



CIVIL SERVICE COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

MEMORANDUM
CSC No. 2021-02

Date: May 13, 2021

To: Jeffery Tumlin, Director of Transportation
Personnel Officers, Municipal Transportation Agency
Employee Organization Representatives

From: Sandra Eng
Executive Director

Subject: **Civil Service Commission Rule Change No. 2000-101:
Rule 411A Position-Based Testing**
**Civil Service Commission Rule Change No. 2000-102:
Rule 412 Eligible Lists-Applicable to Service-Critical Classifications**

The Civil Service Commission (Commission) acted at its Regular Meeting of March 1, 2021 to adopt the proposed amendments to Civil Service Commission Rules 411A and 412 after Commission staff posted the proposed Rule amendments for a minimum of ten (10) days and met with interested stakeholders over the proposed Rule changes on February 12, 2021 and February 16, 2021. The Rule amendments are designed that in the event of a declared state of emergency by the Mayor, the Municipal Transportation Agency may request approval from the Civil Service Commission to extend the eligible lists beyond the timeframe established in the Rules.

In addition to posting this memo on the Commission's website, the Executive Director agreed that the following procedures would be sent to MTA and affected employee organizations:

- MTA is required to submit a staff report with an explanation for the request to extend the eligible list for a specific period of time.
- MTA must notify the unions in advance of their request to the Civil Service Commission.
- Unions are notified and provided a copy of the staff report in advance of the scheduled meeting by the Civil Service Commission. The unions were reminded that during a state of emergency, Special Meetings may be scheduled and unions may only receive a 72 hour notice of the meeting.
- Unions have an opportunity to respond by email or phone before the scheduled meeting or during public comment at the meeting.
- The Civil Service Commission will hear MTA's presentation, ask questions, and hear any concerns from the union or other stakeholders.
- The Civil Service Commission will determine whether to approve the extension, the length of the extension, and include any further direction for MTA.

A revised copy of pages VIII (Amendment Control Sheet) dated March 1, 2021 is attached for inclusion in your copy of the Civil Service Commission Rules. Substitute the update pages for the corresponding pages in your copy of the Civil Service Commission Rules Volume IV Municipal Transportation Agency Service-Critical.

If you have any questions, please email me at sandra.eng@sfgov.org

Rule Change No.	Adoption Date	Effective Date	Rule Section	Page Number	Action	Remarks
2000-101	3/1/2021	3/1/2021	411A.27.7	411A.13	Add	Replace pages 411A.13 – 411A.14
2000-102	3/1/2021	3/1/2021	412.30.2	412.11	Add	Replace pages 412.10 – 412.15 and Page VIII

Sec. 411A.27 Management of Eligible Lists (cont.)

- 411A.27.2** The Director of Transportation may extend the duration of an eligible list or eligibility periods for individuals on the eligible list based on the needs of the Municipal Transportation Agency or merit factors. Any extension of the eligible list or eligibility period shall occur prior to the expiration date with the exception of correcting errors. During the first three years following the adoption of this Civil Service Rule 411A on April 21, 2014, the maximum duration of the eligible list shall not exceed twenty-four (24) months. At the conclusion of the three-year period, the Civil Service Commission shall consider whether to increase the allowable maximum duration of the eligible list to forty-eight months, consistent with the provisions of Civil Service Rule 111A. Affected eligibles will be notified of the extension of the eligible list or eligibility period.
- 411A.27.3** The Director of Transportation may authorize the merging of eligible lists in the same Service-Critical class or different Service-Critical classes. Affected eligibles will be notified of the merging of eligible lists.
- 411A.27.4** The Director of Transportation may cancel an eligible list, or make optional the use of an eligible list based on the needs of the Municipal Transportation Agency or merit factors such as inability of eligibles to meet job specific qualifications or requirements. Affected eligibles will be notified of the cancellation of eligible lists.
- 411A.27.5** The Director of Transportation may approve the use of an eligible list established under this Rule 411A Position-Based Testing Program for permanent civil service appointments to other positions in the same or similar classes in the MTA or other City departments.
- 411A.27.6** The Human Resources Director may approve the use of an eligible list established pursuant the Position-Based Testing Program under Rule 111A for permanent civil service appointments to MTA Service-Critical positions or classes.
- 411A.27.7** In the event of a declaration of emergency by the Mayor of San Francisco and with the approval of the Civil Service Commission, active eligible lists during a declared emergency may be extended for up to an additional year beyond the timeframes set forth in these rules.

Sec. 411A.28 Rosters of Eligibles Established by Other Authorities

- 411A.28.1** By mutual agreement with the affected employee organization, appropriate rosters of eligibles established by other recognized authorities, such as the State of California, may be utilized to fill Service-Critical positions, or as the basis for establishing eligible lists for Service-Critical classifications.
- 411A.28.2** The Director of Transportation shall determine the criteria and standards for approving the use of rosters established by other authorities. In assessing appropriateness, the Director of Transportation shall ensure that placement on a roster does not require membership in an organization.
- 411A.28.3** The use of such rosters shall be specified on the examination announcement and shall not be subject to appeal to the Civil Service Commission.

Rule 411A

Position-Based Testing

Article VII: Certification of Eligibles

Applicability: Article VII, Rule 411A shall apply to examinations designated to this Position-Based Testing Program and shall apply to employees in all MTA Service-Critical positions or classes.

Sec. 411A.29 Certification

411A.29.1 The Municipal Transportation Agency shall certify to the appointing officer the names of eligibles that are reachable within the applicable certification rule. Except for circumstances beyond the control of the Municipal Transportation Agency, the initial notice of certification to eligibles shall be issued within fifteen (15) business days from the date of adoption of an eligible list.

411A.29.2 If all eligibles at a score waive appointment or fail to respond within specified time limits, the appointing officer may request supplementary certification(s) from the next highest score(s).

Sec. 411A.30 Certification of Eligibles – Minimum Allowable Certification Rule

411A.30.1 The minimum (i.e., most restrictive) certification rule shall be the Rule of Three Scores.

411A.30.2 The most restrictive formula for application of the Rule of Three Scores shall be:

- 1) When there is one (1) approved personnel requisition on file for a class, the Municipal Transportation Agency shall certify to the appointing officer the number of scores equal to the number of the certification rule. For example, three (3) scores will be certified for a position with a certification Rule of Three Scores.
- 2) When there are two (2) or more approved personnel requisitions on file for the same class, the number of scores certified shall be equal to the number of positions to be filled plus the number of scores in the certification rule minus one. For example, if twelve (12) requisitions are to be filled under a Rule of Three Scores, the number of scores certified is $12 + 3 - 1 = 14$.

Sec. 411A.31 Establishment of the Certification Rule for Position-Based Testing

411A.31.1 The Director of Transportation and/or representative is authorized to discuss and pursue agreement with employee organizations as to the certification rule applicable to an eligible list resulting from an examination in the Position-Based Testing Program, provided however, that the minimum rule cannot be fewer than the Rule of Three Scores. Nothing in this Section is intended to change the scope of bargaining specified by Charter or applicable law.

Rule 412

Eligible Lists

Article IV: Duration of Eligible Lists

Applicability: Article IV, Section 412.26 and 412.27, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Local 250A.

Sec. 412.26 **Tenure of Eligible Lists**

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for six (6) months and all names thereon shall be removed at the expiration of four (4) years.

Sec. 412.27 **Provision for Automatic Expiration of Eligible Lists**

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than six (6) months or more than four (4) years after the adoption of such list.

Applicability: Article IV, Sections 412.28 and 412.29 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union, Local 200.

Sec. 412.28 **Tenure of Eligible Lists**

The MTA Director of Transportation/Designee may remove all names from the eligible lists after they have remained thereon for one (1) year and all names thereon shall be removed at the expiration of three (3) years.

Sec. 412.29 **Provision for Automatic Expiration of Eligible Lists**

The MTA Director of Transportation/Designee may provide in the examination announcement that the eligible lists secured thereby shall automatically expire at a date not less than one (1) year or more than three (3) years after the adoption of such list.

Sec. 412.30 **Extension of Eligibility**

Applicability: Article IV, Section 412.30 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

412.30.1 The MTA Director of Transportation Agency/Designee may extend an eligible list or eligibility period for up to one (1) additional year. Eligibles shall be notified of the extension and any change in the expiration of their eligibility.

Sec. 412.30 Extension of Eligibility (cont.)

412.30.2 Extension of an Eligible List in a Declared Emergency

Applicability: Article IV, Section 412.30 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA)

In the event of a declaration of emergency by the Mayor of San Francisco and with the approval of the Civil Service Commission, active eligible lists during a declared emergency may be extended for up to an additional year beyond the timeframes set forth in these rules.

Rule 412

Eligible Lists

Article V: Holdover Rosters and Return to Duty

Applicability: Article V, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Sec. 412.31 **Holdover Status and Return to Duty**

412.31.1 **Holdover Roster - General Requirements**

- 1) Subject to the provisions of this Rule, permanent or probationary civil service appointees who are laid off or placed on an involuntary leave of absence shall be designated as holdovers.
- 2) The names of holdovers shall be ranked on a holdover roster for the class or classes from which layoff occurs and in the order of total seniority in the class in the City and County service. Seniority prior to resignation or termination shall not be used in determining holdover rights in a class.
- 3) Holdovers shall be returned to duty in rank order from holdover rosters.
- 4) Holdovers shall, for a period of five (5) years from the date of layoff, have preference for appointment over eligibles on civil service lists, or employees requesting transfer, reinstatement, or reappointment. The MTA Director of Transportation/Designee, upon review of all the circumstances, may extend the holdover status for such specified period of time as he/she may deem proper.
- 5) Holdover rosters shall be canvassed in the following order: first, permanent holdover rosters; then, temporary holdover rosters.
- 6) Permanent holdovers shall be returned to duty in temporary positions before temporary holdovers. Permanent holdovers shall displace any temporary or part-time exempt appointee in the same class in any City and County department. Permanent holdovers returned to duty in temporary positions shall retain their status on the permanent holdover roster. In the event of a displacement, the least senior temporary or part-time exempt appointee in the City and County service shall be laid off first.

Sec. 412.31 **Holdover Status and Return to Duty (cont.)****412.31.1** **Holdover Roster - General Requirements (cont.)**

7) Permanent holdovers in classes with citywide seniority for layoff purposes shall be entitled to displace only the least senior permanent employee in that class in City service. Holdovers who waive such appointment shall remain on the holdover list for subsequent permanent appointment to vacant positions, but may accept a temporary position in the class, if available.

8) Exceptions to Return to Duty in Rank Order

If two (2) or more approved requisitions are on file, the MTA Director of Transportation/Designee may permit holdovers in line for appointment, and in accordance with their standing on the roster, to select from the available requisitions the positions to which they desire appointment. In cases where holdovers on rosters who would be reached for appointment on requisitions, the MTA Director of Transportation/Designee may consult with appointing officers and employees involved, and if it is in the best interest of the service, may offer out said positions to holdovers so as to make it possible for them to return to duty in the department from which laid off.

9) Holdovers who are notified that they are being returned to duty are required to respond to MTA within five (5) business days of the date of notification. The MTA Director of Transportation/Designee may extend the time response period beyond five (5) business days. Failure of a holdover to respond within the time limits shall be considered a refusal of the offer and shall be subject to the penalty, if any, provided in this Rule.

10) Except as otherwise provided in these Rules, holdovers who fail to possess and maintain the qualifications required by law and by the terms of the examination announcement under which they participated shall forfeit their eligibility.

11) In all cases of change of address, MTA must be notified in writing separately for each class involved. Notice of change of address to the participant may inspect their own ratings. Post Office and/or the employee's current department only shall not be a reasonable excuse for special consideration in case of failure to respond to notice of return to duty within time limits.

12) Except as otherwise directed by the MTA Director of Transportation/Designee, holdovers being returned to duty shall not be required to pass a new medical examination.

Sec. 412.31 **Holdover Status and Return to Duty (cont.)****412.31.1** **Holdover Roster - General Requirements (cont.)**

13) A properly completed copy of the designated report of layoff or involuntary leave of absence form shall be forwarded to the MTA Director of Transportation/Designee as soon as possible (in advance of the action if possible) so that MTA may record the action and place the employee's name on a holdover roster for immediate consideration for return to duty.

14) Late reports of layoff shall not interfere with nor affect the rights of holdovers to whom notices of return to duty have already been mailed and who have been or may be returned to duty in response to such notices.

15) If there is no holdover roster for a class or if the holdover roster is exhausted, the MTA Director of Transportation/Designee may authorize that a holdover be returned to duty from another holdover roster deemed suitable to temporarily provide the required service. If no other roster is available, the position shall be offered to eligibles on regular civil service eligible lists or to individuals requesting transfer, reinstatement or reappointment.

16) Holdovers returned to duty shall be reinstated with accrued compensatory time, if any, and with their original anniversary date for the purposes of computing sick leave and vacation benefits.

412.31.2 **Holdover - Temporary Appointees**

1) Appointees certified from an eligible list who have satisfactorily served under temporary appointment shall upon expiration of the list be designated a "temporary holdover."

2) Resignation from temporary appointment from a holdover roster or refusal of temporary appointment from a holdover roster cancels all temporary holdover rights in that class.

412.31.3 **Holdover - Permanent and Probationary Appointees**

1) A permanent or probationary appointee to a promotional or entrance position who is laid off shall be designated a "permanent holdover" and shall be returned to duty in a position in the class from which laid off from a holdover roster as provided in this Rule.

Sec. 412.31 **Holdover Status and Return to Duty (cont.)****412.31.3** **Holdover - Permanent and Probationary Appointees**

2) A permanent holdover returned to duty on a permanent basis in a department other than the one from which laid off shall serve a new probationary period.

3) Return to duty of a permanent holdover to a position in the class from which laid off shall be subject to the following conditions:

4) Return to Duty - Department From Which Laid Off

Permanent Vacancy - A permanent holdover who refuses an offer to return to duty on a permanent basis in the department from which laid off shall forfeit all holdover rights in that class, and shall be removed from all rosters for that class. Such refusal of return to duty shall be deemed a resignation.

Temporary Vacancy - Permanent holdovers may refuse an offer to return to duty on a temporary basis in the department from which laid off without affecting future offers to be returned to duty. Waiver of temporary appointment shall not be removed without the permission of the MTA Director of Transportation/Designee.

5) Return to Duty - Department Other Than the One From Which Laid Off

Permanent holdovers may refuse an offer to return to duty on a permanent or temporary basis in a department other than the department from which laid off without affecting future offers to be returned to duty. Such departmental waivers shall not be withdrawn without the approval of the MTA Director of Transportation/Designee.

6) A permanent holdover who was laid off during the probationary period and who is returned to duty in the department from which laid off shall complete the remaining period of probationary service.

7) Transferees who are laid off during the probationary period shall be ranked on the permanent holdover roster for the class in accordance with their seniority in the class in the City and County service.

8) Permanent holdovers who resign or are released during the probationary period may be returned to the holdover roster from which appointed subject to the provisions of these Rules. Such holdovers shall not displace any current permanent or probationary employees, but shall remain on the list for subsequent permanent appointment to vacant positions and may accept a temporary position in the class, if available.