

CIVIL SERVICE
RULES AND REGULATIONS
FOR
THE CLASSIFIED SERVICE
CITY OF SAN BERNARDINO, CALIFORNIA

Updated October 17, 2016

Charter Section 250. The Civil Service Board, subject to the approval of the Mayor and Council, shall adopt, amend and enforce a code of rules and regulations, providing for appointment and employments in all positions in the classified service, based on merit, efficiency, character, and industry, which shall have the force and effect of law; shall make investigations concerning the enforcement and effect of this article and of the rules adopted.

TABLE OF CONTENTS

<u>CHAPTER 1</u>	Definition of Terms	Page 5
<u>CHAPTER 2</u>	Rules Affecting the Organization and Operating Procedures of the Civil Service Board	Page 9
	Rule 200	Election of Officers
	Rule 201	Time and Place of Meeting: Quorum
	Rule 202	General Delegation to Chief Examiner
	Rule 203	Duties of the Chief Examiner
	Rule 204	Reports and Records
	Rule 204.1	Roster of Employees
	Rule 204.2	Reports of Changes
	Rule 204.3	Confidential Nature of Records
	Rule 204.4	Destruction of Records
	Rule 205	The Competitive Class
<u>CHAPTER 3</u>	Rules Affecting Applicants and Candidates	Page 12
	Rule 300	Announcement of Examinations
	Rule 301	General Requirements
	Rule 302	Medical and Physical Standards
	Rule 303	Other Entrance Requirements
	Rule 304	Applications
	Rule 305	Qualification and Disqualification
	Rule 306	Time and Place of Examination
	Rule 307	Participation in Tests
	Rule 308	Content of Examination
	Rule 308.1	Written Test
	Rule 308.2	Oral Test
	Rule 308.3	Performance Test
	Rule 308.4	Medical Test
	Rule 308.5	Physical Test
	Rule 308.6	Experience and Training
	Rule 309	Waiver of Disability
	Rule 310	Conduct of Examination
	Rule 311	Scoring and Standards
	Rule 312	Promotional Examinations
	Rule 313	Inspection and Appeal
	Rule 314	Veteran Preference
	Rule 315	Eligible List
	Rule 316	Notification of Results
	Rule 317	Qualifications for Other Government Employees

Rule 400	Information Required from Eligibles
Rule 401	Kinds of Lists and Order of Use
Rule 401.1	Re-employment Lists
Rule 401.2	Promotional Lists
Rule 401.3	Eligible Lists
Rule 401.4	Transfer Lists
Rule 402	Requisition
Rule 403	Certification
Rule 404	Effect of Tie Scores
Rule 405	Waiver
Rule 406	Use of Appropriate List
Rule 407	Provisional Appointment
Rule 408	Appointment
Rule 409	Term of List
Rule 410	Combination of Lists
Rule 411	Disqualification and Removal
Rule 412	Restoration of Names to Eligible List
Rule 413	Emergency Appointment
Rule 414	Oath
Rule 415	Assignments

Rule 500	Probationary Appointments
Rule 500.1	Objective of Probation
Rule 500.2	Removal During Probation
Rule 500.3	Rejection After Promotion
Rule 501	Career Appointments
Rule 502	Non-Career Appointments
Rule 502.1	Transition from Non-Career to Career Appointment
Rule 502.2	Transition from temporary agency, private contractor to Career Appointment
Rule 503	Seasonal Appointments
Rule 504	Provisional Appointments
Rule 505	Appointment to Unclassified Service
Rule 506	Continuity of Service
Rule 507	Unauthorized Absence; Resignation from Service
Rule 508	Promotion
Rule 509	Transfer
Rule 510	Voluntary Demotion
Rule 511	Reduction in Force
Rule 512	Summary Suspension
Rule 513	Disciplinary Actions
Rule 513.1	Causes

CHAPTER 5
(Continued)

Rules Affecting Employees

- Rule 513.2** Charges to be filed
- Rule 513.3** Reply
- Rule 513.4** Hearing
- Rule 513.5** Decision
- Rule 514** Resignation
- Rule 515** Reinstatement
- Rule 516** Political Activities
- Rule 516.1** Participation in Campaigns for Elective Office
- Rule 516.2** Solicitation for Political Funds
- Rule 516.3** Permitted Solicitation
- Rule 516.4** Prohibition of Entry for Prohibited Solicitations
- Rule 516.5** Use of Official Authority for Political Purposes
- Rule 516.6** Political Activity While in Uniform
- Rule 517** Incompatible Employment
- Rule 518** Residence

CHAPTER 6

General Rules

Page 39

- Rule 600** Cooperation by Others
- Rule 601** Investigation; Subpoena Power
- Rule 602** Payroll Certification
- Rule 603** Enforcement; Penalty for Violation
- Rule 604** Meaning of Headings
- Rule 605** Validity and Separability
- Rule 606** Repeal of Conflicting Rules
- Rule 607** Amendment
- Rule 608** Effective Date

CIVIL SERVICE RULES AND REGULATIONS

FOR

THE CLASSIFIED SERVICE

CITY OF SAN BERNARDINO

CHAPTER 1

DEFINITION OF TERMS

Rule 100 **Definition of Terms**

For the purpose of these rules, certain words and phrases shall be construed as herein set forth unless it is apparent from the context that a different meaning is intended.

Rule 101 “**Allocation**” means the placing of a position in its proper class based upon duties performed and authority and responsibilities exercised.

Rule 102 “**Appointment**” means the designation of a person by due authority to become an employee in a position and his induction into employment in such position, as provided in these rules.

Rule 103 “**Appointing Power**” means the officers of the City who as individuals, or as a Commission or Common Council, have the final authority to make the appointment to a position to be filled.

Rule 104 “**Board**” means the Civil Service Board established by the City Charter.

Rule 104.1 “**Certify**” means review and verify that the matter is in compliance with the Civil Service Rules.

Rule 105 “**Charter**” means the City Charter of the City of San Bernardino.

Rule 106 “**City**” means the City of San Bernardino, California

Rule 107 “**Class**” means a group of positions enough alike in duties, authority and responsibility to permit grouping under a common title, and the use of common standards of selection, transfer, promotion and pay.

Rule 108 “**Classified Service**” means all positions and employments in the City, which are not specifically included in the Unclassified Service by the Charter.

- Rule 109** “**Competitive class**” has the meaning given it by Section 248 of the Charter.
- Rule 110** “**Council**” means the Common Council of the City of San Bernardino.
- Rule 111** “**Demotion**” means a change in employment status from one class to another class having a substantially lower range of pay.
- Rule 112** “**Department Head**” means the person designated by lawful authority to direct the activity of a department or other recognized separate office or agency of the City government.
- Rule 113** “**Eligible**” means a person whose name is on a re-employment list, promotional list or eligible list and who is not ineligible for appointment for any reason.
- Rule 114** “**Eligible List**” means a list of persons who have qualified for appointment to any position in a class in the classified service, listed in the order provided in these rules, subject to the preferential provisions of Section 249 of the Charter.
- Rule 115** “**Emergency Employee**” means an employee whose services are required in case of an emergency not exceeding 15 days.
- Rule 116** “**Examination**” means a test or group of tests and evaluations used to determine the eligibility and rank candidates for employment in a class.
- Rule 117** “**Labor class**” has the meaning given it by Section 248 of the Charter.
- Rule 118** “**Permanent position**” means any position in the classified service which requires or is likely to require the service of an incumbent without interruption for an indefinite period exceeding six months. “Permanent appointment” shall mean appointment to a permanent position. “Permanent employee” means any employee holding a permanent position.
(Amended by CS-22, October 9, 1973: Council Ordinance No. 3387, November 5, 1973.)
- Rule 119** “**Position**” means any office or employment in the classified service, whether occupied or vacant.
- Rule 120** “**Probation period**” means a working test period not to exceed one year during which an employee is required to demonstrate his fitness for the class to which he is appointed by actual performance of the duties of his position. (Amended by CS-26, November 23, 1982; Council Ordinance No. MC-230, December 20, 1982).

- Rule 121** “**Probationary Status**” means the status of any employee who has been regularly appointed from an eligible list but who has not completed the probationary period provided in these rules.
- Rule 122** “**Probationer**” means an employee who has probationary status.
- Rule 123** “**Promotion**” means a change in employment status from one class to another with a substantially higher range of pay.
- Rule 124** “**Promotional Examination**” means an examination in which competition is limited to regular employees in specified lower classes in the classified service.
- Rule 125** “**Promotional List**” means an eligible list resulting from a promotional examination.
- Rule 126** “**Provisional employee**” means an employee who has provisional status.
- Rule 127** “**Provisional Status**” applies to an employee who has been appointed to fill a position for which no eligible list exists and which is limited as prescribed in these rules.
- Rule 128** “**Re-employment list**” means a list of permanent or probationary employees who have been laid off for lack of work, lack of funds or other causes not involving fault or delinquency on their part. (Amended by Council Resolution No.2014-10, January 21, 2014).
- Rule 129** “**Regular employee**” means an employee who has successfully completed his probationary period and has been retained as provided in these rules.
- Rule 130** “**Seasonal position**” means a full-time or part-time position that requires or is likely to require the services of an incumbent during certain parts of the year, or recurring annually, or at other periods.
- Rule 131** “**Suspension**” means the temporary separation of an employee from the service without pay for disciplinary purposes.
- Rule 132** “**Temporary position**” means any position in the classified service which requires the services of an incumbent for a limited period only, or a permanent position which can be filled only on a temporary basis pending the return of a regularly appointed employee who is on authorized leave.

Rule 133 “**Test**” means any written, oral, performance or physical exercise or any appraisal of training, experience, work history or other means by which the relative qualifications of applicants are evaluated for the purpose of determining their placement on an eligible list.

Rule 134 “**Transfer**” means a change of an employee from one position to another position in the same class or in another class having similar duties, essentially the same range of pay and similar employment standards.

Rule 135 “**Uncompetitive class**” has the meaning given it by Section 248 of the Charter.

Rule 136 When words “**Officer**”, “**Employee**”, “**Employees**”, “**Appointee**”, or “**Service**” appear herein, they shall be deemed to refer to the classified service unless otherwise indicated.

Rule 137 When the word “**Personnel**” or “**City Personnel**” appear herein, they shall be deemed to refer and be limited to the “Civil Service Program” only.

CHAPTER 2
RULES AFFECTING THE ORGANIZATION
AND OPERATING PROCEDURES OF
THE CIVIL SERVICE BOARD

Rule 200 **Election of Officers**

The Board shall annually elect one of its members chairman and one as vice-chairman. The Board shall appoint a Chief Examiner, to serve at the pleasure of the Board, who shall perform the duties prescribed by the Charter, by these rules or by appropriate action of the Civil Service Board or the Mayor and Council. (See Charter Sections 246, 247, and 250).

Rule 201 **Time and Place of Meeting - Quorum**

The Board shall establish and announce a fixed schedule of regular meetings to be held not less than once each month, and may hold special meetings at the call of the Chairman or a majority of the members of the Board.

Rule 202 **General Delegation to Chief Examiner**

Subject to provisions of the Charter and these rules, the Board hereby delegates to the Chief Examiner the authority to administer the Civil Service program herein provided. Any action of the Chief Examiner taken as agent for the Board may be appealed to the Board within 10 days after its effective date.

Rule 203 **Duties of the Chief Examiner**

Subject to the provisions of Rule 202, and under the general supervision of the Board, the Chief Examiner shall plan and direct the staff engaged in administration of the City's Civil Service Program; shall maintain all necessary records relevant thereto; shall determine from the department heads the ways in which the personnel program can better serve their needs and recommend appropriate actions to the Board; and perform other duties generally consistent with his position as may be assigned by the Board.

Rule 204 **Reports and Records**

The Chief Examiner shall require and render such reports and keep such records, as determined necessary to administer the Civil Service system, including but not limited to the reports and records required by rules 204.1 through 204.4.

Rule 204.1 **Roster of Employees**

The Human Resources Department shall make available to the Chief Examiner and the Chief Examiner shall maintain a record for each employee in the service of the City showing the name, title of position held, the department to which assigned, changes in employment status and such other information as may be found pertinent to provide a complete record of employment.

Rule 204.2 **Reports of Changes**

The Chief Examiner shall prescribe methods by which to be informed of every appointment, transfer, promotion, demotion, and other temporary or permanent changes in the status of employees which are necessary to maintain a full and accurate record of employment and to insure observance of charter provisions and of these rules.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973)

Rule 204.3 **Confidential Nature of Records**

All Civil Service records shall be considered confidential in nature and may be made available to applicants, candidates and employees, and to appointing powers or the public only for limited purposes and in accordance with specific procedures to be established by the Board on recommendation of the Chief Examiner.

Rule 204.4 **Destruction of Records**

The permanent or temporary records of the Board shall be preserved by may be destroyed by the Chief Examiner with the consent of the Board and the City Attorney under the terms and conditions prescribed by law.

Rule 205 **The Competitive Class**

(a) All positions in the classified service shall be regarded as being in the competitive class, as that term is defined by may be defined in Section 248 of the Charter, unless the Board, after considering the recommendation of the department head affected and the Chief Examiner, shall determine that any position shall either temporarily or permanently be placed in the uncompetative class or the labor class as those terms are

defined in Section 248 of the Charter. The reasons supporting such recommendations and the findings and decisions of the Board shall be entered fully upon its minutes.

(b) In order to implement the provisions of Public Law 92-54, known as the Emergency Employment Act of 1971 or other like federal law, and because of the peculiar and exceptional qualifications required for eligibility for funds to provide employment under said act or law, each and every position within the classified service of the City funded by said act or law shall be a temporary position with the same title and in the same number of positions as set forth in the appropriate resolution of the Mayor and Common Council. Each such temporary position shall terminate by the processing of appropriate personnel action forms either (a) on or before June 30, 1974, or (b) whenever there are no longer sufficient funds available from the United States Government to provide compensation to the employees in such temporary positions. Each applicant for said temporary position shall meet the eligibility requirements of the Civil Service Board and the requirements of said act or law. No person employed in such temporary position shall receive permanent appointment as a result of his temporary employment, and he shall accrue no seniority in any classified position by virtue of said temporary employment. Each employee occupying such temporary position shall be entitled to and shall accrue the same vacation, permitted absence, sick leave, worker's compensation, retirement and health and life insurance benefits that apply to permanent positions in similar classifications in the classified and unclassified positions whenever such examinations are given, so that many of the temporary employees may be eligible to gain appointment to an existing position in the classified or unclassified service and remain in the employ of the City after said temporary positions are terminated.

(c) The Civil Service Board may require an examination in order to qualify any full time temporary employee, whose position is funded pursuant to sub-rule (b) of this Rule, for a permanent position in the same or comparable class or for a permanent promotional position. Such examinations may be closed to said temporary employees, to a department, or to a class. Applicants who successfully pass the examination and are qualified may be appointed or transferred in preference to eligibles on any other list, except the re-employment list. Such qualifying examinations may be used for creating eligibility or promotional lists or for transfers.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973)

CHAPTER 3

RULES AFFECTING APPLICANTS AND CANDIDATES

Rule 300 **Announcement of Examinations**

All examinations for classes in the classified service shall be announced on official bulletin boards and in such other manner as the Chief Examiner and affected departments find advisable and necessary to attract the largest number of qualified candidates. Such announcements shall be made sufficiently in advance of the time for the last receipt of applications that qualified candidates can be fully informed and have ample opportunity to submit their applications. The official bulletin shall specify the title and pay range for the class for which the examination is announced; the nature of the work to be performed; qualifications required; the time, place and manner of making application; the general scope of the examination; the relative weights to be given to its several parts and other pertinent information.

Rule 301 **General Requirements**

Upon the recommendation of the Human Resources Department, the Chief Examiner may recommend and the Board may establish and approve recommended age and other general requirements appropriate to each class for which examinations are held. No examination shall be closed to any applicant or employee on account of color, race, religion, ancestry, national origin, marital status, sex, age and physical handicap, except where specific requirements constitute a bonafide occupational qualification.

(Amended by CS-26, November 23, 1982; Council Ordinance No. MC-230, December 20, 1982)

Rule 302 **Medical and Physical Standards**

In the absence of any more specific requirement, all candidates in examinations must be able to demonstrate that they are in good health and physically able to perform all of the duties of the class to which they seek appointment. The Board, after considering the recommendation of the Chief Examiner, Human Resources Department and the department heads affected, may prescribe for particular examinations any more specific standards of health, height, weight, strength, agility, or other standards of medical and physical fitness that it finds appropriate to insure that those appointed will be fully able to discharge the duties of the position, and to safeguard against injury on the job. Such standards, when established, shall be included in the announcement of the examination.

Rule 303 **Other Entrance Requirements**

The Board after considering the recommendation of the Chief Examiner and of the department heads concerned, may establish such other specific requirements of education, experience, possession of licenses or certificates or other standards of evidences of proficiency which it finds desirable to establish that applicants are fully qualified to perform the duties of the class.

Rule 304 **Applications**

Applications for examination shall be made on forms provided by the City and approved by the Chief Examiner. Such forms shall require information concerning experience, training and other pertinent information required by the announcement of the examination, and may require fingerprinting. Applications will be accepted by in-person delivery, mail, electronic mail or any other means accepted by the City. All applicants will be required to complete and sign an original City application form prior to appointment, such signature to be affixed to a certificate under penalty of perjury that all statements contained in the application are true. Applicants who desire to apply for veterans' preference or any other special preference or credit which may be allowed by Charter or these rules shall submit proof of eligibility therefor at the time of filing application, in such form as the Chief Examiner may prescribe. Unless otherwise provided by the Board, no application will be considered in a particular examination unless it is filed between the time the examination is announced and the hour and date announced as the closing time for such applications.

Rule 305 **Qualification and Disqualification**

The Chief Examiner shall approve an application and admit the applicant to the examination whenever it appears that the applicant meets the minimum requirements announced for admission to the examination. Such acceptance of the application shall not, however, prevent the subsequent disqualification of the candidate on a later finding that the candidate does not meet some essential requirement. The Chief Examiner shall reject any application which indicates on its face that the applicant does not possess the minimum qualifications required by the announcement of the examination, or it is obvious that the applicant is physically unfit for the performance of the duties of the class. Rejected applications may subsequently be accepted on a showing by the applicant that the applicant does possess the necessary qualifications, provided that such showing is made before the date of examination. An application may be rejected on the finding by the Chief Examiner that the applicant is addicted to the habitual excessive use of drugs or intoxicating liquors, or

has willfully made any false statements of any material facts, or has practiced or attempted to practice any deception or fraud in the application. An application may be rejected on the finding by the Chief Examiner that the applicant failed to meet pre-employment medical examination or background check investigation requirements, the applicant was discharged from probation, the applicant was terminated from the City for cause, or the applicant resigned from the City in lieu of disciplinary action. Notice of the rejection of an application shall be provided to the applicant.

(Amended by Council Resolution October 17, 2016)

Rule 306 **Time and Place of Examination**

The Chief Examiner shall notify each person whose application is accepted of the time and place of examination, and shall require presentation of such notice at the time of examination as an evidence of authorization to participate. The examination shall occur as expeditiously as possible following the closing date of the recruitment. The Chief Examiner or any person designated by the Chief Examiner to conduct the examination may require evidence that the person presenting such authorization is in fact the person to whom it was issued. In cases where an applicant is unable to appear for a scheduled examination, there will be no provision for a make-up examination.

Rule 307 **Participation in tests**

No person may participate in any phase of an examination unless the applicant's application shall have been accepted, and unless at each stage of the examination the applicant shall have passed with the required grade any preceding stages of the examination. Admission to subsequent stages of an examination shall not bar the disqualification of the candidate in earlier stages or the rejection of the application in the event of adverse information later coming to the attention of the Chief Examiner.

Rule 308 **Content of Examination**

The Chief Examiner and appropriate Department Head will determine the types of exams used for a given class or employment subject to approval by the Civil Service Board. Examinations may consist of written, oral, performance, or physical tests or any combination thereof, or any other forms or methods of evaluation which will test fairly the qualifications of applicants for a given class of employment. Examinations may include but not necessarily limited to the tests set forth in rules 308.1 through 308.6.

Rule 308.1 **Written Test**

A written test may be used to measure the knowledge, abilities, judgements, aptitudes or alertness of candidates, insofar as such traits are related to ability to perform the work in the class for which the examination is being held.

Rule 308.2 **Oral Test**

An oral test may be used to evaluate the personal fitness, the experience, the training and the knowledge, capacity and judgement of candidates. In considering personal fitness it shall be appropriate to evaluate pertinent personality traits, but such evaluation shall be done on a basis which is as competitive as possible.

Rule 308.3 **Performance Test**

A performance test may be used to rate candidates on speed, accuracy or other standards of performance in an actual demonstration of samples of work in the class.

Rule 308.4 **Medical Test**

An examination by a competent examining physician may be required of any candidate before or immediately after certification for appointment. The Board may establish different physical or medical standards for different types of work.

Rule 308.5 **Physical Test**

A physical test may consist of competitive exercises or events designed to measure agility, strength, coordination or general physical fitness. Such tests shall be in addition to the medical test.

Rule 308.6 **Experience and Training**

Competitive evaluation may be made of the relevance, level, recency, progression and quality of experience and education offered by candidates. This may be done as a part of an oral test or by a review of records submitted. Reports of superiors, former employers, educational institutions and acquaintances, as well as the results of investigations, may be considered in this process.

Rule 309 **Waiver of Disability**

(Repealed by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973.)

Rule 310 **Conduct of Examination**

The Chief Examiner shall be responsible for the conduct of all examinations. The content of all examinations shall be subject to review by the recruiting department. The Chief Examiner shall arrange for the use of public buildings and equipment for the conduct of tests and shall render or secure such assistance as shall be required in connection with the test, including the selection, appointment and use of boards of special examiners when deemed desirable by him in any phase of the testing process subject to lawful approval for the expenditure of any fund. Members of such boards, if present city officers or employees, may serve without additional compensation, otherwise, such special examiners may be paid their reasonable expense and/or a daily fee at rates to be recommended by the Board subject to the approval of the Mayor and Common Council. The examination papers of candidates in written tests shall be identified by number or in any other manner which will conceal the identity of candidates until the scoring has been completed. The Chief Examiner shall so conduct examinations that equal competitive conditions are maintained as far as reasonably possible, and in that connection may disqualify and reject candidates for any of the following reasons:

- a. Possession in the examination room of any paper, book or memorandum or of anything else which might be of use or assistance in the examination, other than materials which candidates have been directed to use.
- b. Willfully copying, looking over the work of other candidates, or attempting to do so, or permitting any candidate to copy or look over any examination sheets or materials in possession of another candidate.
- c. Willfully attempting to reveal identity on any examination paper except as instructed to do so by the examiner in charge.
- d. Tardiness in reporting for the examination unless admitted by the examiner in charge for good reason; or leaving the examination room before completing the test except with the permission of the examiner in charge.

Rule 311 **Scoring and Standards**

The final score of a candidate shall be based upon all tests and evaluations in the examination with the relative weights assigned to them in the announcement. Failure on one part of the test or examination may be grounds for declaring the candidate as failing in the entire examination, or as disqualified for subsequent parts of the test. The Chief Examiner shall score the examinations according to the passing mark established in the announcement.

Rule 312 **Promotional Examinations**

Promotional examinations shall be conducted by the same methods and standards as those for original entry into the service, except that they shall be restricted to qualified employees in designated lower classes in the city service, and the Board in announcing such examinations may establish standards of performance in present service and may grant credit based on the quality and length of such service. In announcing open examinations, the Board may also specify the terms under which permanent city employees in appropriate classes may qualify promotionally, including the establishment, in the Board's discretion, of higher minimum scores for promotion candidates than required for candidates on an open basis. In such case, a permanent employee failing to meet the higher standard for the promotional examination but obtaining the passing mark for the open examination shall be placed on the open list. *(See Charter Section 252)*

Rule 313 **Inspection and Appeal**

A keyed copy of the written test given in connection with an examination shall be made available in the office of the Board for inspection by any candidate taking the test, beginning on the second business day following the giving of the test and continuing for five business days thereafter, except that keyed copies of copyrighted or standardized tests will not be available for review. The candidate, during the period of inspection provided above, may appeal to the Chief Examiner in writing the inclusion of any item or portion of the test or from the answer indicated as correct for any item. The candidate shall state the item, page number and the reason or authority in support of the candidate's contention. Thereafter, no further appeals will be accepted which are concerned with the content of the test or answer. An appeal, which fails to set forth a reason or authority for a protest, will not be considered. The Chief Examiner shall make a ruling on each such appeal and the test papers shall be scored according to that decision, subject to the right of the candidate to appeal to the Board within three days after notification of the Chief Examiner's decision.

(Amended by CS-17, November 23, 1971; Council Ordinance No. 3226, January 3, 1972)

Rule 314 **Veteran Preference**

A candidate claiming the preference granted by Section 249 of the Charter shall so indicate and submit evidence in support of the claim prior to the examination, and failure to do so shall be deemed a waiver of the preference. In establishing an eligible list, the Chief Examiner shall grant preference, where claimed and proven, in accordance with the provisions of the Charter.

The phrase “in time of war” as used in Section 249 of the Charter shall constitute those periods of active during in the regular armed forces of the United States of America for which the Federal Government grants veteran preference. *(See Charter Section 249)*

(Amended by CS-13, May 20, 1969; Council Ordinance No. 2999, July 7, 1969)

Rule 315 **Eligible List**

Upon the completion of all phases of an examination, the Chief Examiner shall establish an eligible list ranking the candidates according to their scores in the various parts of the examination, and the relative weights thereof, with credit for Veteran’s Preference or any other preference or credit authorized by the Charter or these rules.

Rule 316 **Notification of Results**

Each candidate taking an examination shall be given written notice of the pass or fail results of the examination or test. Each failing candidate may inspect their score sheet, beginning on the second business day following the mailing of notice of test results, and continuing for five business days thereafter. During this period, appeals in writing will be accepted challenging the scoring of answers on the grounds of fraud or mistake, but a further appeal shall not be made challenging the keyed test material, the content of the examination or the answers. The Chief Examiner shall rule upon such appeals and the final score of the examinee shall be made to conform to that decision, subject to a right of appeal to the Board within three days after notification to the candidate of such decision.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973)

Rule 317

Qualifications for other Government Employees

Notwithstanding any provision in these rules to the contrary, a civil service employee of the United States of America, a state or a public agency may be exempted by the Civil Service Board from competitive written and physical examinations for a comparable position and be made eligible for employment with the City and placed on an eligible list subject to the following conditions:

1. The person was duly qualified for the position under Civil Service Requirements of the United States of America, the state, or public agency.
2. The City has a vacancy in a comparable position in a comparable class in its classified service.
3. The person shall possess specialized training and experience relating to the duties of the position for which application is made.
4. The Department Head, Civil Service Board, City Administrator, Mayor and Common Council approve the qualifications of such person for the comparable position.
5. Any further conditions which the Civil Service Board may impose.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973)

CHAPTER 4
RULES AFFECTING ELIGIBLE LISTS
AND ELIGIBLES

Rule 400 **Information Required from Eligibles**

The Chief Examiner may require eligibles to provide information concerning any limitations on the conditions under which they wish to be certified, including whether or not they are available for temporary employment and whether there are particular departments to which they may wish not to be certified. Eligibles shall notify the Chief Examiner promptly of any change in address. An eligible wishing not to be considered for appointment during any part of the term of eligibility may request to be placed on an inactive list. Inactive eligibles may be restored to the active list, in their original relative position, at their request any time during the term of the list.

Rule 401 **Kinds of Lists and Order of Use**

The kinds of eligible lists and the priority in which they shall be used shall be as set forth in rules 401.1 through 401.4.

Rule 401.1 **Re-employment Lists**

A re-employment list shall be established for a class whenever any regular or permanent employee has been laid off for lack of work or lack of funds, or upon the abolishment of a position for any reason not involving the fault or delinquency of the employee. Names shall be arranged on a re-employment list in the order of relative total length of probationary and regular service in the class. Wherever a re-employment list exists for a class, it shall take precedence over the promotional list and the eligible list. Names may be removed from the re-employment eligibility lists by the Chief Examiner for any of the reasons outlined in Civil Service Rule 411.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973; Council Resolution No.2014-10, January 21, 2014; Council Resolution October 17, 2016)

Rule 401.2 **Promotional Lists**

Promotional lists shall be created as a result of promotional examinations held by themselves or in conjunction with open examinations, and such lists shall take precedence for any class over the eligible list for that class.

Rule 401.3 **Eligible Lists**

Eligible lists resulting from open competitive examinations shall be used when other lists having priority are not available.

Rule 401.4 **Transfer Lists**

The Chief Examiner may maintain lists of employees who wish transfers to another department. When a vacancy occurs to which any regular or probationary employee has asked for transfer, the Chief Examiner may, with the consent of the two department heads concerned, arrange for such transfer in preference to certification from any eligible list.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973)

Rule 402 **Requisition**

Whenever a vacancy exists the department head shall notify the Chief Examiner on forms provided by the Chief Examiner, which shall be so designed as to provide all necessary information concerning the nature of the vacancy.

Rule 403 **Certification**

Upon receipt of a requisition and after considering the possibility of transfer of an employee already in the service, the Chief Examiner shall certify to the department head the names of eligible candidates from existing lists for the class. In the event of certification from a re-employment list, promotional list or eligible list, the Chief Examiner shall certify the names of all successful applicants for each vacancy. No certification from promotional or eligible lists may be made until all of the names on a re-employment list for the same class have been certified, in order of seniority in classification, and the eligibles have either been interviewed and appointed or interviewed/not appointed. A department may not deny appointment to an individual on a re-employment list provided the individual possesses the minimum requirements of knowledge, skills and experience for the classification.

In the event that there are fewer than three persons qualified for certification for the class in which the position belongs, the Chief Examiner, with the agreement of the department head, may certify fewer than three names for the position under consideration.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973; Council Resolution No.2014-10, January 21, 2014)

Rule 404 **Effect of Tie Scores**

Eligibles having identical scores shall be placed on lists in alphabetical order. Whenever the certification of names under the preceding rules results in the certification of an eligible whose score is identical with others on the list, all of the eligibles having the same score shall be certified.

Rule 405 **Waiver**

Eligibles may waive certification upon giving satisfactory reasons in writing to the Chief Examiner. Waivers must be filed within 10 working days from the date of certification, and if accepted the name of the eligible shall not be certified to any other appointing officer until the waiver has expired or been withdrawn. An eligible may waive certification for temporary appointment or may state the minimum salary or the particular time or department of service for which he wishes to be certified and such waiver shall be automatically effective as to all certifications not meeting his requirements.

(Amended by CS-26, November 23, 1982; Council Ordinance No. MC-230, December 20, 1982)

Rule 406 **Use of Appropriate List**

When there is no re-employment list, promotional list, eligible list or transfer list for a class for which a requisition has been received, at the discretion of the Chief Examiner, and upon the request of the recruiting department, the Chief Examiner may use the list for any other class which in the judgement of the Chief Examiner is nearly enough related to be considered as appropriate, including lists established for similar classifications in the Water Department or SBETA, upon approval of the Chief Examiner. In such case the re-employment or promotional list for such class shall be treated in the same way as though they were eligible lists for such class to which certification is made. Any waiver made by an eligible certified from an appropriate list shall be deemed to apply to that particular certification only.

Rule 407 **Provisional Appointment**

In the event no eligibles are available for a vacancy, the Chief Examiner may authorize the appointing power to make a provisional appointment. The provisional appointee proposed by the appointing power shall meet all of the requirements necessary for admission to the examination for the class when it is subsequently held. No provisional appointment may extend more than 10 days beyond the creation of an eligible list for the class, nor may a provisional appointment in any case extend more than six months from the date of appointment unless an extension is authorized for an additional period of not to exceed six months by the Board.

Rule 408 **Appointment**

After interview and any investigation desired, the appointing power shall make appointments from among those certified (or make a provisional appointment when authorized), and shall immediately notify the Chief Examiner of the person or persons appointed. If the person appointed fails to present himself for duty at the time and place agreed upon, the person shall be deemed to have declined the appointment and the person's name shall be removed from the eligible list, to be restored by the Chief Examiner only upon showing of satisfactory reasons for the failure to appear. The action of the Chief Examiner shall be subject to Rule 202 and 203.

(Amended by CS-26, November 23, 1982; Council Ordinance No. MC-230, December 20, 1982)

Rule 409 **Term of List**

- (A) **Open** eligible lists shall remain in effect for a period of one year or such shorter period as may be established by the Board at the time of determining the examination procedure to be used for that particular classification. An open eligible list shall not be established for a period of less than six months, provided that a new eligible list may be established in less than six months if the former list is exhausted by either the appointment or removal pursuant to Rule 411, of all eligibles on that list. An open eligible list may be extended by the Board for an additional period of time not to exceed one year upon the recommendation of the Chief Examiner or Department Head.

- (B) **Promotional** eligible lists shall remain in effect for a period of two years after the lists are established , unless the list is exhausted by appointment or removal pursuant to Rule 411 of all eligibles on the list. A promotional eligible list may be extended by the Board for an additional period of time not to exceed two years upon the recommendation of the Chief Examiner or the Department Head.

- (C) The name of a person on a **re-employment** or **transfer** list shall remain on that particular list for a period of two years from the date the individual was placed on the list, unless sooner removed by appointment or removal pursuant to Rule 411.

(Amended by CS-25, August 23, 1977; Council Ordinance No. 3676, October 3, 1977)

Rule 410 **Combination of Lists**

At any time during the life of an eligible list the Chief Examiner may add names to the list through giving another examination. The names shall be added and merged with the existing lists in order of final ratings of those added and those already on the list.

Rule 411

Disqualification and Removal

Names of eligibles may be removed from eligible lists after review by the Chief Examiner for any of the following:

- a. Conviction of a felony or of a misdemeanor involving moral turpitude.
- b. Conviction of, or a plea of no contest to, a felony or misdemeanor if it is determined that there is a rational relationship between the felony or misdemeanor and the position for which the application is made.
- c. Proof of fraud or false statements in the application, or proof of fraudulent conduct in connection with an examination.
- d. Permanent appointment to a position in the class for which the eligible list was established or for which the list is deemed suitable by the Chief Examiner.
- e. Separation from the service of an individual on a promotional list for any reason.
- f. Separation from the service due to termination for cause or resignation in lieu of disciplinary action.
- g. Discharge during probation from a job classification held at the time of release shall result in removal of the probationary employee's name from the eligibility list that specifically pertains to the job classification for which the employee was released.
- h. Failure to meet pre-employment medical examination and/or background check investigation requirements.
- i. Failure to appear or to arrange for an interview with an appointing power within a reasonable time after notification of certification, or failure to appear for work after appointment.
- j. Failure to respond to documented Civil Service Department inquiries.
- k. Declination of appointment without reasons satisfactory to the Chief Examiner
- l. Waiver of certification for a reason unsatisfactory to the Chief Examiner.

(Amended by CSB-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973; Council Resolution October 17, 2016)

Rule 412 **Restoration of Names to Eligible Lists**

Names which have been removed from eligible lists may be restored by the Chief Examiner for the duration of the list for the following reasons:

- a. Acceptance of the reason for waiver of certification which had previously been rejected.
- b. Acceptance of the reason for non-appearance for interview after certification.

(Amended by Council Resolution October 17, 2016)

Rule 413 **Emergency Appointment**

Notwithstanding any other provision of these rules, any appointing power may employ such persons as may be needed to meet an emergency created by an extraordinary occurrence which threatens life or property. Such appointments may not exceed 15 days and shall be reported to the Chief Examiner as soon as the emergency conditions permit.

Rule 414 **Oath**

Upon appointment, each officer and employee shall take such oath of offices as may be required by law or prescribed by the Council.

Rule 415 **Assignments**

The Chief of the Fire or Police Department may assign for a period not to exceed 90 days any employee in the respective department to a position in a higher classification or rank during the absence of the incumbent thereof or during a vacancy in the position and he shall forward notice and certification of the assignment and the periods of time worked in the higher position to the Administrative Officer and the Civil Service Board or its Secretary. The Chief of the Police or Fire Department shall assign a person from the names of those persons certified on an appropriate promotional or eligible list; provided that at the time of the initial assignment such a list exists for the position to which the assignment is made; provided further that such requirement may be waived by the Civil Service Board for good cause when there is evidence that it would cause hardship or danger to, or inefficiency in departmental operations or performance of duties. Such assignment may be extended by the Civil Service Board for additional periods of 90 days. Any employee who is assigned to the higher position for more than 10 consecutive working days or 5 consecutive shifts shall receive the same salary for the higher position to which the employee would be entitled if promoted to such a position during the period in which assigned thereto. An urgency assignment without additional salary benefits of an employee in the department whose

name has not been certified on the appropriate promotional or eligible list may be made by the Chief for 10 consecutive working days or 5 consecutive shifts. Each assignment shall terminate upon a promotion or appointment to the position. The person to the higher position shall not acquire any advantage or right by reason of the assignment, except as hereinbefore set forth. The purpose of this Rule is to implement, interpret and clarify Section 186 THIRD: (b) of the Charter.

(Amended by CS-9, June 14, 1962; Council Resolution No. 6409, June 25, 1962)

Chapter 5

Rules Affecting Employees

Rule 500 **Probationary Appointments**

Any appointment from an eligible or promotional list shall not be deemed complete until an initial applicable period of probation for the position, as determined and set forth in a resolution of the Mayor and Common Council, has elapsed. Such period of probation shall not be longer than one year, provided that the probationary period shall be for six months in the event an applicable period of probation has not been fixed by resolution of the Mayor and Common Council. Probationary service shall be subject to the provisions of Rules 500.1 through 500.3.

(Amended by CS-24, December 19, 1975; Council Ordinance No. 3551, February 2, 1976)

Rule 500.1 **Objective of Probation**

The probationary period shall be regarded as part of the testing process and shall be utilized for observing closely the employee's work, for securing the most effective adjustment of a new employee to his position and for releasing any probationer whose performance does not meet the department head's required standards of the work.

Rule 500.2 **Removal During Probation**

During the probation period, an employee may be discharged or reduced at any time upon the recommendation of the head of the department in which such probationer is employed with the approval of a majority of the Civil Service Board. Such discharge or reduction shall be effective upon the filing of the recommendation by the department head with the Chief Examiner, provided that a majority vote of the Civil Service Board, upholding the probationary release, is obtained at a subsequent meeting held in the normal course of business.

(Amended by CS-20, October 24, 1972; Council Ordinance No. 3313, December 4, 1972; Council Resolution October 17, 2016)

Rule 500.3 **Rejection After Promotion**

Any employee released during the probationary period following a promotional appointment shall be reinstated to the position from which promoted unless charges are filed and the employee is dismissed in the manner provided in the Charter and these rules.

Rule 501 **Career Appointments**

Upon completion of the probationary period, or its equivalency for part-time positions, an appointment shall be deemed a permanent career appointment and thereafter shall be subject to removal only by the procedures established in the Charter and these rules. Types of career appointments are:

- a. **Regular/full time:** A position which has been established and funded by action of the Common Council as a regular/full time position and is expected to continue in successive budget years.
- b. **Regular/part time:** A position which has been established and funded by action of the Common Council as a regular/part time position and is expected to continue in successive budget years but normally requires less than 30 hours of work per week average.

Rule 502 **Non-Career Appointments:** An appointment shall be deemed a temporary non-career appointment when the position can be categorized into one of the following:

- a. **Extra Board:** A position requiring the employee to report to or be available for work daily but assigned to duty only when the incumbent in a permanent career position is not on duty. Employees in this category shall be called from a rotating list and may remain on the rotating list for a maximum of 24 months.
- b. **Limited Term:** A position determined to be of a specific duration not exceeding six months, based on emergency situations, unusual workload demands, special programs, training, projects or other like reasons. The position may be full-time or part-time. An appointee in this category may be appointed only once in any 12-month period except as the Civil Service Board may authorize.
- c. **Part-Time:** A position where the work schedule calls for less than an average of 30 hours per week or less than 1000 hours in any 12 month period and will not recur at regular intervals.
- d. **Intern:** A position whose sole purpose is to provide education, training and work experience to students enrolled in high school or college. Appointments are limited to 6 months duration, are discretionary by department heads and are not bound by other procedures in these rules.
- e. **Apprentice:** A part-time position, which is a generic position, which can be utilized by all City departments. The work schedule

calls for less than an average of 30 hours per week or less than 1000 hours in any 12 month period and will not recur at regular intervals. This position will not be subject to Civil Service Rule 502.1.

(502 e Approved by the Civil Service Board, March 8, 2005)

Rule 502.1 **Transition from Non Career to Career Appointment:** Upon a positive recommendation and request of the department head and approval of the Civil Service Board, an employee who has held a permanent/part time or temporary/non career position continuously for a period equivalent to the probationary period of the permanent career position may be transitioned into a permanent career position of the same, comparable, or lower classification provided that the employee possesses the minimum qualifications of that position without further examination or establishment of eligibility, and provided there is a funded permanent career vacancy available.

(Amended by Council Resolution No. 88-205, June 1, 1988)

Rule 502.2 **Transition from temporary agency, private contractor to Career Appointment**

Upon a positive written recommendation and request of the department head and approval of the Chief Examiner and Civil Service Board, an employee who has been working as an employee through a temporary agency or as a private contractor may be placed on an eligible list in a comparable class provided the person possesses the minimum qualifications of that position without further examination or establishment of eligibility, and provided that there is a funded permanent vacancy available. If such employee has been in the temporary or contractor position for less than one year they must serve a normal probationary period.

Rule 503 **Seasonal Appointments**

When a position is to be filled for a period of time which will recur at definite intervals, it shall be regarded as a seasonal position. No eligible is to be penalized for waiving appointment to a seasonal appointment. Eligibles accepting seasonal appointment shall not be removed from lists for consideration for other employment unless they so request. Those appointed to seasonal positions shall be terminated at the end of the season and may be regularly re-appointed at each recurrence of the seasonal period without regard to other procedures in these rules.

Rule 504 **Provisional Appointments**

A provisional appointment acquires no rights or status of any kind. The appointee's employment is subject to termination at any time in the discretion of the appointing power. Experience gained as a provisional appointee shall be given no more credit in an examination than would an equal amount of experience in any other employment.

Rule 505 **Appointment to Unclassified Service**

In the event an employee in the classified service is appointed to a position in the unclassified service the employee shall be re-instated to his former position upon the termination of his appointment in the unclassified service, unless so terminated for a cause which would justify dismissal from the classified service.

Rule 506 **Continuity of Service**

No authorized leave of absence in any form shall operate to break the continuity of service of an employee in computing seniority for any Civil Service purpose.

(Amended by CS-6, May 6, 1960; Council Resolution No. 5604, May 27, 1960)

Rule 507 **Unauthorized Absence; Resignation from Service**

Absence from duty without authorization of the Department Head for three successive scheduled working days, or one 24-hour shift for the Fire Department Emergency Operations Division plus six hours into the next regularly scheduled shift, is deemed a resignation from the service as of the last day on which the employee worked or was on authorized leave. However, if the employee proves the absence was caused by illness, injury, or an emergency which made reporting impossible, to the satisfaction of the Department Head, the Department Head may reinstate the employee into the position.

Notice of a resignation resulting from an unauthorized leave and of the vacancy in the position shall be filed with the Civil Service Board and a copy served on the employee by regular mail to the current address shown in records of the Human Resources Department. A permanent classified employee may, within five working days after mailing of the notice, request a hearing on the sole issue of whether leave was or was not authorized for the absence. The hearing shall be held at the next regular meeting of the Board. If the Civil Service Board determines that the absence was authorized, the employee shall be reinstated to the position.

(Amended by CS-26, November 23, 1982; Council Ordinance No. MC-230, dated December 20, 1982)

Rule 508 **Promotion**

Insofar as practicable and consistent with the best interests of the service, vacancies in the classified service shall be filled after competitive examination. The examination may be limited to employees within the department in which the vacancy exists. When an appointing power believes that a vacancy in a class could be better filled by general open competition, he may request certification from an existing open list or request that an examination be held. The Board after due consideration of the reasons advanced by the appointing power, may approve or deny such a request or may order a concurrent examination on both a promotional and open competitive basis. The decision of the Board in this matter shall be final. Regular employees desiring to compete in promotional examinations must meet all of the requirements set forth for entry into an examination, including special standards which may be established by the Board for promotional purposes. In consideration of limited competition in a promotional test, the Board may establish a higher passing mark than that generally established in open competitive tests.

Rule 509 **Transfer**

After notice to the Chief Examiner, an employee may be transferred by the appointing power at any time from one position to another position in the same or comparable class. Transfers shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in these rules. No person shall be transferred to a position for which he does not possess required employment standards. In the case of transfers between departments, the approval of both department heads shall be required.

Rule 510 **Voluntary Demotion**

An employee may at any time request a voluntary demotion to a lower class, provided there is a vacancy and the employee has the qualifications which would be required of an original appointee to that class. Such demotion shall be effective by the appointing power and the Board.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973; Council Resolution October 17, 2016)

Rule 511 **Reduction in Force.** When it becomes necessary through lack of work or lack of funds or for other reasons to reduce the number of employees within a given class, the appointing power shall present evidence to the Chief Examiner that every effort has been made to transfer, demote, temporarily appoint or undertake other action to retain permanent employees in lieu of a lay-off.

The department head shall give at least two working days advance notice to the Chief Examiner of the titles, classes and number of positions involved. The Chief Examiner shall thereupon designate the order of lay-off in accordance with this rule and the department head shall process the necessary personnel actions. Emergency, temporary and provisional employees shall be laid off in that order prior to the lay-off of permanent employees in the same class. The order of layoffs shall thereafter be determined by seniority. Seniority of employees for purposes of reduction in force or transfers and demotion brought about by said reduction in force shall be based on seniority in class with the department so that the employee with the shortest term of service within the department shall be the first to be transferred, demoted or laid off. However, any employee who has or shall be transferred involuntarily or who was or shall be transferred upon written initiating notice to the Chief Examiner by, or at the behest or initiation of, an appointing power or department head for the benefit of the City to a position in another department shall retain the seniority earned and accrued in the class in the department from which the employee was or shall be transferred. In the event more than one employee is transferred, demoted or laid off, such transfers, demotions or layoffs shall be in inverse order to the length of service in the class, provided, however, no employee shall be transferred or demoted to a class, title or position in which the employee has not previously held status.

In a department where there is more than one class having equal rates of compensation, any probationary or regular employee subject to lay-off under this rule shall, in lieu thereof, be allowed to transfer to a position in one of the other classes of equal compensation, in which the employee has previously held status, provided that the employee subject to lay-off has longer service in class than the employee displaced has in the class. To be considered for said transfer in lieu of lay-off, an employee must notify the appointing power in writing of such election not later than the end of the next working day, that the Civil Service office is open, after receiving written notice of said lay-off.

Any probationary or regular employee subject to lay-off under this rule shall in lieu thereof be allowed a demotion to the next lower class within the department in which the employee subject to lay-off has previously held status, and shall become the senior employee in that class for the purpose of this rule; provided, however, that in the first grade or lowest class within a department, total time in service shall be the only criteria to be considered in determining which employee shall be laid-off. To be considered for said demotion in lieu of lay-off, an employee must notify the appointing power in writing of such election not later than the next working day, that the Civil Service office is open, after receiving written notice of said lay-off.

If an employee subject to lay-off displaces another employee in an equal or lower class in a position in which said employee subject to lay-off has served, but not completed the required probationary period, such appointment shall be on a probationary basis and Section 254 of the City Charter shall apply. Not later than the end of the probationary period, said employee shall either become regular in this position or be allowed to displace an employee in the next lower class in which the employee has previously held status.

Any employee displaced hereunder shall have the same right to displace employees in equal or lower classes as does an employee subject to lay-off.

Any employee laid off or demoted to a lower class or transferred to an equal class under this rule shall have the right for two (2) years to be re-employed, transferred or promoted to the former class upon the first vacancy occurring in any such class in the department and such right shall take precedence over the regular employment or promotional lists. In the event more than one employee was so laid off, demoted or transferred from such class the rights to re-employment, transfer or promotion to such class shall be in the order of seniority in said class before lay-off, transfer or demotion.

If, at any point in the above described procedure, it becomes evident that two or more employees within the same classification possess the exact and same seniority rights under this rule, the following method shall be used to determine the order of lay-off.

1. The department head shall review all personnel records including probationary and/or annual employee evaluation reports, letters of commendation or reprimand and such other information as may assist him in making a final determination. The department head's review shall be objective in nature and free of any personal bias or consideration. After such review and based upon work performance and the good of the service, the department head shall establish the final order of lay-off.
2. In the event two or more employees within the same classification are determined to be equal, based upon the above criteria, the time and date of filing application for appointment to the position shall be used. The last employee to have filed application for appointment to the position shall be the first employee subject to lay-off.

Any employee laid off, transferred or demoted under this rule shall have the right of appeal to the Civil Service Board based upon misinterpretation

or improper application of said rule in writing, not later than the end of the next working day, that the Civil Service office is open, after receiving written notice of said lay-off.

(Amended by CS-23, August 5, 1975; Council Ordinance No. 3526, September 8, 1975; Resolution No. 2012-213, August 6, 2012; Resolution No. 3288, June 16, 2014)

Rule 512 **Summary Suspension**

Rule Deleted

Rule 513 **Disciplinary Actions**

A regular employee may be disciplined by dismissal, demotion, transfer or suspension, as provided in Sections 254 or 256 of the Charter and in accordance with Rules 513.1 through 513.5. Disciplinary actions involving disability or like causes shall be denominated by the specific actions sought to be undertaken, and an employee who has been dismissed or suspended hereunder due to a physical or mental disability shall not be referred to as having been disciplined.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973)

Rule 513.1 **Causes**

Disciplinary actions shall not be taken except for cause related to performance of duty, personal conduct or qualifications of the employee, which causes may include but are not limited to: fraud in securing appointment, incompetency, inefficiency, inexcusable neglect of duty, physical or mental disability, insubordination, dishonesty, drunkenness on duty, intemperance, addiction to the use of narcotics or habit forming drugs, inexcusable absence without leave, conviction of a felony or of a misdemeanor involving moral turpitude, immorality, discourteous treatment of the public or another employee, improper political activity, willful disobedience, misuse of City property, violation of the Charter or of any Rule governing City personnel practices, or any failure of good behavior or acts, during or outside of duty hours, which are incompatible with or inimicable to the public service.

Rule 513.2 **Charges to be filed**

The appointing power shall initiate disciplinary action by serving on the employee a written statement of specific charges, a statement of the disciplinary action sought, notice to the employee of his right to reply and hearing under these rules, and, in the discretion of the appointing power, notice to the employee of suspension without pay pending the hearing and determination of charges. A copy of such charges and notice shall at the same time be filed with the Chief Examiner. (See Charter Section 254).

Rule 513.3 **Reply**

Within five days after the filing of charges and notice of intended disciplinary action, the employee may file a statement in reply and either accept the intended disciplinary action or request a hearing by the Board. If the employee files a statement accepting the proposed disciplinary action, it shall be effective forthwith. If the employee fails or neglects to file a statement within the five working day limit herein provided, unless a further extension is granted by the Board, the proposed disciplinary action shall be effective at the expiration of the period. If the employee requests a hearing, it shall be conducted by the Board in accordance with these rules. *(See Charter Section 255)*

Rule 513.4 **Hearing**

Within ten working days after receiving a request for hearing in a disciplinary matter, the Chief Examiner, after consultation with members of the Board, shall set a time and place for a hearing, which hearing must be held within 30 days after the filing of the employee's reply unless a later date is mutually agreed upon by both parties. Prior to such hearing, the Board may direct the Chief Examiner to make such investigations as may be appropriate in the circumstances. At the hearing the Board shall hear evidence in behalf of the person bringing the charges and the employee, and such additional information as may have resulted from independent investigation. The parties may be represented by counsel, but the hearing shall be conducted informally and shall not be bound by formal rules of evidence. The hearing may be continued from time to time for the convenience of the parties, and upon its completion the Board may take the matter under submission with or without request for further written summary of the evidence or arguments by the parties.

Rule 513.5 **Decision**

Within 30 days after taking a disciplinary case under submission, unless the time is further extended by mutual agreement of the parties, the Board, by majority vote of all its members, shall render a decision affirming, modifying or reversing the disciplinary action proposed in the charges and notice. In the event the decision modifies or reverses the action sought, the Board shall determine the effect of such decision on any suspension of salary which may have been effective during the time the charges were pending and the hearing was held. All decisions of the Board in disciplinary matters shall be final and shall be executed forthwith.

Rule 514 **Resignation**

Any employee may resign from the City service by filing a statement of his intention with the department head, who shall endorse his action on it and forward it to the Chief Examiner. If a resignation is submitted to avoid disciplinary action, the department head shall accept it with prejudice and such record shall bar the employee from reinstatement of from participation in further examinations unless expressly permitted by the Board after consideration of all factors, including the basis for any pending disciplinary action.

Rule 515 **Reinstatement**

A resigned probationary or regular employee may be reinstated to a position in the same class if there is need for his or her services within a year after resignation, or, within the same period he or she may submit a written request that his or her name be placed on an eligible list for the classification held at the time of resignation. The name shall remain on the eligible list for a period of two years from the resignation effective date. An employee on leave of absence shall be entitled to reinstatement on or before the date of the expiration of his or her leave.

(Amended by CS-22, October 9, 1973; Council Ordinance No. 3387, November 5, 1973; Council Resolution No. 2014-10, January 21, 2014)

Rule 516 **Political Activities.**

The following rules concerning political activities shall be applicable to Civil Service employees in the classified service of the Civil Service of the City. These rules shall supplement, and be in addition to, any regulation imposed by ordinance, resolution or rule. In accordance with the decisions of the courts of the State of California, these rules recognize that the provisions of Section 260 of the Charter which purport to prohibit any employee in the classified service from taking part in political management or affairs of any political campaign, further than to cast his vote or express privately in his opinion, are null and void.

Rule 516.1 **Participation in Campaigns for Elective Office**

Except when campaigning for an elective officer for himself, no employee shall campaign or engage in political activities for or against the immediate supervisor or department head on any local City election contest involving an elective office held or sought by such supervisor or department head; and shall not campaign or engage in political activities for or against any person seeking election to the office of their immediate supervisor or department head.

Rule 516.2 **Solicitation of Political Funds**

California Government Code Section 3202, and amendments thereto, which prohibits city employees from soliciting or receiving, directly or indirectly, political funds or contributions, knowingly, from other City employees or from persons on the City's employment list is applicable to the City of San Bernardino, subject to the provisions of Rule 516.3

Rule 516.3 **Permitted Solicitation**

California Government Code Section 3206, and amendments thereto, which permits City employees to solicit or receive political funds or contributions to promote the passage or defeat of ballot measures which would affect their rate of pay, hours of work, civil service, or other working conditions, is applicable to the City of San Bernardino, except that such soliciting or receiving shall not be done at a time or in a manner which disrupts or interferes with the transaction of City business.

Rule 516.4 **Prohibition of Entry for Prohibited Solicitations**

California Government Code 3202(a), and amendments thereto, which requires every City employee to prohibit the entry into most places under the employee's control, occupied and used for City purposes, of any person for the purpose of making or giving notice of any prohibited political assessment, solicitation or contribution , is applicable to the City of San Bernardino.

Rule 516.5 **Use of Official Authority for Political Purposes**

California Government Code 3204, and amendments thereto, which provides that no City employee and no person seeking a position as a City employee shall in any way use his authority or influence in matters relating to City employment for any corrupt consideration, including political action or influence, is applicable to the City of San Bernardino.

Rule 516.6 **Political Activity While in Uniform**

California Government Code Section 3204.5, and amendments thereto, which provides that no City employee shall participate in political activities of any kind while in City uniform, is applicable to the City of San Bernardino.

(Amended by CS-14, April 17, 1970; Council Ordinance No. 3074, June 1, 1970)

Rule 517 **Incompatible Employment**

Each department head, officer and employee of the City of San Bernardino in the classified service shall devote their full time, attention and efforts to the City office of employment during normal hours of duty. No such department head, officer or employee shall engage in any employment, activity, enterprise or conduct of any nature which is inconsistent, incompatible or in conflict with the duties as a department head, officer or employee, or with the duties, functions or responsibilities of the department or office in which employed. The employment, activities, enterprises, or conduct which are inconsistent, incompatible or in conflict with the duties of such personnel include but are not limited to matters which:

- (a) Involve the use of private gain or advantage of City time, facilities, equipment and supplies or the prestige or influence of one's City office or employment.
- (b) Involve receipt or acceptance by the department head, officer or employee of any money or other consideration from anyone other than the City for the performance of an act which the department head, officer or employee, if not performing such act, would be required or expected to render in the regular course of hours of City employment or as part of the assigned duties as a department head, officer or employee.
- (c) Involve the performance of an act in other than the capacity as a department head, officer or employee, which act may later be subject directly or indirectly to the control, inspection, review audit or enforcement by such department head, officer or employee, or the department by which employed, or by the Board or Commission having authority or responsibility involving such duties or employment.

(Amended by CS-7, February 9, 1961; Council Resolution No. 5866, February 20, 1961)

Rule 518 **Residence**

There shall be no residency requirement for classified employees except as otherwise required by ordinance or Charter of the City of San Bernardino.

(Amended by CS-16, February 16, 1971; Council Ordinance No. 3150, March 1, 1971)

Chapter 6

General Rules

Rule 600 **Cooperation by Others**

Every officer and employee of the City shall cooperate with the Board and the Chief Examiner in order to fulfill completely the objectives and purposes of the Charter and these rules. In particular the Chief Examiner may call on officers and employees to assist in the preparation and conduct of examinations without additional compensation.

Rule 601 **Investigation: Subpoena Power**

Wherever deemed necessary by the Board or the Chief Examiner in order to obtain the facts necessary to the determination of any matter arising under the Charter or these rules, the Board or the Chief Examiner may question such persons and review such records as are relevant to the proceedings. The Board and Chief Examiner in the performance of their duties shall have the power of subpoena over persons and records, and such power shall be enforceable by the courts. *(See Charter Section 259)*

Rule 602 **Payroll Certification**

No payment shall be made for service rendered by any officer or employee in the classified service of the City except after certification by the Chief Examiner that the appointment has been made in accordance with the Charter, all appropriate ordinances and these rules. In the event of any appointment or employment contrary to such provisions, the appointing power shall be personally responsible for amounts earned by the employee. *(See Charter Section 258)*

Rule 603 **Enforcement: Penalty for Violation**

Any officer or employee of the City who shall willfully do any of the acts prohibited or who shall fail to do any of the acts required, or in any other way violate any of the provisions of Sections 246 through 261 of the Charter or of these rules, or any order relating to personnel duly made by the Board, shall be subject to disciplinary action appropriate to their status.

Rule 604 **Meaning of Headings**

The headings of chapters and rules are for illustration only, and in the interpretation of any rules shall not be considered to be a part thereof.

Rule 605 **Validity and Separability**

Should any part of these rules be declared contrary to the Charter or any other law, the Board and the Mayor and Council declare that each would have adopted or approved all of the other provisions notwithstanding the finding of a defect in any rules or provision thereof, and all remaining rules and provisions thereof shall remain in effect.

Rule 606 **Repeal of Conflicting Rules**

The rules and regulations of the Board heretofore in effect are hereby expressly repealed upon the taking effect of these rules.

Rule 607 **Amendment**

These rules may be amended by majority vote of all members of the Board after public notice and opportunity to be heard, and such amendments shall become effective after approval by the Council and Mayor.

Rule 608 **Effective Date**

These rules shall be effective upon approval by the Council and the Mayor.