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MEMORANDUM

TO: MEMBERS
San Francisco Elections Commission

JOHN ARNTZ
Director of Elections

FROM: JULIA A. MOLL 
Deputy City Attorney

DATE: December 29, 2003

RE: Amendments to Civil Service Rule 114

On November 17, 2003 the Civil Service Commission ("CSC") amended Civil Service Rule 114 concerning the Director of Elections position. This office previously provided you with a copy of the amended rule. As requested by Commissioner Tom Schulz, this memorandum briefly summarizes the key provisions of the amended rule. Please let me know if you have questions or want additional information about this matter.

SUMMARY

The amended rule addresses: selection and appointment of the Director of Elections; the probationary period; removal; appeal to the CSC; and limitations on interim appointments. Codification of these procedures and requirements does not affect the Charter mandate that the Director be responsible for the day-to-day conduct and management of the Department of Elections, or the balance of powers and duties between the Director and the Elections Commission.

1. Permanent Civil Service designation; Limited Civil Service rights.

The Director of Elections position is designated "permanent civil service" rather than "exempt." In general, this means that the CSC has jurisdiction to determine whether the procedures for selection, appointment, probation and removal of the Director are properly administered. But the amended rule also specifies that certain civil service rules and procedures do not apply to this position. For example, a former Director has no right to reclaim the position if the position is vacant, or to "bump" back into the position if laid-off from another City position. Similarly, there is no preference given to applicants for the Director position based on civil service seniority in the class.

2. Competitive selection process.

In general, the competitive selection process for permanent civil service appointments applies. There must be at least three qualified applicants to proceed with selecting a new Director, unless

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the CSC waives this requirement. The Elections Commission must establish a non-discriminatory merit-based process for selection among the qualified applicants.

3. Designation of acting Director.

If the Director position is vacant, the Elections Commission may designate an acting Director with a temporary out-of-class assignment or provisional appointment. There is a 90-day limitation on this acting assignment or appointment, although the CSC may extend this limit in 60-day increments.

4. Determination of the date of appointment.

The date of appointment of the Director is significant because it determines when the probationary period starts and ends, and when the five-year term starts and ends. The amended rule specifies the date of appointment when the Elections Commission: re-appoints the incumbent at the end of a term; appoints a new Director at end of a term; and appoints a new Director under circumstances other than at the end of a five-year term.

5. Probationary period.

All new Directors must serve a probationary period. The term of the probationary period is set by Memorandum of Understanding ("MOU") with the Director's union. Under the current MOU, the probationary period is one year. If an incumbent Director is reappointed at the end of a five-year term, the Director does not serve a second probationary period.

6. Method of re-appointment of incumbent Director.

The Elections Commission may vote to re-appoint the Director without a competitive selection process. Alternatively, the Commission may conduct a competitive selection process, in which the incumbent may compete.

7. Removal for cause; Status of Director pending removal.

If the Elections Commission charges the Director with a specified act of misconduct, such as misappropriation of public funds, the Elections Commission could place the Director on unpaid administrative leave pending a hearing on removal. If the Elections Commission seeks to remove the Director for misconduct other than what is specified in the amended rule, the Director would remain on the job pending the decision on removal.

8. Procedure for removal; Appeal to CSC.

After the probationary period ends, the Elections Commission may remove a Director only for cause, following the presentation of written charges and a hearing. In general, the Commission must conduct the hearing at least 30 days and no more than 45 days after presenting the written charges, and must announce its decision on removal within 10 days of the hearing.

The Director may appeal to the CSC the Elections Commission's decision to remove, but must file the appeal within 20 days of the date of the Elections Commission's decision. In general, the CSC must hear the appeal within 60 days of the date of filing.

J.A.M.