants for entrance positions in the uniformed force of the fire department shall not be less than 19 years of age at the time of taking the examination, nor less than 20 years of age at the time of appointment.

(c) Applicants for entrance positions in the uniformed force of the police department shall not be less than 20 years of age at the time of taking the examination, nor less than 21 years of age at the time of appointment.

(d) The commission shall advertise and may take further appropriate means to interest suitable applicants. When examinations for promotion are to be held, the commission shall give notice

thereof to all persons in positions entitling them under the civil service rules, to participate in such examination, by posting information thereof in the office of the commission for a period of 10 days and notifying the office, agency, or department concerned. (Amended November, 1986)

#### 8.321 Examination of Applicants

All applicants for places in the classified service shall submit to examinations which shall be competitive provided, however, that no examination shall be deemed to be competitive unless two or more persons shall participate, except that any such examination may be held for one qualified applicant on recommendation of the Civil Service Commission and approval by resolution of the Board of Supervisors, after a finding by the board that reasonable publicity of the proposed examination has been given. Such examinations shall be without charge to the applicants. The commission shall control all examinations and may employ suitable persons in or out of the public service to act as examiners. The examinations used shall measure the relative capacities of the persons examined to perform the functions, duties and responsibilities of the classification to which they seek appointment. Examinations shall consist of selection techniques which will test fairly the relative qualifications, merit and fitness of the applicants for the position to be filled.

Examinations may include written tests to determine job-related aptitude, knowledge, or achievements and oral tests by qualifications appraisal boards. The Civil Service Commission shall establish rules governing the size and composition of qualification appraisal board. Qualification appraisal boards may consider, in the case of employees of the City and County of San Francisco, all prior performance evaluations completed on civil service forms and in the case of all applicants may as a part of their evaluation of candidates for employment to any position. Appropriate rosters of eligibles established by a trade, craft or occupation joint apprenticeship committee recognized by the State of California Department of Industrial Relations, Division of Apprenticeship Standards, may be utilized to fill apprenticeship positions or as the basis for establishing apprenticeship eligibility list. The commission shall be the sole judge of the adequacy of the tests to rate the capacity of the applicants to perform service for the city and county. The commission may, for each examination, establish a passing mark or may determine the total number of persons who shall constitute the list of eligibles. The commission shall prepare from the returns of the examiners the list of eligibles, arranged in order of relative performance. No question submitted to applicants shall refer to political or religious opinions or fraternal affiliations. (Amended Nov., 1978)

#### 8.322 Protest of Written Questions and Answers

After the written portion of a civil service examination has been held, the questions used and the answers thereto shall be available for review by the participants. This review period

shall not apply to questions and answers on any continuous or standardized entrance or concurrent entrance and promotive written test. During the review period, participants shall have an opportunity to protest questions or answers they believe to be incorrect or improper. After all protested items have been acted on and after the official rating key has been adopted, and the identification sheets have been opened, further changes in the rating key shall not be made. (Amended Nov., 1978)

#### 8.323 Protest of Tentative List of Eligibles

Following the completion of any examination, a tentative list of eligibles shall be posted for the inspection of the public and of participants. The posting period shall be for a minimum of three working days for entrance examinations or five working days for promotional or combined entrance and promotional examinations. During this period a fee for the inspection of the papers of each eligible shall be charged by the Civil Service Commission. The amount of such fee shall be established by ordinance of the Board of Supervisors. The fee shall be waived for eligibles who wish to inspect their own papers. Inspection of papers shall include all documents supporting the eligible's rank and score, except neither the identity of the examiner giving any mark or grade in an oral examination nor the questions and answers on any continuous or standardized entrance or concurrent entrance and promotive written test, shall be provided. Only participants in the examination may review the questions used in the examination. If no protests are received during the posting period, the eligible list is automatically adopted. If protests are received during the posting period, the investigation and action of the general manager, personnel, shall be expedited so that final adoption of the eligible list is not delayed beyond 60 days after the date of posting. Eligibles who, as a result of their ranking, would receive a notice of appointment regardless of the outcome of the protest(s) may be offered employment from adopted lists pending the resolution of any protest(s) and amendment to the adopted eligible list. (Amended Nov., 1978)

#### 8.324 Veterans Preference in Examinations

Veterans with 30 days or more actual service, and widows or widowers of such veterans, who become eligible for appointment by attaining the passing mark in any entrance examination, shall be allowed an additional credit of five percent in making up the list of eligibles established by such examination. The term "veteran" as used in this section shall be taken to mean any person who has been mustered into, or served in, or enlisted in the United States Army, the United States Navy, the United States Marine Corps, the United States Army Air Corps, the United States Air Force, or the United States Coast Guard, and served on active duty in said branch of the armed forces of the United States, not including reserve service, at any time for a period of 30 days or more in time of war and been separated from active duty and under conditions other than dis-

(Continued on next page)

## LEGAL TEXT OF PROPOSITION C (Continued)

honorable and not resulting from court martial, excepting individuals entering the armed forces on or after January 27, 1973, the date of the creation of the volunteer army, shall receive veterans preference in a civil service entrance examination for service of any type in the armed forces of the United States. In addition, an individual qualifying for veterans preference as herein defined shall be deemed entitled thereto on his or her date of separation from active duty in the armed forces. No person so qualified shall be granted veterans preference unless he or she indicates qualification therefor on an examination application received by the Civil Service Commission not later than 10 years from the date of his or her first appointment thereto. When an eligible has secured a permanent appointment from a list of eligibles derived from an entrance examination, in which he or she has been allowed additional credits of five percent as herein provided, and has served the full probationary period therein as provided in this Charter, such other additional credits of five percent that have been allowed him or her on the list of eligibles, derived from other entrance examinations shall be automatically cancelled, and his or her rank on such other list or lists revised in accord with his or relative standing before such additional credits were added and he or she shall not be allowed such additional credits in any other examinations. The Civil Service Commission may, for services or employment specified by the commission, allow general or individual preference, but not more than 10 percent, for entrance appointment of veterans who have suffered permanent disability in the line of duty, provided that such disability would not prevent the proper performance of the duties required under such service, or employment, and provided that such disability is of record in the United States Veterans' Administration.

### Definition of Time of War

In the administration hereafter of the provisions of this section of this Charter, the expression "time of war" shall include the following periods of time:

(a) the period of time from the commencement of a war as shown by any declaration of war, of the Congress of the United States, or by any statute or resolution of the Congress, a purpose of which is to declare in any manner the existence of a state of war, until the time of termination thereof by any treaty, treaty of peace, cessation of hostilities, or otherwise;

(b) the period of time during which the United States is or has been engaged in active military operations against any foreign power, whether or not war has been formally declared;

(c) the period of time during which the United States is or has been assisting the United Nations or any nation or nations in accordance with existing treaty obligations, in active military operations against any foreign power, whether or not war has been formally declared; and

(d) the period of time during which the United States is engaged in a campaign or expedition in which a medal has been authorized by the government of the United States; provided, however, that no person shall be eligible for the benefits

provided for veterans in this section unless he shall have been eligible to receive such a medal; 8.328 Promotional Examinations for Employees on Military Leave

Employees under permanent civil service appointment who, because of absence on duty authorized military leave after June 27, 1950, did not participate in a promotional examination held after June 27, 1950, and during time of war as defined in Section 8.324 of this Charter, and in which examination the employee would have been otherwise eligible to compete had the war not intervened, and which examination is herein after referred to as the original promotional examination, shall after abridgment of military leave, have the right to participate in a similar promotional examination. Provided, that persons and employees who were on entrance or promotional eligible lists, shall, for the purpose of this amendment, be deemed to be appointees in their classifications from the time their names were reached for permanent certification while in the military service.

In order to qualify for participation in a similar promotional examination under the provisions of this section, such employee who desires to participate therein must make application in writing to the Civil Service Commission within 30 days after the abridgment of his military leave, or within 30 days after the effective date of this amendment. Failure to file such written request to participate in a similar promotional examination as herein provided shall be deemed a waiver of all rights of the employee to participate in such similar promotional examination.

The Civil Service Commission shall arrange to hold such similar promotional examination within a reasonable time after employees eligible to request participation in any such similar promotional examination under the provisions of this section have indicated their desire to so participate, or have waived their right to participate, as herein provided.

The Civil Service Commission shall be the sole judge of the adequacy of such similar promotional examination. If the employee obtains in the similar promotional examination a score rating equal to or more than the minimum passing mark established by the Civil Service Commission for inclusion on the list of eligibles resulting from the original promotional examination, his name shall thereupon be entered on the eligible list resulting from the original promotional examination in accordance with the relative excellence obtained by all the qualified participants in the original and similar promotional examinations. Such employees shall be eligible for appointment from such list of eligibles in accordance with civil service rules to any vacancy thereafter occurring, and subject to satisfactory completion of a probationary period as provided in Section 8.340 of this Charter for a period of four years after the date on which their name is entered on the eligible list and before eligibles securing standing through examinations held subsequent to the original promotional examination.

If it is determined by the Civil Service Commission that the name of such person would have

been reached for permanent appointment from the list of eligibles established as a result of the original promotional examination during his term of military service had the name of such person appeared thereon, then such employee, upon appointment to a permanent position as herein provided, shall be granted seniority in such appointment from the date his name would have been reached had his name appeared thereon, but such seniority shall be used only for the purpose of determining salary increments and calculating city and county service credits in other promotional examinations held subsequent to the similar promotional examination herein authorized. For all other purposes, seniority of service shall date from the date of appointment as a result of qualifying in the similar promotional examination as herein authorized.

Such employees who qualify for appointment as a result of a similar promotional examination as herein provided, and who are appointed to permanent positions, as herein provided, shall be permitted to participate in other promotional examinations for which they are otherwise eligible, while serving under probationary appointment in the position to which appointed as a result of the similar promotional examination, provided that certification from lists of eligibles established from such other examinations shall not be made until the employee has satisfactorily completed the aforesaid probationary appointment.

The Civil Service Commission shall adopt rules to govern the administration of similar promotional examinations herein authorized, and appointments and other matters resulting therefrom.

### 8.330 Duration of Lists of Eligibles

The Civil Service Commission may remove all names from the list of eligibles after they have remained thereon for more than two years and all names thereon shall be removed at the expiration of four years. The commission may, however, provide in the examination announcement that the list of eligibles secured thereby shall automatically expire at a date not less than two or more than four years after the adoption of such list.

### 8.331 Limited Tenure Appointments

When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under Sections 8.320, 8.321, 8.324 and 8.330 hereof, the Civil Service Commission may qualify applicants for wartime appointments to position through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the Civil Service Commission adopted pursuant thereto and the tests shall be adequate in the judgment of the Civil Service Commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in Sections 8.320, 8.321, 8.324 and 8.330 hereof. Appointments made under the provisions of this section shall be designated "limited tenure appointments" and may continue only

(Continued on next page)

**LEGAL TEXT OF PROPOSITION C (Continued)**

until registers of eligibles are established through the regular examination procedure provided in Sections 8.320, 8.321, 8.324 and 8.330 hereof but in no event to exceed six months beyond the cessation of hostilities. Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the Civil Service Commission without reference to the procedures governing removals set forth in Section 8.242 hereof. Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this Charter or by rule of the Civil Service Commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in Sections 8.320, 8.321, 8.324 and 8.330 of the Charter. Service after January 1, 1951, under limited tenure appointment by platform employees of the municipal railway, shall not be included in the calculation of service of such employees for the purpose of determining assignments of rates when such assignments are made on the basis of seniority of service.

Non-civil service appointments in the absence of civil service eligibles as provided in Sections 8.320, 8.321, 8.324 and 8.330 of this Charter shall not be authorized if applicants qualified for limited tenure appointments are available. The Civil Service Commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in Sections 8.320, 8.321, 8.324 and 8.330 hereof.

The Civil Service Commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments.

In time of national emergency declared by the President of the United States or by the Congress or while any act authorizing compulsory military service or training is in effect, the provisions of this section may also be made operative upon recommendation of the Civil Service Commission and approval of the Board of Supervisors by ordinance enacted by two-thirds vote of the board. Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six months after repeal by the Board of Supervisors of the ordinance which authorized such appointments.

**8.332 Temporary and Emergency Appointments**  
When no list of eligibles exists or no eligibles is available on an existing list for a position in the class requisitioned by the appointing officer, and

immediate service in the position is required by the appointing officer and another list exists which is deemed by the Civil Service Commission to be suitable to provide temporarily the service desired, the commission shall certify for civil service temporary appointment an eligible from such list; if no such other list deemed by the commission to be suitable exists, the commission pursuant to its rules may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding 130 working days. Non-civil service or emergency appointments extended beyond 90 days must be approved by the Civil Service Commission. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such 130 working days at the time a civil service eligible reports for duty as provided in Section 8.329 of the Charter.

If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in Section 8.329 of the Charter, the commission may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding 30 working days. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such 30 working days at the time a civil service eligible reports for duty as provided in Section 8.329 of this Charter.

No person shall be compensated under any non-civil service or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this section for a period exceeding 130 working days in any fiscal or calendar year, and no claim or warrant therefore shall be approved, allowed or paid for any compensation in excess of such 130 working days in any fiscal or calendar year.

If no eligibles are available for appointment to a permanent position in the class requested by the appointing officer the commission shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, it shall report to the Mayor the estimated cost thereof, and the Mayor shall request and the supervisors shall make supplemental appropriation therefore in the manner provided herein for supplemental appropriations.

**8.340 Dismissal During Probation Period**

Any person appointed to a permanent position shall serve a probationary period. The Civil Service Commission shall by rule establish a probationary period of not less than six months' service and up to a maximum of 12 months' service for each classification, provided that the probationary period for entrance positions in the uniformed rank of the police department, fire department,

sheriff's department and San Francisco International Airport police force shall be for 12 months except that, with respect to members of the uniformed ranks of the police department, the probationary period shall be completed after 12 months' service from the day following completion of the prescribed department field training officer program, but in no case to exceed eighty-four weeks from the date of appointment; provided further that probationary members of the uniformed ranks of the police department charged with breach of duty or misconduct shall be afforded the procedural rights set forth in section 8.242 for such charges. With respect to members of the uniformed ranks of the sheriff's department the probationary period shall be completed 18 months after the date of hire. Probationary periods of 12 months and up to a maximum of 24 months may be established for executive and management classifications. At any time during the probationary period the appointing officer may terminate the appointment upon giving written notice of such termination to the employee and to the Civil Service Commission specifying the reasons for such termination. Except in the case of members of the uniformed ranks of the police and fire departments the Civil Service Commission shall review the termination. The Civil Service Commission shall by rule establish the procedures for such review. If the appointment resulted from an entrance examination the commission may declare such person dismissed or may return the name to the list of eligibles under such conditions for further appointment as the commission may deem just. If the appointment resulted from a promotional examination the employee shall have the right of appeal and hearing before the Civil Service Commission. The commission shall render a decision within 30 days after receipt of the notice of termination and (a) may declare such person dismissed; or (b) order such person reinstated to the position without prejudice, and the commission may in its discretion order that the employee be paid salary from time of the termination of the appointment; or (c) order the return of such person to a position in the classification from which that person was promoted and may reestablish the employee's eligibility to a list of eligibles for the same promotive classification under such conditions as the commission shall be final. Immediately prior to the expiration of the probationary period the appointing officer shall report to the Civil Service Commission as to the competence of the probationer for the position, and if competent, shall recommend permanent appointment. Nothing in this section shall preclude the Civil Service Commission from reviewing terminations for the purpose of future employability including terminations in the uniformed ranks of the police and fire departments. □



**Civil Service Commission Memorandum No. 93-48**

**ATTACHMENT H**

City and County of San Francisco



Department of Human Resources

WENDELL L. PRYOR,  
HUMAN RESOURCES DIRECTOR

MEMORANDUM

No. 93-48

*F* *AH*

DATE: November 22, 1993

TO:

FROM: Wendell L. Pryor  
General Manager, Personnel

SUBJECT: ELIMINATION OF NON-CIVIL SERVICE AND LIMITED TENURE STATUS AND  
CONVERSION OF EMPLOYEES TO PROVISIONAL STATUS EFFECTIVE  
JANUARY 1, 1994

At its meeting of September 20, 1993, the Civil Service Commission adopted several changes to its Rules to implement the provisions of Proposition C (November 1991 ballot). These changes become effective on January 1, 1994 for all employees except those in classes represented by the Transport Workers Unions, Local 200 and 250A, and uniformed members of the Police and Fire Departments. Meet and confer is continuing for those employees presently excluded. Departments will be notified as soon as rule coverage is extended to include these groups of employees. Copies of the amended rules will be disseminated in early January, 1994.

Among those changes to be implemented on January 1, 1994 are amendments to Civil Service Commission Rule 12 - Appointments. Amended Rule 12 deletes all reference to "limited tenure" (LT) and "non-civil service" (NCS) status and consolidates both statuses into "Provisional" (PV) appointments.

Provisional appointments will be time limited for each employee to a maximum duration of one thousand forty (1040) working hours in a calendar year, but may be extended by the General Manager, Personnel for additional periods not to exceed one thousand forty (1040) working hours for each extension.

All current limited tenure and non-civil service appointees who are not in classes represented by the Transport Workers Union, Locals 200 and 250A, uniformed members of the Police and Fire Departments or non-civil service appointees in Appointment Type F (appointments granted for short periods of time) will be transitioned to provisional status on January 1, 1994 if requested by the appointing officer on the attached forms.

The attached form lists all of the current limited tenure and non-civil service employees in your department. Please review the list, indicate which employments you wish to extend beyond January 1, 1994 and return the form to the Personnel Services Unit, Civil Service Commission, Room 153 City Hall, Attention: Kathy Mallegni, no later than FRIDAY, DECEMBER 3, 1993.

Non-civil service and limited tenure appointments made after November 15, 1993 will not appear on the attached list. Please add the names and class numbers of those employees hired after November 15, 1993 and indicate if you wish to extend those appointments.

In cases where you indicate that transitioning of the employee to provisional status is not to occur, a Separation Report must be attached for each such employee indicating the date the employee is to be separated (no later than effective December 31, 1993) under the provisions of Civil Service Commission Rule 12, Section 12.05 - Separation of Temporary and Provisional Appointees upon Expiration of Term of Employment. For persons who appear on the list but who have already been separated from non-civil service or limited tenure appointment, please attach a copy of the Separation Report.

Employees in classes represented by the Transport Workers Union, Locals 200 and 250A and uniformed members of the Police and Fire Departments are included in the attached list of limited tenure and non-civil service employees. These employees will be continued in either limited tenure or non-civil service status if extension is requested by the department head. If meet and confer is completed prior to December 31, 1993 and agreement is reached, these employees will be transitioned to provisional status on January 1, 1994. As indicated above, if the department head does not wish to extend the limited tenure or non-civil service employment of these employees, a Separation Report must be attached to the form.

Current non-civil service appointees who are in Appointment Type F (short duration) may have their appointments extended on an individual basis. Please contact the Civil Service Equal Employment Opportunity and Affirmative Action Unit at 554-4737 to request authorization to continue the non-civil service appointment or transition such employees to provisional status.

Limited tenure and non-civil service appointees will be converted to provisional status or, for employees in classes represented by the Transport Workers Union Locals 200 and 250A, and uniformed members of the Police and Fire Departments, continued in non-civil service or limited tenure status provided that the Personnel Requisition remains valid. All provisional appointments made on January 1, 1994 or after will expire on June 30, 1994 unless you request an earlier expiration date. Provisional appointments, except for as-needed provisional employments, may be extended by the General Manager, Personnel after June 30, 1994 for additional six-month periods. As-needed employments may be approved for a duration not to exceed one thousand forty (1040) working hours in any calendar year. As-needed employees who work the maximum number of allowable hours during the first six months of 1994 will not have their employments extended beyond June 30, 1994.

The Controller has advised that all temporary and temporary-declared permanent personnel requisitions will be extended on December 31, 1993 to June 30, 1994 unless cancellation is requested by the department or the department requests a expiration date earlier than June 30, 1994..

Attached also is a revised Notice to Provisional Appointee (CSC 6-19). A Notice must be completed in the department for each employee transitioning to provisional status on January 1, 1994 and for all future provisional appointees at the time of hire. A Notice to Provisional Appointee must be given to each provisional employee. Have each employee sign the form, place a copy in the employee's personnel folder and give the original copy to the employee. It is no longer required that a copy be sent to the Civil Service Commission. Whenever a provisional appointment is extended, however, you must provide a new Notice to Provisional Appointee to the employee, indicating the expected duration of the extended appointment, a period not to exceed six (6) months. It is critical that each employee receive a copy of the form in order to outline in advance the conditions of employment. For those appointees who are transitioning to provisional status from limited tenure or non-civil service status, the conditions of their employment have changed, and it is the department's responsibility to notify the employees by using the Notice to Provisional Appointee. The attached form may be photocopied as needed.

For current non-civil service appointees in Appointment Type F (short duration), please contact the Civil Service Equal Employment Opportunity and Affirmative Action Unit at 554-4737 to request authorization for provisional appointment.

Procedures for requesting and making new provisional appointments after January 1, 1994, as well as revisions to the Policy and Procedures Manual, will be issued shortly under separate cover.

If you have any questions concerning this matter or require additional information, please contact Kathy Mallegni, Senior Personnel Analyst, Civil Service Department Personnel Services Unit at 554-4749.

Enclosures

cc: Edward Harrington  
Sandra Holmes  
Albert C. Walker  
Kathy Mallegni

**Civil Service Commission Staff Report Regarding  
Information Request on  
Non-Civil Service (NCS) and Limited Tenure (LT)**

**ATTACHMENT I**



# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

GAVIN NEWSOM  
MAYOR

Date: August 3, 2009

To: Civil Service Commission

Through: Anita Sanchez  
Executive Officer

From: Luz Morganti *LM*  
Senior Personnel Analyst

Subject: Response to Commission Request for Information on Non-Civil Service and Limited Tenure Appointments

MORGAN R. GORRONO  
PRESIDENT

E. DENNIS NORMANDY  
VICE PRESIDENT

JOY Y. BOATWRIGHT  
COMMISSIONER

DONALD A. CASPER  
COMMISSIONER

MARY Y. JUNG  
COMMISSIONER

ANITA SANCHEZ  
EXECUTIVE OFFICER

### Commission Request

At the June 15, 2009 Civil Service Commission meeting, Commissioner Casper made a request and suggested that the Commission examine two subsets of provisional appointments. One being non-civil service (NCS) appointments and the other being limited tenure (LT) appointments. He cited recent Workforce Utilization Reports presented by the Department of Human Resources (DHR) and the Municipal Transportation Agency (MTA) that showed there to be less than a dozen employees citywide with NCS and LT appointments. Commissioner Casper also made reference to conflicts in Rule 114 and notice requirements to unions regarding NCS and LT appointments.

As there is less than a dozen NCS and LT appointments, Commissioner Casper questioned whether the Commission should consider sun setting these appointment types and deleting references to NCS and LT appointments in the Rules because they are subsets of provisional appointments. However, prior to deciding whether to delete the Rules on NCS and LT appointments, Commissioner Casper requested Commission staff to provide information on why these types of appointments exist, who are the incumbents and the expected duration of these appointments.

### Background

LT & NCS describe types of temporary appointments. Prior to April 1983, these appointments were commonly utilized and became long term with employees serving in positions without plans to transition them into permanent status. It was determined that this employment practice of the City and County of San Francisco was out of compliance with merit employment practices and resulted in the Letter of Agreement that is referenced later in this response.

Currently Non-Civil Service (NCS) appointments apply only to employees in classes represented by the Transport Workers Union, Local 200 and 250A; and to the members of the Uniformed Ranks of the San Francisco Police and Fire Departments represented by the S.F. Police Officers' Association, and Fire Fighters Local 798. NCS appointments are made in the absence of an available eligible from a civil

service list or in an emergency which, in either case is time limited to a maximum duration of 130 working days or 1040 hours.

Limited Tenure (LT) appointments also currently apply only to employees in classes represented by the Transport Workers Union, Local 200 and 250A; and to the members of the Uniformed Ranks of the San Francisco Police and Fire Departments represented by the S.F. Police Officers' Association, and Fire Fighters Local 798. LT appointments are made when there is no available eligible from a civil service list and, in most cases, upon the expiration of a non-civil service appointment.

Up until April 1983, the City and County of San Francisco was consistently placing individuals in long term temporary appointments which prevented them from transitioning into permanent employment status. What resulted is that these employees who had been consistently employed for at least six months prior to January 1, 1983 in temporary appointments would potentially be displaced because of the appointment of an eligible from an eligible list.

As a result of these long term temporary employment practices, the City and County of San Francisco was required to comply with the Merit System Services of the State Personnel Board. Therefore, in April 1983, the City and County of San Francisco entered into a Letter of Agreement & Compliance with Unions that were signatory to the agreement.

#### Letter of Agreement and Compliance Agreement with the State Personnel Board

The Compliance Agreement adopted April 4, 1983 between the City and the State Personnel Board overhauled the City Rules on Temporary employment by:

- ◆ Creating open, competitive process for promotive examination;
- ◆ Allowing horizontal and vertical access to the promotive system;
- ◆ Permitting an accelerated examination process to address long term temporary employees;
- ◆ Instituting a citywide affirmative action plan;
- ◆ Expanding recruitment efforts for city jobs to support the citywide affirmative action plan;
- ◆ Establishing an in-house discrimination complaint procedure;
- ◆ Establishing a structure for assessing the need for and filling positions providing bilingual services;
- ◆ Revising testing and examination requirements;
- ◆ Removing of gender linked job titles.

The Letter of Agreement between the City and various employee organizations established a safety net for temporary employees who were displaced when eligible lists were established as a result of the Compliance Agreement.

Finally, the Policies and Procedures Governing Provisional (Non-Civil Service and Limited Tenure) Appointments dated November 1, 1983 is part of the Civil Service Commission Rules, Policies and Procedures amendments required by the Compliance Agreement.

#### Overhauled/Amended Civil Service Commission Rules as a Result of Agreement

In response to the Agreement, Civil Service Rules were amended in April 4, 1983 to incorporate provisions of the Agreement which required notification to signatory unions when making NCS appointments. "Employee organizations signatory to the Letter of Agreement adopted April 4, 1983, shall be notified on a biweekly basis of all non-civil service appointments

authorized in the preceding two-week period, together with the duration of such appointments and the reason(s) for such duration”.

In 1993 the Civil Service Commission amended its Rules to create one type of provisional appointment called “Provisional Appointment”. The Rule amendment affected all employees except those represented by the Transport Workers Union – Local 200 and 250A, the Uniformed Ranks of the Police Department represented by the Police Officers’ Association (POA) and the Uniformed Ranks of the Fire Department represented by Fire Fighters Local 798.

On October 4, 1999 the Civil Service Commission re-codified its Rules and created additional volumes of Rules to provide uniformity and easy reference. Civil Service Commission Rules Volume III – Rules Applicable to the Uniformed Ranks of the Fire Department was issued on April 28, 2000 and included Rules on provisional appointments that allowed all current employees serving under provisional appointment, either Non-Civil Service or Limited Tenure to continue in this appointment type, subject to the applicable provisions and restrictions in the Rules and City Charter. Employees who started work in a Provisional Non-Civil Service or Provisional Limited Tenure appointment before April 28, 2000 continued in this appointment type under Rules 314.6 and 314.7. Employees appointed in provisional appointments after April 28, 2000 were appointed in accordance with Rule 314.5 Provisional Appointments.

Over the years, there have been subsequent Rule amendments and organizational changes: Rules Applicable to the Uniformed Ranks of the Police Department now reflect one type of provisional appointment. Also, most employees represented by the Transport Workers Union Local 200 and 250A are located in the Municipal Transportation Agency, which is addressed under Volume IV Rules.

#### Summary of Review and Data

Commission staff researched historical information and located in the City Public Library Documents Department a copy of the April 1983 Letter of Agreement & Compliance. Commission staff provided a copy of the Letter of Agreement & Compliance to DHR as they were not familiar with the document.

Commission staff reviewed the 2008 Workforce Utilization Analysis Report prepared by the Municipal Transportation Agency; the DHR 2008 Equal Employment Opportunity Workforce Utilization Analysis Report; and the 2008 DHR Annual Report of Provisional Appointments. Neither of the two utilization reports provides specific data on the number of LT and NCS appointments currently in the City.

Further review of the 2008 DHR Workforce Analysis Report does state that Temporary Limited Tenure and Non-Civil Service appointments comprised less than 1% of the City and County workforce. Two (2) appointments are categorized as Temporary Limited Tenure and one (1) as Non-Civil Service. This does not include MTA employees.

The Report of Provisional Appointments lists the classes; number of appointments in each class and age of appointments by month. However, the report does not identify which provisional appointments are designated as non-civil service or limited tenure appointments.

On July 2, 2009 Commission staff contacted DHR for information on the number of LT and NCS appointments, where and what classes are they, who and why they are in these types of appointments. DHR provided staff with the attached report dated July 13, 2009. The attached memorandum submitted by DHR is the response to the information request. Unfortunately, the report does not provide data on LT and NCS appointments.



Commission staff reviewed the PeopleSoft query report for provisional appointments from July 1, 2006 through July 16, 2009. This report also does not identify specific information regarding which positions are considered NCS or LT appointments. The query results showed that out of the total of six hundred forty eight (648) temporary provisional appointments, seven (7) temporary provisional appointments are classes represented by the Transport Workers Union (TWU) Local 200 and 250A. The query report does not list/identify which of the provisional appointments are NCS or LT appointments.

The following appointments are extracted from the temporary provisional query reports which are within the TWU classes. There are a total of six (6) appointments assigned to MTA and one (1) to the San Francisco Police Department.

**Temporary Provisional Appointments**

Job Code	Job Title	Department	Union Code	Appointment Date
7410	Automotive Service Worker	Parking & Traffic	TWU 250A	07/28/2008
7410	Automotive Service Worker	Parking & Traffic	TWU 250A	07/28/2008
7410	Automotive Service Worker	Parking & Traffic	TWU 250A	08/09/2008
7410	Automotive Service Worker	Parking & Traffic	TWU 250A	08/09/2008
7412	Automotive Service Worker Assistant Supervisor	Police	TWU 200	10/06/2008
9160	Transit Operations Specialist	Parking & Traffic	TWU 200	02/09/2009
9160	Transit Operations Specialist	Parking & Traffic	TWU 200	03/23/2009

In response to the Commission staff request for data regarding NCS and LT appointments, the San Francisco Fire Department reports that they have one (1) incumbent in a temporary limited tenure appointment since March 1997 in Class H-50 Assistant Chief, and one (1) incumbent in a non-civil service appointment since August 1994 in Class H-32 Fire Prevention Captain. The H-50 and H-32 LT appointments have remained, as there have been no examinations in these ranks since the 1980s.

It appears that there are nine (9) NCS or LT appointments in the City, two (2) at the Fire Department, one (1) at the Police Department (TWU class) and six (6) at MTA-Parking and Traffic Division.

Analysis

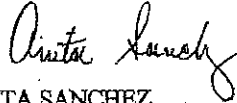
All NCS and LT appointments must be identified and the status of incumbents sitting in these appointments reviewed. In order for these appointments to end, the incumbents must vacate the appointments either by transitioning to permanent civil service appointments, retirements, separations, or accepting another appointment. Commission staff will continue to research and obtain more information.

It is recommended that until the incumbents are identified and these appointments are vacated, deleting Rule references to NCS and LT appointments be delayed OR consider a Rule amendment provision which sunsets NCS and LT appointments upon the incumbents vacating the appointment.

Recommendation: Accept the report.

Respectfully submitted,

CIVIL SERVICE COMMISSION



ANITA SANCHEZ  
Executive Officer

Attachments: April 1983 Letter of Agreement & Compliance  
DHR Memorandum dated July 13, 2009

City and County of San Francisco  
Gavin Newsom  
Mayor



Department of Human Resources  
Micki Callahan  
Human Resources Director

CIVIL SERVICE COMMISSION  
REGISTER  
NUMBER 0242.09.91

RECEIVED  
EXECUTIVE OFFICER  
CIVIL SERVICE COMMISSION  
SAN FRANCISCO  
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MEMORANDUM

AS  
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Date: July 13, 2009  
To: Anita Sanchez, Executive Office, Civil Service Commission  
Through: Micki Callahan, Human Resources Director  
From: Ted Yamasaki, Managing Deputy Director  
Subject: Information Request from Civil Service Commission

At the Civil Service Commission of June 15, 2009, Commissioner Casper made an inquiry regarding a letter of agreement and compliance agreement entered into by the City and the State Personnel Board and several employee unions in April 1983. On July 2, 2009, the Department of Human Resources ("DHR") received a request for information from the Civil Service Commission staff regarding DHR's compliance with Civil Service Rule 114.6.5, Notification to Signatory Unions of Temporary Appointment which states:

"Employee organizations signatory to the Letter of Agreement adopted April 4, 1983, shall be notified on a biweekly basis of all non-civil service appointments authorized in the preceding two-week period, together with the duration of such appointments and the reason(s) for such duration. Union representatives of organizations signatory to the aforementioned agreement shall have the right to meet and confer with the Human Resources Director or designee following notification cited hereinabove."

**Background:**

A Letter of Agreement ("Agreement") between the City and County of San Francisco and Unions, including a Compliance Agreement with the State Personnel Board, was adopted by the San Francisco Civil Service Commission on April 4, 1983.

The Agreement between the parties intended to define a process and identify resources to address the issue of long term temporary employees in the City and County of San Francisco. Specifically, the Agreement provided for the following:

- 1) define the transition process of qualified long-term temporary employees to permanent status;
- 2) correct the employment practices responsible for the long term temporary problem; and
- 3) improve the merit system in City and County employment.

The Agreement was signed by seven (7) union representatives: Laborers, Local 261; TWU, Local 250A; IFPTE, Local 21; Freight Checkers, Local 856; TWU, Local 200; TWU, Local 292; SEIU, Locals 390/400, 250 and 535.

Also incorporated into the Agreement, and key to the temporary employee transition program, was a Compliance Agreement between the City and County of San Francisco and the State Personnel Board. The Compliance Agreement included changes to the City's personnel system as follows:

- 1) The Civil Service Commission shall, by June 1, 1983, adopt a rule, subject to definitions contained in the Compliance Agreement, limiting to a maximum of one year the time that an individual may serve under temporary appointment to a position.
- 2) The Civil Service Commission shall, by June 1, 1983, adopt a rule requiring list usage within 30 days from list certification.
- 3) The Civil Service Commission shall, by August 30, 1983, conduct exams to allow each covered temporary employee who exceeds the time limits established by the Compliance Agreement to participate in an exam for his/her class which would permit transition to permanent status.
- 4) The Civil Service Commission shall, by June 1, 1983, adopt a rule requiring that an examination be immediately conducted whenever a temporary appointment is made to a permanent position.
- 5) The Civil Service Commission shall, by June 1, 1983, develop criteria for determining emergency situations involving maintenance of essential services.
- 6) Effective July 1, 1984, the City shall cease employment practices of appointing long term temporary employees.

The Compliance Agreement terminated on June 30, 1985.

**DHR Response to the Information Request:**

DHR has no record of notification on a biweekly basis of all non-civil service appointment authorized in the preceding two-week period made to signatory unions. However, DHR regularly provides information on hiring and appointment to our labor unions upon request.

Since the agreement termination date (June 30, 1985) there have been better-defined processes and definitions of temporary appointments. These include:

- Pursuant to the 1996 San Francisco Charter Sections 10.104.16, temporary and seasonal appointments are limited to no more than 1,040 hours (half-time) during any fiscal year.
- In addition, Charter section 10.104.17 defines the maximum time frame of two year for an appointment, often temporary, for employees who substitute for civil service employees on leave. This two year limitation is non renewable.
- The City implemented an electronic requisitioning process in the PeopleSoft system. The requisition approval process tracks both requests for temporary positions and the employees hired into temporary positions.

Further, given the termination of the Compliance Agreement, it is believed that the notification to the signatory unions is moot. To that end, DHR will draft a rule revision for the Commission's consideration that includes the elimination of section 114.6.5.

Attachments:

Letter of Agreement Between the City and County of San Francisco and Unions, including  
Compliance Agreement with the State Personnel Board

Civil Service Rule, Section 114.6

c: Jessica Huey  
Anna Biasbas

LETTER OF AGREEMENT

BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

AND

UNIONS

(WITH APPENDICES)

\* \* \*

COMPLIANCE AGREEMENT

WITH

THE STATE PERSONNEL BOARD

DOCUMENTS DEPT.

MAY 2 1983

SAN FRANCISCO  
PUBLIC LIBRARY

Issued by the City and County of San Francisco  
Civil Service Commission for the use of its staff  
and other City and County officials.  
Additional copies available from Al Walker,  
Assistant Secretary, Civil Service Commission,  
Room 153 City Hall.

April, 1983

LETTER OF AGREEMENT BETWEEN  
THE CITY AND COUNTY OF SAN FRANCISCO  
AND UNIONS

It is the intent of the parties, consistent with applicable law, to transition qualified longterm temporary employees to permanent status, to correct the employment practices responsible for the longterm temporary problem in San Francisco city government, and to improve the merit system in City and County employment.

In compliance with the Merit System Services of the State Personnel Board, the City and County of San Francisco, hereinafter "City", and the Unions signatory to this Agreement, hereinafter "Unions", hereby agree as follows:

1. Employees in classifications enumerated in Appendices "A" and "B" of this Agreement who have been consistently employed for at least the six months immediately prior to January 1, 1983, and who would be displaced because of the appointment of an eligible from a list shall be appointed to a new or vacant position and, except for reasons beyond the City's control, said employee shall not have a break in service. If the employee is being displaced from his/her classification as a result of an examination given for said classification, the employee must have participated in said examination in order to qualify for an appointment.

This placement shall be for the purpose of retaining the services to the City of qualified longterm temporary employees pending their timely transitioning to permanent status through competitive examinations as provided herein. In accordance with Sections 2 and 3 hereafter, the City agrees to retain such persons in its employment until December 31, 1984.

2. All departments shall immediately notify the Equal Employment Opportunity Unit of the Civil Service Commission of the identities of employees who will be displaced from one of the classifications enumerated in Appendices "A" and "B" because of appointments of eligibles from lists which have been previously certified or will be certified after the date of this Agreement.

The Equal Employment Opportunity Unit of the Civil Service Commission shall be responsible for coordinating and completing the placement of displaced employees. The employee's current department shall be surveyed to determine if there is a need for his/her services in another position with comparable duties and compensation and if funds are available for that position. If so, he/she shall be appointed to such a position in his/her own department. Otherwise, other departments shall be promptly surveyed for vacant positions with comparable duties and compensation for which funds are available.

Whenever possible, the employee shall have his/her choice of reassignment, including department, position,



and work location. Seniority shall govern in cases of multiple selection, except that employees who wish to be appointed to positions in the department from which they are displaced shall have preference over all other displaced employees for such positions.

3. With regard to employees displaced because of an appointment from an eligible list for whom no position can be found with comparable duties and compensation for which funds are available, the Mayor and the Board of Supervisors shall enact a supplemental appropriation ordinance in the amount of \$200,000 and such other supplementals as may be required, not to exceed \$1,800,000, to provide employment subject to conditions to be set forth in said ordinance, provided, however, that if this sum is expended, the parties shall meet and confer regarding additional funding. The Controller shall certify funds and a requisition shall be processed to place the employee in a new position in his/her present department, if possible, and otherwise in another department. In making this placement every good faith effort, consistent with applicable laws, will be made to approximate the employee's prior compensation and duties. Approximating such compensation and duties shall be given preference over placement in the same department, if the employee so desires. Conflicts in selection shall be resolved in the same manner as provided in paragraph 2. However, if the employee refuses, without good cause, to

accept the offered position, the City will be under no further obligation to locate employment.

4. For the Fiscal Year 1983-84 and for such time thereafter as this Agreement is in effect, the Mayor and the Board of Supervisors shall require that all positions where the work is not of a temporary nature be budgeted permanent.

As of the date of this Agreement, the Mayor and the Civil Service Commission shall review all requests for temporary requisitions to determine whether the work to be performed is of a temporary nature. The Union shall have access to all requisitions for temporary positions. The definition of temporary appointment and position as used herein shall be as approved by the State Personnel Board as part of the Compliance Agreement dated \_\_\_\_\_, 1983.

5. As a result of an allegation by the State Personnel Board of non-compliance by the City with merit employment policies; and except for positions of legislative aides to the Board of Supervisors, positions designated by the Mayor in the Office of the Mayor, and positions that are funded by a current grant until the grant ends, but no later than September 30, 1983, so long as this Agreement is in effect, the City may not make limited tenure appointments pursuant to Ordinance No. \_\_\_\_\_ to any classification represented by the

signatory Unions after July 1, 1984 or once the examination of classifications with longterm temporary employees takes place, whichever occurs first.

In conformity with Charter Sections 3.661 and 8.329, the Civil Service Commission shall continue to review the requisitioning of positions as permanent/temporary. This control shall include a requirement that departments provide justification of requests for temporary appointments. This justification shall be accessible to the Unions.

Civil Service shall provide a quarterly report of all temporary requisitions and appointments by department and classification to the signatory Unions.

6. As a condition to the effectuation of this Agreement, commencing with Fiscal Year 1983-84, and for such time thereafter as this Agreement remains in effect, the Mayor and the Board of Supervisors shall provide, and continue to provide, the Civil Service Commission with sufficient funds, to implement this Agreement above and in addition to the current Commission budget and the City shall maintain an examination schedule sufficient to provide, except for reasons beyond the City's control, eligible lists within 90 days of submission of a requisition for appointment to a permanent position. Should the Commission require any additional funding in order to meet the time tables set forth herein, a supplemental appropriation shall be submitted to the Mayor

no later than March 22, 1983. The Mayor and the Board of Supervisors agree to provide sufficient funds to meet these time tables.

7. The Civil Service Commission shall conduct examinations for all classifications set forth in the appendices attached hereto as follows:

(a) Classifications set forth in Appendix "A", except where otherwise noted, shall be given unassembled examinations on or before July 1, 1983. Except for reasons beyond the City's control, lists of eligibles shall be posted on or before July 30, 1983.

(b) Classifications set forth in Appendix "B", except where otherwise noted, shall be given examinations on or before August 1, 1983. Except for reasons beyond the City's control, lists of eligibles shall be posted on or before August 30, 1983.

8. The Civil Service Commission agrees to provide training to assist employees in preparing for examinations to those employees in classifications set forth in Appendices "A" and "B" who either failed the examinations described in Section 7 hereof or did not place high enough on the list of eligibles resulting from said examinations to receive a permanent appointment on or before December 31, 1984. This training option shall only be made available to employees desiring to take examinations

scheduled to be given on or before December 31, 1984.

9. The Civil Service Commission shall implement the provisions of Charter Section 8.329.

10. This Agreement shall incorporate the Compliance Agreement between the State of California Merit System Services and the City.

11. This Agreement shall be incorporated in the Memoranda of Understanding between the Board of Supervisors and the signatory Unions and shall have the same term as the Memoranda of Understanding.

12. Nothing in this Letter of Agreement shall be deemed to constitute nor may be construed as a determination or admission of any violation of law, rule or regulation by the City and County of San Francisco with regard to temporary employments.

FOR THE UNIONS:

Dated: March 21, 1983

\_\_\_\_\_  
Laborers, Local 261

\_\_\_\_\_  
TWU, Local 250-A  
(Automotive Service Workers)

FOR THE CITY:

Dated:

\_\_\_\_\_  
Dianne Feinstein, Mayor

\_\_\_\_\_  
Wendy Nelder, President,  
Board of Supervisors

\_\_\_\_\_  
Carlota Texidor del Portillo,  
President, Civil Service Commission

IFPTE, Local 21

James L. Lazarius  
Employee Relations Director

IFPTE, Local 21

APPROVED AS TO FORM:  
GEORGE AGNOST, CITY ATTORNEY

By \_\_\_\_\_

Freight Checkers, Local 856

TWU, Local 200

TWU, Local 292

SEIU, Joint Council  
Locals 390/400, 250 & 535

APPENDICES A & B

Employees in classifications represented by the signatory Unions, whether or not their classification is listed below, who are displaced as a result of an eligible list for one of the classifications listed in Appendix A or B shall be covered by Sections 1, 2 and 3 of this Agreement, provided they have been consistently employed for at least the six months prior to January 1, 1983.

The following appendices may be modified by the mutual agreement of the General Manager, Civil Service Commission, Employee Relations Division and the recognized employee organization.

(Unassembled Examinations)

<u>Class #</u>	<u>Title</u>
1212	Time-roll Audit Clerk
1602	Calculating Machine Operator-Key Drive
1626	Junior Account Clerk
1650	Accountant
1706	Telephone Operator
1720	Data Entry Operator
1750	Microphoto Technician
1760	Offset Machine Operator
1772	Photo-Lithographer
1802	Research Assistant
1810	Actuarial Clerk
1853	Control Clerk, EDP
1920	Inventory Clerk
1932	Assistant Storekeeper
2310	Operating Room Technician
2424	X-Ray Laboratory Aide
2425	Radiologic Technologist I
2430	Medical Examinations Assistant
2440	Veterinary Laboratory Technologist
2486	Public Health Chemist
2514	Orthopedic Technician I
2515	Orthopedic Technician II
2520	Morgue Attendant
2522	Senior Morgue Attendant
2546	Handicraft Instructor
2554	Physical Therapy Aide
2566	Rehabilitation Counselor
2585	Health Worker I
2586	Health Worker II
2587	Health Worker III
2672	Children's Center Assistant Houseparent
2674	Children's Center Houseparent
2772	Sewing Technician
2822	Health Educator
2823	Mental Health Educator
2903	Eligibility Worker
2905	Senior Eligibility Worker
2920	Medical Social Worker
2930	Psychiatric Social Worker
2994	Homemaker
3208	Pool Lifeguard
3280	Assistant Recreation Director
3302	Vendor
3535	Radio Announcer - Operator
3540	Curatorial Aide
3602	Library Page
3610	Library Assistant
3616	Library Technical Assistant I
3630	Librarian I
3650	Medical Records Librarian



APPENDIX A

( Unassembled Examinations cont'd)

<u>Class #</u>	<u>Title</u>
4202	Assessment Clerk
4306	Collections Clerk
4320	Cashier I
5250	Junior Mechanical Engineer
5272	Assistant Landscape Architect
5277	Planner I
5287	Transit Planner I
5288	Transit Planner II
5302	Traffic Survey Technician
5304	Materials Testing Aide
5320	Illustrator and Art Designer
5322	Graphic Artist
5328	City Planning Graphics Aide
5342	Mechanical Engineering Assistant I
6102	Rodent Control Technician
6106	Sanitary Engineering Technician
6230	Street Inspector
6270	Housing Inspector
7302	Audio-Visual Equipment Technician
7312	Chauffeur
7367	Radio Technician
7385	Senior Typewriter Repairer
7416	Book Repairer
7418	Senior Book Repairer
7450	Shade and Drapery Worker
7454	Traffic Signal Operator
7470	Watershed Keeper
7524	Institution Utility Worker
7550	School Furniture Service Worker
8102	Process Server
8134	Confidential Crime Reporter
8202	Security Guard
8204	Institutional Police Officer
8207	Building and Grounds Patrol Officer
8208	Park Patrol Officer
8226	Museum Guard
8234	Fire Alarm Dispatcher
8440	Probation Officer (Adult Only)
9110	Fare Collections Receiver
9122	Transit Information Clerk
9126	Transit Traffic Checker
9176	School Transportation Scheduler
9355	Wharfinger I
9401	Program Monitor I, City Demonstration Agency
9971	Community Worker

(Assembled Examinations)

<u>CLASS #</u>	<u>Title</u>
1217	Senior Certification Clerk
1218	Payroll Supervisor
1224	Principal Payroll and Personnel Clerk
1228	Senior Testing Technician
1406	Senior Clerk
1408	Principal Clerk
1432	Senior Transcriber Typist
1460	Senior Legal Stenographer
1634	Principal Account Clerk
1640	Senior Accounting Machine Operator
1708	Senior Telephone Operator
1710	Chief Telephone Operator
1727	Supervising Data Entry Operator
1752	Senior Microphoto Technician
1762	Senior Offset Machine Operator
1856	Assistant Control Supervisor, EDP
1924	Materials and Supplies Supervisor
1926	Senior Materials and Supplies Supervisor
1933	Schools Warehouse Assistant Supervisor
1938	Stores and Equipment Assistant Supervisor
1939	Schools Warehouse Supervisor
2202	Dental Aide
2328	Nurse Practitioner
2420	Histology Technician
2432	Electrocardiograph Technician
2517	Jail Medical Technician
2580	Coroner's Investigator
2588	Health Worker IV
2606	Senior Food Service Worker
2624	Dietitian
2632	Cook Manager Elementary School
2650	Assistant Cook
2716	Custodial Assistant Supervisor
2738	Porter Assistant Supervisor
2770	Senior Laundry Worker
2774	Senior Sewing Technician
2932	Senior Psychiatric Social Worker
3214	Senior Swimming Instructor
3232	Marina Assistant Manager
3287	Assistant Recreation Supervisor
3289	Recreation Supervisor
3618	Library Technical Assistant II
3632	Librarian II
3634	Librarian III
4220	Personal Property Auditor
4308	Senior Collections Clerk
4321	Cashier II
4322	Cashier III
4334	Investigator, Tax Collector
4366	Collection Supervisor
5280	Planner III
5282	Planner IV
5283	Planner V - Urban Design
5290	Transit Planner IV
5292	Planner III (Zoning)

12

APPENDIX B (CONTINUED).

<u>CLASS #</u>	<u>Title</u>
5294	Planner IV (Zoning)
5412	Planning Coordinator
6104	Senior Rodent Control Technician
6333	Senior Building Inspector
7102	Maint. and Repair Asst. Supert., Hetch Hetchy Project
7108	Heavy Equipment Operations Asst. Supv.
7125	Elec. Operation and Maint. Superintendent, H.H. Project
7126	Mechanical Shop and Equipment Superintendent
7208	Heavy Equipment Operations Supervisor
7219	Maintenance Estimator and Scheduler
7277	City Shops Assistant Superintendent
7282	Street Repair Supervisor II
7368	Senior Radio Technician
7410*	Automotive Service Worker
7441	Tool Room Mechanic and Custodian
8168	Medical Claims Assistant Supervisor
8170	Medical Claims Supervisor
8228	Senior Museum Guard
8251	Fingerprint Technician III
9116	Senior Fare Collections Receiver
9124	Senior Transit Information Clerk
9125	Chief Transit Information Clerk
9128	Senior Transit Traffic Checker
9212	Airfield Safety Officer
9250	Airport Maintenance Supervisor
9403	Program Monitor II, City Demonstration Agency

\* Subject to the prior approval of the Office of Revenue Sharing.

The following examination classes are currently in progress and will continue on their current schedule. Displaced temporary employees are covered by this agreement:

1721	Senior Data Entry Operator
2471	Water Quality Chemist
1422	Junior Clerk Typist
1424	Clerk Typist
1426	Senior Clerk Typist
1428	Ward Clerk
1430	Transcriber Typist
1440	Medical Transcriber Typist
1442	Junior Clerk Stenographer
1444	Clerk Stenographer
1446	Senior Clerk Stenographer
1450	Principal Clerk Stenographer
2302	Orderly
2305	Psychiatric Technician
2320	Registered Nurse
2390	Central Processing & Distribution Technician
2409	Pharmacy Technician
2532	Paramedic
2534	Paramedic Supervisor
2542	Speech Pathologist
2548	Occupational Therapist
2556	Physical Therapist
2574	Clinical Psychologist

APPENDIX B (Cont'd)

<u>CLASS #</u>	<u>TITLE</u>
2812	Chief Deputy Registrar of Vital Statistics
2830	Public Health Nurse
5202	Junior Civil Engineer
7324	Beautician
8106	Legal Process Clerk
8108	Senior Legal Process Clerk
9131*	Station Agent, Municipal Railway
8142	Public Defenders Investigator

\* Subject to ORS

The following examination classes have recently adopted eligible lists, but displaced employees are covered by this agreement.

1202	Personnel Clerk
1222	Senior Payroll and Personnel Clerk
1402	Junior Clerk
1404	Clerk
1468	Water Services Clerk
1474	Claims Process Clerk
1476	Senior Claims Process Clerk
1630	Account Clerk
2708	Custodian
1220	Payroll Clerk
2908	Hospital Eligibility Worker
3410	Assistant Gardener
5278	Planner II
7514	General Laborer
7530	Street Cleaner
8214	Parking Control Officer
8316	Assistant Counselor
8320	Counselor, Juvenile Hall
8321	Counselor, Boys Ranch School
2806	Disease Control Investigator

MSS only - employees not otherwise covered by this agreement:

2593	Health Program Coordinator III
2910	Social Worker

## COMPLIANCE AGREEMENT

### STATEMENT OF INTENT

The State Personnel Board and the City and County of San Francisco hereby enter into a Compliance Agreement for the purpose of ensuring conformity with Section 17112(e) of the Local Agency Personnel Standards. This agreement is not an admission by the City and County of wrongdoing or violation of its own rules and regulations. This agreement is an enforceable declaration of the modifications the City will make in its temporary employment policies.

## COMPLIANCE AGREEMENT

### I. DEFINITIONS

- A. Temporary Appointment - Appointment made to a position when there is time limited need for personnel services. Non-civil service, limited tenure, and certified temporary are all covered by this definition and their use is restricted to the following conditions:
1. Emergency (non-civil service) - An appointment made without regard to eligible lists to a temporary or permanent position which, if not made, would cause stoppage of essential public services. It is time limited to a maximum of 30 days.
  2. Special Project (certified temporary) - With the specific approval of the Civil Service Commission, and upon a finding that it is reasonably foreseeable that subsequent years funding will not be available, an appointment made from an eligible list to a temporary position established to perform a special project or investigation. It is time limited to a maximum of one year.

3. Provisional (non-civil service) - An appointment to a temporary or permanent position made when there is no employment list available containing persons interested in the conditions of employment offered. It is time limited to a maximum of 130 days or thirty days from list certification (whichever is less).
  4. Periodic Need (certified temporary) - An appointment from an eligible list to a temporary or permanent position on a seasonal or intermittent time basis or to fill in behind someone on leave. It is time limited to a maximum of 130 days.
- B. Temporary Position - A position in which the duties and responsibilities will be needed for a total of less than one year.
  - C. Permanent Appointment - An appointment made from an employment list from within the certification rules.
  - D. Permanent Position - A collection of duties performed by one individual, which duties represent the ongoing work of the City and County. The source and nature of the funds supporting the position do not influence its designation as "permanent."

## II. EXCLUSIONS FROM DEFINITIONS

Elected officials, Boards and Commissions, and their direct appointees are exempted from these definitions. Senior Management Service employees may be exempted at the City and County's discretion.

## III. ACTIONS BY SAN FRANCISCO

### A. Administrative Actions:

1. The Civil Service Commission of the City and County shall, by May 16, 1983, identify all covered positions budgeted as temporary and make a determination of which positions have been designated temporary for over one year.

2. The City and County shall, by July 1, 1983, modify its budget to budget as permanent any positions which have been designated temporary for over one year. The budget instructions for fiscal year 1983-84 shall include this provision.
3. For use in future determinations the Civil Service Commission shall, by May 16, 1983, develop criteria acceptable to the State Personnel Board for determining whether a position is a specific type of temporary position.

B. Personnel System Changes:

1. The Civil Service Commission shall, by June 1, 1983, adopt a rule, subject to definitions contained herein, limiting to a maximum of one year the time that an individual may serve under temporary appointment to a position.
2. The Civil Service Commission shall, by June 1, 1983, adopt a rule requiring list usage within 30 days from list certification.
3. The Civil Service Commission shall, by August 30, 1983, conduct exams to allow each covered temporary employee (Appendices "A" and "B", Letter of Agreement between the City and various unions) who exceeds the time limits established herein to participate in an exam for his/her class which would permit transition to permanent status. Following the exams, successful incumbents shall be transitioned to permanent status as permanent positions become available in the manner provided by the Charter.
4. The Civil Service Commission shall, by June 1, 1983, adopt a rule requiring that an examination be immediately conducted whenever a temporary appointment is made to a permanent position.

5. The Civil Service Commission shall, by June 1, 1983, develop criteria for determining emergency situations involving maintenance of essential services.
6. Effective July 1, 1984, the City shall cease employment practices pursuant to Ordinance No. \_\_\_\_\_, except as to those limited tenure employees yet to be transitioned to permanent positions pursuant to this agreement and as to legislative aides to the Board of Supervisor, positions designated by the Mayor in the Office of the Mayor and positions that are funded by a current grant until the grant ends, but no later than September 30, 1983.

IV. ACTIONS BY THE STATE PERSONNEL BOARD

- A. As requested, and as resources of Merit System Services permit, the Board shall provide use of examinations and/or personnel support to assist the City in conducting examinations for covered positions.
- B. As requested, and as resources of Merit System Services permit, the Board shall provide training, computer support, or other technical assistance.

V. REPORTS

- A. The City and County shall forward, to the State Personnel Board, monthly reports of progress on the actions in Section III of this agreement.
- B. The City and County shall make its records and facilities available for inspection, by the Board, on reasonable notice.

VI. NONCOMPLIANCE WITH AGREEMENT

The signatories recognize that non-adherence to this agreement may result in any of the following:



- A. Withdrawal of MSS services, technical, and training support;
- B. Withdrawal of MSS computer and administrative support;
- C. Withdrawal of all MSS testing support;
- D. Decertification of San Francisco as an Approved Local Merit System;
- E. Hearing before the State Personnel Board to determine compliance with federal and state merit system standards; and
- F. Recommendation of fiscal sanctions to the State Department of Social Services and Health Services.

VII. TERM

This agreement shall become effective when executed by all parties and shall terminate on June 30, 1985.

DATED:

\_\_\_\_\_  
 DIANNE FEINSTEIN, Mayor  
 City and County of San Francisco

DATED:

\_\_\_\_\_  
 WENDY NELDER, President  
 San Francisco City and County  
 Board of Supervisors

DATED:

\_\_\_\_\_  
 CAROLTA TEXIDOR DEL PORTILLO,  
 President, San Francisco City and  
 County Civil Service Commission

DATED:

\_\_\_\_\_  
 California State Personnel Board

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DATED:

JAMES L. LAZARUS  
Employee Relations Director

DATED:

APPROVED AS TO FORM:  
GEORGE AGNOST, CITY ATTORNEY

By

Judith L. Teichman  
Deputy City Attorney