

PERSONNEL RULES AND REGULATIONS

**CITY OF FOSTER CITY/
ESTERO MUNICIPAL IMPROVEMENT DISTRICT**

Revised January 2016

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RULE 1 - GENERAL PROVISIONS

1.01 - **ADOPTION OF PERSONNEL RULES:** These Rules have been adopted by the City Council and District Board of Directors by resolution pursuant to the authority set forth in Chapter 2.44 of the Municipal Code of the City of Foster City and Chapter 2.36 of the District Code of the Estero Municipal Improvement District. Recognized employee organizations participated in the preparation and discussion of these Rules, which supersede any previous Personnel Rules and Regulations.

1.02 - **PURPOSE OF THE PERSONNEL RULES:** The objectives of these Rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government. To this extent, the following Rules and Regulations reflect the principles and standards of the City's/District's Merit System of employment and describe other terms and conditions of employment.

These Rules set forth in detail those procedures which ensure similar treatment for those who compete for original employment and promotion, and define the obligations, rights, privileges, benefits, and prohibitions which are placed upon all employees in the regular service of the City/District.

At the same time, within the limits of administrative feasibility, latitude shall be given to the City/District Manager, or his/her designee, in the interpretation of these Rules and Regulations. In the event of a conflict between these rules and a Memorandum of Understanding that is in effect, the Memorandum of Understanding shall prevail.

1.03 - **NO CONTRACT FORMED:** These Rules do not create any contract of employment, expressed or implied, or any rights in the nature of a contract.

1.04 - **AMENDMENTS OR REVISIONS TO THE PERSONNEL RULES:** The Personnel Officer shall prepare and present proposed amendments or revisions to these Rules to the Council/Board for their consideration. Except in cases of emergency, reasonable advance written notice shall be given to employees and affected recognized employee organizations when proposed changes and amendments directly relating to matters within the scope of representation as defined by the Meyers-Milias-Brown Act, Government Code Sec. 3500, *et seq.*, are being considered for presentation to the Council/Board for adoption. Such affected employee organizations shall have an opportunity to meet and confer. In emergency situations, organizations shall still be informed and may meet within a reasonable time thereafter. At the time of the Council/Board's consideration, any interested party may appear and be heard. All proposed amendments or revisions shall become effective only upon approval by resolution of the Council/Board.

1.05 - **PERSONNEL ADMINISTRATION:** The City/District Manager is the Personnel Officer. He/She shall administer the City/District Merit System and may delegate any of the responsibilities and authorities to another designee. The City/District Manager or designee shall:

- a) Interpret and administer all provisions of these Rules and Regulations and all related ordinances, resolutions, policies and procedures concerning personnel matters of the City/District.

- b) Prepare and recommend to the City Council/District Board personnel rules and regulations, including revisions and amendments thereto.
- c) Prepare or cause to be prepared a position classification plan, including classification specifications, a compensation plan, and recommended revisions of the plans.
- d) Manage and implement the recruitment and selection process for employee selection.
- e) Manage the City Council/District Board's compensation policy.
- f) Provide for the publishing or posting of notices of tests for positions in the classified service; the receipt and evaluation of applications thereof; the conducting and grading of tests; the certification of a list of persons eligible for appointments to the appropriate position in the competitive service; and the performance of any other duty that may be required to administer the personnel system.

The Personnel Officer shall issue such additional administrative policies and procedures as he/she deems necessary to effect these Rules and Regulations. Such additional administrative policies and procedures shall be in writing and shall be made available to employees and employee organizations. Departmental rules and regulations, if not in conflict with these rules or applicable laws, ordinances, resolutions or relevant Memoranda of Understanding, shall become effective upon the Personnel Officer's approval. Employees and recognized employee organizations shall be informed of and have an opportunity to discuss proposed policies and procedures that are within the scope of representation, within a reasonable time prior to the proposed effective date, unless an emergency or urgent situation requires enactment without prior notice. In that event, organizations shall still be informed and may meet within a reasonable time thereafter.

1.06 - APPLICATION OF RULES AND REGULATIONS: Except as otherwise provided in this section, the provisions of these rules shall apply to all employees in the regular or competitive City/District Service. These rules shall not apply to the following classes, which shall not be included in the classified service:

- a) The City/District Manager and the Manager's assistants;
- b) Elective Officers;
- c) Members of appointive boards, commissions and committees;
- d) All department heads;
- e) Persons engaged under contract to supply expert, professional, technical or any other services;
- f) Volunteer personnel;
- g) All council-appointed city officers;
- h) Contract, reserve, temporary, seasonal and other employees who do not have regular or probationary status in authorized permanent positions;
- i) Emergency employees who are hired to meet the immediate requirements of emergency conditions, such as extraordinary fire, flood, or earthquake, which threaten life or property;
- j) All part-time employees covered by the City/District Part-Time Employee Compensation and Benefits Plan.

All employees who are not in the regular or competitive service are considered to be at-will employees who serve at the pleasure of the City/District Manager and may be removed from service at any time, with or without cause. Such employees are not entitled to a hearing upon termination.

1.07 - VIOLATION OF PERSONNEL RULES AND REGULATIONS: Violation of these Rules shall be grounds for rejection of application, removal from an eligibility list, dismissal, suspension, demotion, reduction in salary, or any other disciplinary action deemed appropriate under the circumstances by the City/District Manager.

1.08 - EMPLOYMENT OF RELATIVES: The following definitions apply to this Policy:

Relative means spouse, domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.

Spouse means two persons who have a valid marriage, or two people who are registered domestic partners, as that term is defined by California law, Family Code section 297 *et seq.*

Supervisory relationship means one in which one employee exercises the right to control, direct, reward, or punish another by virtue of the duties and responsibilities assigned to his or her City appointment.

The City/District Manager may permit the employment of relatives of any City/District employee or elected City/District official if he/she determines that the efficiency or mission of the City/District will not be adversely affected by such employment. Relatives of a City/District employee will not be employed or assigned to work in a direct supervisory relationship, or in any other position which will pose difficulties for supervision, safety, security or morale.

If two City/District employees who work in the same department become married or domestic partners, the department head has discretion to transfer one of the employees to a similar position in another department. Although the wishes of the employees in question will be given consideration, the department head retains sole discretion to determine which employee is to be transferred based upon City/District needs, operations, or efficiency.

1.09 - FAIR EMPLOYMENT PRACTICES: The City/District maintains a merit system governing personnel actions. Employment and promotion will be based on merit and fitness. Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. Continued employment of employees covered by these Rules and Regulations shall be subject to satisfactory work performance, necessity for the performance of work, and the availability of funds.

1.10 - DEPARTMENTAL RULES: The separate departments of the City/District may develop, implement, and revise as necessary any policies, procedures, and rules pertaining to unique operational requirements and their effect upon departmental personnel as are needed for the full performance of duties and responsibilities. Such policies, procedures and rules shall not conflict with these rules and regulations or other City/District resolutions or amendments thereto. Memoranda of Understanding shall prevail over departmental and/or these Personnel Rules and Regulations. Departmental rules shall be submitted to Human Resources and the City Manager for review and approval as to consistency with these Personnel Rules and Regulations.

1.11 - **CLASSIFIED SERVICE:** The provisions of these rules shall apply to all employees in the City/District Classified Service. All classes in the City/District Service not listed in Section 1.06 shall be classified positions.

1.12 - **NON-DISCRIMINATION:** There shall be no discrimination by the City/District, recognized employee organizations or anyone employed by the City/District for or against any employee or applicant for employment, promotion, demotion or discharge, because of race, religion, color, ancestry, national origin, sex or sexual orientation, gender identity marital status, citizenship status, physical or mental disability, medical condition including genetic predispositions, political opinions or affiliations, or lawful employee organization activities; and to the extent prohibited by applicable State and Federal law, there shall be no discrimination because of age. The City/District will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination. Employees who believe they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedure provided in the City's policy prohibiting harassment and discrimination.

1.13 - **SEVERABILITY:** If any provision of these rules, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of these rules, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

1.14 - **EMPLOYEE RESPONSIBILITY:** Each employee is responsible for reading and complying with these Rules.

RULE 2 – DEFINITIONS

Whenever used in these Rules, the following terms shall have the meanings indicated:

2.01 - **ANNIVERSARY DATE:** The anniversary of the date of the employee's initial date of hire and/or subsequent appointment date to a different position, unless adjusted as provided in Rule 7, Section 7.08.

2.02 - **APPOINTING AUTHORITY:** The City/District Manager.

2.03 - **AUTHORIZED POSITION:** A group of duties and responsibilities set out by the City/District Manager and approved by the City Council/District Board requiring full-time or part-time employment. A position may be occupied or vacant.

2.04 - **BASE PAY:** The monthly pay range and steps established by the City/District pay plan for each classification.

2.05 - **CITY/DISTRICT:** The City of Foster City and the Estero Municipal Improvement District.

2.06 - **CITY/DISTRICT MANAGER:** The City Manager of the City of Foster City and the District Manager of the Estero Municipal Improvement District.

- 2.07 - CLASS OR CLASSIFICATION: All positions sufficiently similar in duties, authority, and responsibilities to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary. A classification specification is a general listing of duties, responsibilities, and required qualifications for a given classification.
- 2.08 - CLASSIFIED SERVICE: All positions classified as regular by the City Council/District Board.
- 2.09 - COMPENSATION AND BENEFITS: Current applicable Memorandum of Understanding or Compensation and Benefits Plan, whichever is appropriate.
- 2.10 - COMPETITIVE SERVICE: All regular and probationary part-time and full-time employees and positions that are included or may be included under the personnel system by ordinance or resolution, but specifically excluding at-will, temporary, seasonal, limited term, special funded, and provisional employees or others as listed in Section 1.06.
- 2.11 - CONSULT OR CONSULTATION IN GOOD FAITH: Communicate orally or in writing with all recognized employee organizations for the purpose of presenting and obtaining views or advising of proposed intended actions in a good faith effort to reach a consensus.
- 2.12 - CONTINUOUS SERVICE: Continuous employment in probationary and regular status that has not been interrupted by a separation from service. Length of continuous service shall be adjusted by the entire period of any authorized unpaid leave of absence except military leave. Regular part-time service shall have fifty per cent (50%) value.
- 2.13 - COUNCIL/BOARD: The City Council of the City of Foster City and the Board of Directors of the Estero Municipal Improvement District.
- 2.14 - DAY: Calendar day unless otherwise stated.
- 2.15 - DEMOTION: The voluntary or involuntary reduction of a regular employee from a position in one class to a position in another class having a lower maximum salary rate.
- 2.16 - DEPARTMENT RULES AND REGULATIONS: Rules and Regulations signed by a department head for the specific needs and operations of his/her department and approved by the City/District Manager as to conformance with these Rules.
- 2.17 - DIVISION: A major unit of a department as determined by the City/District Manager.
- 2.18 - EVALUATION DATE: The date on which an employee receives a performance evaluation and may receive a merit increase.
- 2.19 - EXAMINATION PROCESS: The process that determines suitability for employment in a position of classification with the City/District.

- 2.20 - **GENERAL EMPLOYEE:** Any non-safety employee. For Public Employees Retirement System (PERS) purposes, general employee means the same as miscellaneous employee.
- 2.21 - **IMMEDIATE FAMILY:** Shall mean spouse, children of either spouse, parent, brother or sister, employee's grandparents, grandchildren, father-in-law, mother-in-law, brother-in-law or sister-in-law, domestic partner or as otherwise defined in these rules. Other significant individuals such as aunts, uncles, cousins and other persons are excluded without specific approval of the City/District Manager.
- 2.22 - **JOB ABANDONMENT:** Failure of an employee to return to work within 72 hours after the City/District issues a notice requiring the employee to return to work.
- 2.23 - **PERSONNEL OFFICER:** The City Manager of the City of Foster City and/or the District Manager for the Estero Municipal Improvement District or his/her designated representative.
- 2.24 - **PREMIUM PAY:** Pay increments established as additional compensation by the applicable Memorandum of Understanding or compensation and benefits plan.
- 2.25 - **RECOGNIZED EMPLOYEE ORGANIZATION:** An employee organization that has been formally recognized as exclusively representing specified job classes by the Employee Relations Officer (City/District Manager).
- 2.26 - **REGULAR EMPLOYEE:** An employee in the competitive service who has successfully completed his/her probationary period and has been retained as hereafter provided in these rules.
- 2.27 - **REGULAR POSITION:** A position established by the City Council/District Board that is staffed by probationary or regular employee.
- 2.28 - **RESIGNATION:** Voluntary termination of employment by an employee either in writing, by job abandonment, or by an unexcused absence in excess of 72 hours with no contact by the employee.
- 2.29 - **RULES:** Shall mean the Personnel Rules and Regulations of the City/District unless otherwise stated.
- 2.30 - **SENIORITY:** Continuous service of an employee, including time on paid leave of absence and unpaid military service leave of absence.
- 2.31 - **SHALL AND MAY:** These words have the following meanings: SHALL is mandatory, and MAY is permissive.
- 2.32 - **STRAIGHT TIME PAY:** The employee's base pay for the applicable standard work week, plus educational incentive pay, special assignment pay, special qualification pay and acting pay, if applicable.

2.33 - SWORN SAFETY EMPLOYEE: An employee occupying a position designated by the City Council/District Board as a sworn Police or Fire classification on a regularly assigned basis.

2.34 - WORK WEEK/WORK PERIOD: Any established and regularly recurring period of work that is not less than seven (7) consecutive days and not more than twenty-eight (28) consecutive days and that is used to calculate overtime under the Fair Labor Standards Act (FLSA).

RULE 3 - PERSONNEL MATTERS

3.01 - PERSONNEL FILE: A personnel file shall be established and maintained in the Human Resources Department for each employee. An employee's personnel file will contain only material that is necessary and relevant to the administration of the City's/District's personnel program. Personnel files are the property of the City/District, and access to the information they contain is restricted.

3.02 - CHANGES IN PERSONAL INFORMATION: Each employee is responsible for promptly notifying the Human Resources Department of any changes in relevant personal information, including mailing address, telephone number, persons to contact in an emergency, and number and names of dependents.

3.03 - CONFIDENTIALITY: Personnel files shall be confidential and access to the file or specific information therein shall not be available to the general public or unauthorized employees without the written approval of the subject of the file.

3.04 - REFERENCES AND RELEASE OF INFORMATION IN PERSONNEL FILES: Upon request, the City/District will release to the public information about its employees as required by the Public Records Act. The City/District will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy.

Responses to credit or employment references shall be limited to verification of name, position title, dates of employment, and salary range, unless the employee authorizes in writing release of additional information. The home address and phone number of an employee shall not be released except on the written authorization of the employee.

3.05 - MEDICAL INFORMATION: All medical information about an employee or applicant is kept separately and is treated as confidential, in accordance with applicable state or federal law.

The City/District will not obtain medical information about an employee or applicant except in compliance with the California Confidentiality of Medical Information Act (CMIA). Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City/District business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

The City/District will not provide employee or applicant medical information to a third party, except as permitted under the CMIA, unless authorized by the employee or applicant in writing. The City/District will release only the medical information that is identified in the employee/applicant's authorization.

3.06 - ACCESS TO PERSONNEL FILE: An employee may review his/her own personnel files (with the exception of investigative data pertaining to a possible criminal offense and letters of reference) when Human Resources Department staff is available. The review must be done under supervision of Human Resources staff. The employee may also, by his/her written authorization, permit his/her representative to review his/her personnel file under the supervision of Human Resources Department staff. An employee may request in writing that the Human Resources Director remove erroneous data from his/her file. The Human Resources Director shall give

his/her decision as to the removal of such data within 10 calendar days, subject to approval of the Personnel Officer. Under no circumstances is the employee or the employee's representative permitted to add or remove any document or other item from the employee's personnel file during the inspection.

RULE 4 - CLASSIFICATION PLAN

4.01 - DEFINITION: The Classification Plan shall consist of all classifications in the City/District and a written job specification for each class. Positions with similar duties, authority, responsibility, and qualifications shall be grouped together in common classes for purposes of equity of standards in selection, transfer, demotion, promotion, and pay.

4.02 - ADMINISTRATION OF THE CLASSIFICATION PLAN: The Personnel Officer shall administer the Classification Plan and review and allocate each position to its proper classification and salary range in accordance with these Rules. He/she may recommend amendments or revisions to the Classification Plan which shall be submitted to the Council/Board for consideration and shall become effective upon adoption by the Council/Board. Before presentation to the Council/Board, employees and any affected recognized employee organization shall be given reasonable notice and have an opportunity to meet and confer on the impacts of those amendments on matters directly relating to the scope of representation.

4.03 - CLASSIFICATION TITLES: The job title is the official means of designating the class to which an individual position or group of positions is assigned. It shall be utilized on official records to identify the position an employee occupies.

4.04 - CLASSIFICATION SPECIFICATIONS: A classification specification is a written statement providing the title and definition of a class, examples of the duties to be performed and the minimum qualifications. The content of the specification is illustrative and shall not be construed to be comprehensive or to limit the authority of the City/District Manager to assign, direct and control the work of employees. Duties, responsibilities and functions of any position may be reassigned at any time by or pursuant to order of the City/District Manager subject to Section 4.07 of these Rules. General qualifications commonly required of all employees, such as good judgment, honesty, and physical and mental ability to perform the job are included in the

minimum qualifications of each class specification. The term classification specification may be used interchangeably with job specification, job description or classification description.

The appropriate bargaining unit shall be provided timely notice of changes within the scope of representation affecting classifications.

4.05 - NEW CLASSIFICATION: Requests for creation of a new class shall be made to the Human Resources Director by the department head, or may be initiated by the Human Resources Director. The Human Resources Director shall conduct any studies he/she deems necessary to consider such request and shall approve or deny the request. In the event of his/her approval, the Human Resources Director, with the concurrence of the Personnel Officer, shall submit the new job specification, class title and salary range to the Council/Board to be considered for addition to the Classification Plan. The new class shall be established upon adoption by the Council/Board.

4.06 - RECLASSIFICATION: If there is evidence to indicate that a position is not assigned to an appropriate class, a request may be made through the department head to the Human Resources Director that a classification study be performed on the position. The Human Resources Director shall acknowledge the request within ten (10) working days and determine whether a study shall proceed. A study shall be concluded within ninety (90) calendar days, unless it involves more than one classification or requires the services of an outside consultant. The Human Resources Director may also initiate and conduct studies of any position at any time to determine if such position is properly classified. Classification studies may include investigation of pertinent departmental records; consultation with employees regarding duties, functions and responsibilities of a position; and the collection of any other relevant information the Human Resources Director deems necessary.

Recommended reclassifications shall be submitted by the Human Resources Director with the concurrence of the Personnel Officer for consideration to the Council/Board and shall become effective upon approval by the Council/Board.

4.07 - FILLING A RECLASSIFIED POSITION: Upon reclassification of a position, a regular employee incumbent in that reclassified position may be appointed to the position if, in the opinion of the Human Resources Director, he/she meets the minimum qualifications for the position. Filling a reclassified position shall be accomplished through the promotional certification process contained in Section 5.06. Reclassification does not result in a new appointment date.

A vacant reclassified position may be filled by internal personnel actions or from an employment list established for that class.

RULE 5 - EXAMINATIONS

5.01 - ANNOUNCEMENTS: Whenever an open competitive exam is to be given for a position, the Human Resources Director shall prepare a job announcement that specifies the position title, essential functions of the job, nature of duties, minimum qualifications, rate of compensation, application procedure and other pertinent information. All announcements for

examinations for classes in the classified service shall be publicized by such methods as the Human Resources Director deems appropriate and all recruitments will be sent via email.

5.02 - APPLICATION FORMS: Application shall be made only on forms provided by the Human Resources Department. All applications must be completed and signed by the person applying, unless otherwise provided for in the job announcement.

5.03 - DISQUALIFICATION: The Human Resources Director may reject any application before, during, or after examination and prior to an appointment if the applicant:

- a) Is found to lack the minimum qualifications required for the position;
- b) Has submitted incomplete application materials;
- c) Failed to properly file the application prior to the application deadline;
- d) Has made false statements of any material fact, or practices any deception or fraud on the application or declarations;
- e) Is unable to perform the essential functions of the job, even with reasonable accommodation, if disabled;
- f) Is a current user of illegal drugs;
- g) Used or attempted to use political pressure or bribery to secure an advantage in the process;
- h) Directly or indirectly obtained information regarding examinations;
- i) Fails to execute the oath;
- j) Fails to present him/herself for fingerprinting;
- k) Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related; or
- l) For any material cause that in the judgment of the Human Resources Director or designee would render the applicant unsuitable for the position, including a prior resignation from the City/District, termination from the City/District, or a significant disciplinary action.

Applicants may amend or modify incomplete or defective information in his/her application providing the time limit for receiving applications has not expired.

5.04 - CRIMINAL CONDUCT-INELIGIBILITY FOR EMPLOYMENT: Conviction of a felony, or a misdemeanor involving moral turpitude, including pleas of guilty or nolo contendere, may constitute grounds for disqualification of an applicant for employment, or grounds for termination of an existing employee. The decision to disqualify any applicant or employee on the basis of criminal conviction record will be made on a case-by-case basis, and at the sole discretion of the Human Resources Director. Factors which may be considered in reaching this decision include, but are not limited to:

- a) The classification, including sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction;
- b) The nature and seriousness of the offense;
- c) The circumstances surrounding the conviction;
- d) The length of time elapsed since the conviction;
- e) The age of the person at the time of conviction; and
- f) The presence or absence of rehabilitation or efforts at rehabilitation.

Applicants for any sworn law enforcement position are disqualified from employment if the applicant has been convicted of a felony, regardless of circumstances.

5.05 - EXAMINATION: The examination process elements shall be impartial, of a practical nature, and relate to those subjects that in the opinion of the Human Resources Director, fairly measure the relative capacities of persons examined to execute duties and responsibilities of the position to which they seek appointment.

In examining persons for positions in the classified service, promotional (requiring previous City/District employment in a specific classification), open (any applicant meeting the qualifications for a position as stated in an examination announcement), or continuous examinations (an open process administered periodically for a definitive period of time) may be used as determined by the Human Resources Director after consultation with the concerned department head and with the concurrence of the Personnel Officer. Examinations will be completed in a manner that is consistent with the law and within the City's/District's administrative abilities.

Examinations shall consist of selection elements that test fairly the qualifications of candidates. Examination elements may include achievement tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, psychological tests, polygraph tests, successful completion of prescribed training or any combination of these or other tests, as appropriate under the law. Determination of which selection techniques to use for a particular position shall be solely within the discretion of the Human Resources Director. The probationary period shall be considered part of the examination process.

5.06 - PROMOTIONAL CERTIFICATION: A process of examination, by the Human Resources Director in consultation with the department head and concurrence of the Personnel Officer, of an employee's employment history, education and training to determine whether that employee possesses the required qualifications for a position in a higher classification. The filing of vacancies in such cases shall occur after a promotional examination has been given and an eligibility list established. Promotional certification may be utilized as a promotional examination in such cases shall occur after a promotional examination in cases where only one employee may be qualified for the higher level position. Such certification may also be used when an incumbent occupies a position that has been reclassified to a higher level.

5.07 - SHARED RECRUITMENT AND TESTING: The City/District may use eligibility lists established as a result of shared recruitment and testing processes with one or more agencies to substitute for any or all of the process that would otherwise be administered by the City/District directly. Further, in any case where the Human Resources Director, after consultation with the concerned department head, and with the concurrence of the Personnel Officer, determines that such action is in the best interest of the City/District, such eligibility lists provided may be treated as partially prepared eligibility lists with the applicants, whose names are on such lists, subject to further testing before the resulting eligibility lists are used to make an appointment to City/District service.

5.08 - SCORING: The Human Resources Director shall establish the lowest qualifying score on individual tests of the entire examination in accord with the needs of the service. The Human Resources Director may include as part of the examination, tests that are qualifying only. Failure

in one part of the examination may be grounds for declaring such applicant as failing the entire examination or disqualified for subsequent parts of the examination. A candidate's score on an examination may include his/her score on each competitive part of the examination.

5.09 - EXAMINATION SCORES: Unless otherwise provided in the examination announcement or as the Human Resources Director may establish, applicants shall be required to attain a score of not less than seventy percent (70%) in each part of the examination. Some portions of the examination process may be designated as qualifying only and only a pass or fail score will be given. For written tests, the seventy percent (70%) representing the minimum score may be an adjusted score taking into consideration the difficulty of the test, the quality of competition, and the needs of the City/District. When an examination is composed of more than one independent test, the relative value to the total score of each of the tests shall be assigned by the Human Resources Director and shall be stated in the examination announcement.

5.10 - NOTIFICATION OF RESULTS/EXAMINATION RECORD: Each candidate in an examination shall be given written notice and, if successful, a final earned score and/or rank on the eligibility list. Any candidate has the right to inspect his or her own examination paper during normal working hours within ten (10) calendar days after the notice of examination results is mailed. The records of an examination are working papers and are not public documents. Information concerning the results of an examination shall not be divulged until the eligibility list has been certified. Examination papers of eligibles shall be retained for two (2) years after the expiration date of the eligibility list.

5.11 - MEDICAL EXAMINATIONS: Offers of appointment to the City/District service may be contingent on pre-employment medical examinations to determine an applicant's fitness for duty. Such medical examinations shall be conducted by a qualified physician selected by the City/District. All such examinations shall be job-related, and conducted and utilized in accordance with the law.

5.12 - OTHER REQUIRED EXAMINATIONS: Offers of appointment to the City/District service may be contingent on psychological or other types of supplementary examinations. Such other examinations shall be stated in the examination announcement.

5.13 - PROBATION: The probationary period of an employee shall constitute the final part of the examination. Successful completion of the examination process shall occur with satisfactory completion of the probationary period as set forth in Rule 7.

5.14 - REVIEW AND APPEAL OF EXAMINATION: Within ten (10) working days following any part of the examination process, a protest or appeal as to form, content, or administration of the examination may be filed in writing with the Human Resources Director, who shall make a recommendation to the Personnel Officer. The decision of the Personnel Officer shall be final. Any reversal of a decision resulting from an appeal shall not invalidate any appointment previously made. All examination materials shall remain confidential and not subject to copying.

RULE 6 - EMPLOYMENT LISTS

6.01 - ESTABLISHMENT OF EMPLOYMENT LISTS: As soon as possible after the completion of an examination, the Human Resources Director shall prepare and maintain an eligibility list consisting of the names of candidates who qualified in the examination. The names of successful candidates shall be ranked on the basis of final score earned, from highest score descending to lowest score rounded off to the nearest tenth of a whole number. Whenever identical final scores are achieved by more than one competitor, the names of those competitors shall be shown alphabetically by last name and as occupying the same position on the eligibility list. The effective date of an employment list shall be the date it is approved by the Human Resources Director.

Candidates whose names appear on an eligibility list shall be deemed qualified for appointment, pending further review of such qualifying processes as reference checks, medical examination, background investigations, departmental interviews or other test measures deemed appropriate.

6.02 - TYPES AND DURATION OF EMPLOYMENT LISTS: The following types of employment lists may be established in order to fill vacancies:

- A. Open-competitive lists shall remain in effect for a period of twelve (12) months from the date approved by the Human Resources Director or until the Human Resources Director or department head terminates the list as provided in Section 6.04. When an open-competitive list is established via continuous testing, the date of placement of each name on the list shall be noted and names shall remain on the list for not more than twelve (12) months unless the list is extended as provided in subsection C of this section 6.02.
- B. Promotional lists shall remain in effect for a period of twelve (12) months from the date approved by the Human Resources Director or until the Human Resources Director or department head terminates the list as provided in Section 6.04.
- C. Reemployment lists shall remain in effect for a period of two (2) years from date of establishment unless such list has been exhausted. The establishment of reemployment lists is set forth in Rule 13, Separations from Service and Layoff Procedures.

Upon approval of the Personnel Officer, the Human Resources Director or department head may extend the effective date of an open-competitive or promotional list for one (1) additional year beyond the original expiration date.

Such other valid methods of establishing employment lists may be used upon approval of the Personnel Officer.

6.03 - REMOVAL OF CANDIDATE FROM EMPLOYMENT LIST: The Human Resources Director or department head may remove the name of any candidate from an employment list for any of the reasons stated in Rule 5, Sections 5.03 and 5.04, or any of the following:

- a) The candidate requests in writing that his/her name be removed;
- b) The candidate fails to appear for an interview or declines an offer of employment;

- c) Appointment of a candidate to probationary status in a permanent position in the class for which the list was established;
- d) Termination of an employee whose name appears on a promotional list; or
- e) Failure of a candidate to meet medical or other supplementary standards required.

6.04 - **TERMINATION OF LIST:** The Personnel Officer may terminate open-competitive lists and promotional lists for the following reasons:

- a) Insufficient candidates in accordance with Rule 7, Section 7.04;
- b) Insufficient candidates willing to be considered for vacant positions or accept offers of employment; or
- c) Minimum qualifications of a position are revised.

In the event that the Personnel Officer terminates an employment list, candidates remaining on the list will be notified in writing and informed of the process to reapply. This rule does not apply to reemployment lists, which are governed by Rule 13.

RULE 7 - APPOINTMENTS AND PROBATION

7.01 - **FILLING VACANCIES:** Vacancies in the classified service may be filled from open-competitive, promotional, or reemployment lists established and certified by the Human Resources Director, as well as by transfer, demotion or reinstatement. In the absence of persons so eligible, temporary appointments for a limited duration may be made pending the establishment of a new employment list.

7.02 - **METHOD OF FILLING VACANCIES:** Whenever a vacancy in the classified service occurs, the department head shall notify the Human Resources Department and/or submit a request for certification. Requests shall be in the form prescribed by the Human Resources Director. The Human Resources Director shall determine whether a vacancy may be filled through in-service personnel action before authorizing a recruitment process.

The Human Resources Director shall evaluate the position to assure that it is assigned to the proper classification, appropriately assigned within the organizational structure, and adequately funded. He/she shall also evaluate the continued need for the position.

7.03 - **THE RULE OF THE LIST DEFINED:** The entire list of eligible candidates, when certified by the Human Resources Director, is considered for available positions in a class.

7.04 - **CERTIFICATION:** The number of candidates to be certified to the hiring department shall be all candidates certified to an employment list. The department head may select an appropriate number of candidates from among those certified to an eligibility list for hiring consideration. If there are not sufficient candidates to provide a reasonable candidate pool available on an eligibility list, the Personnel Officer may abolish the list and call for a new examination. A department head may also request that the Human Resources Director certify or establish a new list.

7.05 - **ALTERNATE CERTIFICATION:** In the absence of an open, promotional, or reemployment list for a classification in which a vacancy exists, the Personnel Officer may

certify an employment list for another classification having similar duties or higher qualifications and employment criteria for use in filling vacancies. Appointments made in this manner shall be as valid in all respects as an appointment from a list for the classification in which the vacancy occurred.

7.06 - APPOINTMENTS: The department head shall interview candidates from the employment list certified by the Human Resources Director and then shall recommend his/her selection to the Human Resources Director. The City/District Manager is the final authority to approve or disapprove a recommended appointment. Upon acceptance of an offer of employment, a person shall present himself/herself to the Human Resources Director for processing and orientation. Employment offers to the City/District service may be contingent upon successfully passing a medical and any other examination required.

Appointments to all regular positions shall be made from existing, appropriate employment lists, if available. In the absence of a list, other resources may be utilized.

7.07 - TYPES OF APPOINTMENTS: Appointments shall be in the categories established below:

1. Probationary - A probationary appointment to an authorized full-time or regular part-time position is the final phase of the examination process. Probationary employees shall not compete in promotional examinations or be promoted except from an open-competitive list. The probationary period shall be for the period specified for the class. All vacant regular positions shall be filled by probationary appointment unless otherwise provided in these Rules.
2. Regular - An authorized full-time position for which regular appointment occurs after successful completion of the prescribed probationary period and continued employment has been approved by the City/District Manager.
3. Regular Part-time - An authorized part-time position that has work regularly scheduled for at least twenty (20) hours per week but less than full-time. Pay shall be at the hourly rate for hours worked; overtime or compensatory time off shall not be permitted without the written approval of the City/District Manager. Benefits available shall be P.E.R.S. and 50 per cent (50%) of the accrual rate of full-time employees for vacation, sick leave and paid official holidays. Accrual of such benefits shall occur only while the employee consistently occupies an authorized position that requires at least half-time work and is a member of P.E.R.S.
4. Provisional - The Personnel Officer, upon recommendation of the department head and the Human Resources Director, may make a provisional appointment of a person who possesses the minimum qualifications established for a particular class, in the absence of an available eligibility list. Such appointment may be in effect until an eligibility list is established and an appropriate hire is made. A provisional employee is an at-will employee who may be removed at any time without the right of appeal or hearing. If a provisional employee is selected for a full time position with the City/District the time served as the provisional appointee may be counted as time toward the fulfillment of the required probationary period, provided there is no break in service. A provisional employee must compete for the position

to which he/she was provisionally appointed in order to secure the regular position. No special credit shall be given to a provisional employee in competing for a regular position for the service rendered under a provisional appointment.

5. Emergency Appointment - To meet the needs of an emergency condition which threatens life, property, or the general welfare of the City/District, the City/District Manager may authorize the employment of emergency personnel as may be needed for the period of the emergency, without regard to examination or appointment requirements in these Rules.
6. Temporary Appointments - The Personnel Officer may authorize a temporary appointment when personnel services are required to be rendered for a limited term, on a full or part-time basis, in a non-regular position in the same or in a comparable class utilizing casual, seasonal and emergency labor. The Personnel Officer shall further have the authority to terminate any temporary employee at any time without cause and to alter or modify any of the previously prescribed terms, conditions and time period of such employment. Temporary employees shall not have the right to appeal decisions made by the City/District affecting their employment.

Temporary employees must meet the minimum qualifications for the class. Pay shall be at the straight-time hourly rate established for the position for hours worked; overtime or compensatory time off shall not be permitted without the written approval of the City/District Manager. Temporary employees are not entitled to earn, accrue, or participate in any City/District employee benefit plans or receive paid or unpaid leave, except as required by law. A temporary employee may be terminated at any time without right of appeal or recourse to the grievance procedure. No person shall achieve probationary or regular status as a result of appointment to a temporary position and such service shall not be counted as fulfillment of any part of probationary requirements in the event of subsequent appointment to a permanent position by the City/District Manager.

7.08 - ANNIVERSARY DATE: The City/District Service shall use the anniversary date for the purpose of computing leave accrual and seniority for regular and probationary employees. The anniversary date shall be adjusted when an employee is absent for thirty (30) consecutive calendar days or more in a no-pay status, including leave of absence without pay and layoff. The anniversary date shall be reestablished by reducing time in service by the time absent from pay status on a day-for-day basis. An anniversary date shall not be changed for any period of paid leave, authorized industrial injury leave, or military leave.

7.09 - PROBATIONARY PERIOD: Regular appointment to a full-time or part-time position on initial employment or promotion shall be subject to successful completion of the probationary period designated for the class. The probationary period shall be regarded as the final stage of the examination process and shall be utilized for closely observing the employee's performance on the job and for securing the most effective adjustment of a new employee to the position through counseling and evaluation. The probationary period is designed to encourage the most effective adjustment of a new employee to his/her position, and specifically for dismissing any probationary employee whose performance does not meet the required standards.

The initial length of probation for general full-time and part-time employees shall be for a period of not less than twelve (12) months of actual service. For sworn Police employees probation shall be not less than eighteen (18) months of actual service. For sworn Fire employees, probation shall not be less than eighteen (18) months. The probationary period after a promotion shall begin on the date the employee is appointed to the new class. The need for a probationary period following transfer, reinstatement, reemployment or demotion, shall be in accordance with these Rules.

- A. Extension of Probationary Period: The Human Resources Director may, on the written recommendation of a department head, extend the probationary period of an employee up to, and not to exceed, an additional three (3) months. Employees on extended probation shall accrue sick and vacation leave but not service credit toward merit increases. An employee shall not compete in any promotional examination while on extended probation.
- B. Rejection of Probationary Employee: During the probationary period, an employee may be rejected at any time without the right of appeal or recourse to the grievance procedure. Delivery in person or depositing of a postage-paid, first-class letter in the U.S. mail addressed to the employee's address of record shall constitute notice.
- C. Failure to Successfully Complete Probation Following Promotion or Transfer: An employee rejected during a promotional or transfer probationary period shall be reinstated to a vacant position, if available, in the class from which he/she was promoted or transferred, unless rejected on the basis of charges leading to discharge. If no vacancy exists, the employee may exercise displacement rights set forth in Rule 13. Failure to complete probation shall not be subject to appeal.

7.10 - REINSTATEMENT: A regular employee who resigns in good standing, upon written request and the submission of a current employment application, may be considered for reinstatement to a vacant position in the same or comparable class in the City/District Service without examination within twelve (12) months of the effective date of such resignation. A comparable position is one with the same or similar duties and/or requires substantially the same basic qualifications. Reemployment lists shall take precedence over reinstatements. Final approval of any reinstatement shall reside with the Personnel Officer; it shall not be mandatory to reinstate a former employee. Reinstatement may be contingent upon successfully passing a medical examination as required by Rule 5, Section 5.10. If reinstatement is to a position other than previously occupied, a probationary period may be required as set forth in Section 7.08 of these Rules. Reinstated employees shall not receive credit for former employment in computing pay, benefits or seniority.

7.11 - TRANSFER: Upon approval by the Human Resources Director, an employee may transfer or be transferred from one position in a class to a vacant position in the same class or a comparable class. For transfer purposes, a comparable class is one with the same pay range and similar duties. The employee must meet the minimum qualifications. If a transfer involves a change from one department to another, both department heads must consent to the transfer unless the City/District Manager orders the transfer. The transfer process shall not be used to effectuate a promotion or demotion, each of which may be accomplished only as provided in these Rules. No person shall be transferred to a position for which he/she does not possess the

minimum qualifications. Probationary employees transferred from one department to another in the same classification will continue their original probation period.

A regular status employee who transfers to another classification will need to complete a new probationary period in the new position. Transfers to the same classification in another department and involuntary transfers shall not require the employee to serve a probationary period. Probationary employees who transfer to a new classification must complete a new probationary period in the new classification.

7.12 - PROMOTION: A promotion is an appointment, subject to the probationary period, to a position in a class with a higher pay range than the one previously held and may be made from a promotional or open-competitive employment list. Probationary employees are not eligible for promotion except on appointment from an open-competitive list.

7.13 - DEMOTION:

- A. Voluntary Demotion: Upon an employee's request and recommendation of the department head, the Human Resources Director may demote an employee to a classification with a lower pay range for which the employee meets the minimum qualifications and in which the employee has previously served. Voluntary demotion does not establish a new appointment date. Assignment to a pay step in the lower range shall be as set forth in Section 9.09.
- B. Involuntary Demotion: An employee may be demoted to a class with a lower pay range for disciplinary purposes or for continuing failure to satisfactorily perform required duties. No employee shall be demoted to a classification for which he/she does not meet the minimum qualifications. Demotion to a vacant position establishes a new appointment date.
- C. Notice: Advance written notice of demotion and the effective date shall be provided to the employee.
- D. Probation: Probation after demotion may be required if the employee has not previously served a probationary period in the lower classification.

7.14 - LOYALTY OATH: All persons appointed to the City/District Service shall comply with State law requiring a loyalty oath or affirmation. Refusal to execute the loyalty oath may result in rejection or disqualification of an applicant.

7.15 - FINGERPRINTS AND PHOTOGRAPHS: Any person being considered for employment in the City/District Service may be fingerprinted and have a fingerprint record check made. The findings shall be reported to the Human Resources Director in the manner prescribed by law and shall be kept confidential. Employees may be photographed for identification purposes.

7.16 - DOCUMENTATION OF AUTHORIZATION TO WORK IN THE UNITED STATES: Any person appointed to a position will be required to submit documentation of his/her authorization to work in the United States.

RULE 8 - PERFORMANCE EVALUATIONS

8.01 - PURPOSE: Evaluation of work performance provides the employee and management of the City/District with an assessment of the individual's development over the employee's entire period of employment. Performance evaluations also establish performance expectations and development plans for future performance.

8.02 - REGULAR EVALUATION PERIOD: All non-probationary employees will be evaluated on an annual basis unless the necessity arises for more frequent evaluations. The annual evaluations will normally coincide with the employee's anniversary date in the current classification.

8.03 - PROBATION EVALUATION PERIOD: Employees assigned to positions that have a 12-month probationary period will be evaluated at the end of the third, sixth, and eleventh months of service. Employees assigned to positions that have a 18-month probationary period will be evaluated at the end of the third, sixth, eleventh, fourteenth, and seventeenth months of service. All performance evaluations shall be submitted in writing to the Human Resources Director and reviewed by the Personnel Officer. The performance evaluation, a copy of which is to be provided to the probationary employee, shall indicate the progress, capacity, and suitability of the probationary employee. Such performance evaluation shall not be subject to grievance or appeal. Employees may rebut performance evaluations in accordance with the provisions of Section 8.09.

A. POLICE RECRUITS: During academy training, a Police recruit shall be evaluated by his/her academy instructors and supervisors. During the Field Training program, a Police recruit shall be evaluated by his/her departmental supervisor at the end of each month of actual service. Advancement to Police Officer shall occur upon satisfactory evaluations in and successful completion of the Field Training program. Thereafter evaluations shall occur as set forth above.

8.04 - EXTENSION OF PROBATION: In the event that an extension of initial or promotional probation is required, an employee shall be evaluated and counseled monthly by the process set forth in this Rule 8. The date of the last performance evaluation in an extended probationary period shall be the new evaluation date unless the employee is separated or demoted.

8.05 - MERIT INCREASES: Merit increases and continued employment are contingent upon continued satisfactory performance evaluations. Upon completion of not less than six (6) months of actual initial or promotional probationary service, full-time employees shall be evaluated, and when a satisfactory performance evaluation is received, a merit increase to the next higher step in the pay range shall be granted to eligible full-time employees. The date of such increase shall be the evaluation date. Each twelve (12) months of actual service thereafter, employees shall be evaluated regardless of their step in the pay range. When the performance evaluation is satisfactory, any applicable merit increase shall be granted to the next higher step. Once a fire employee reaches pay Step 5, he/she will receive their next evaluation, and all subsequent evaluations, during the month of December and prior to December 31.

Upon completion of the probationary period, regular part-time employees shall be evaluated each twelve (12) months of actual service and shall be granted applicable merit increases to the next higher step in the pay range when a satisfactory evaluation is received. The date of such increase shall be the evaluation date.

Police recruits shall be appointed at the first step of the Police Recruit pay range and advance to the second step upon successful completion of and satisfactory evaluations in an assigned police academy.

In the event that an employee receives an unsatisfactory performance evaluation after completion of probation, any applicable merit increase shall be withheld.

8.06 - PERFORMANCE EVALUATIONS FOLLOWING PROMOTION, DEMOTION, OR RECLASSIFICATION: The new evaluation date shall be the effective date of promotion, demotion, or reclassification. A newly promoted or reclassified employee shall be evaluated in the manner established for probationary employees in Rule 7. The need for an evaluation period following demotion shall be at the discretion of the department head and approved by the Personnel Officer.

8.07 - PERFORMANCE EVALUATIONS FOLLOWING CERTAIN OTHER PERSONNEL ACTIONS (TRANSFER, REINSTATEMENT, LEAVE OF ABSENCE): An employee's annual evaluation date shall not change following transfer; however, at the department head's discretion, frequent or periodic monthly performance evaluations may be required to determine the employee's progress if job duties differ substantially. Employees who are reinstated shall be evaluated on the anniversary of the effective date of reinstatement; frequent or periodic performance evaluations may be required at the department head's discretion or if the reinstated employee has been absent for one (1) year. Employees who are absent from service, on leave or on layoff for thirty (30) or more consecutive calendar days shall have their evaluation dates adjusted to reflect actual time in service since the last evaluation date.

8.08 - ADDITIONAL PERFORMANCE EVALUATIONS FOR CONTINUED UNSATISFACTORY PERFORMANCE: If, in the opinion of a supervisor, an employee is not in compliance with employment standards and has not responded to counseling, then a formal evaluation process may be initiated to document an unsatisfactory condition which requires correction. The employee shall be notified in writing of the frequency with which evaluations shall be scheduled and the conditions under which disciplinary proceedings may be initiated if correction does not occur. This process may occur at any time deemed appropriate by the supervisor, department head, and/or the Human Resources Director. A performance evaluation also may be prepared at the request of an employee. Merit increases delayed due to an unsatisfactory performance rating or extended probation shall not be retroactive and shall cause an adjustment to the evaluation date.

8.09 - PERFORMANCE EVALUATION PROCESS: Each employee evaluation shall be discussed by the supervisor with the employee and signed by the employee being evaluated at the time of counseling and evaluation. The employee's signature on the evaluation does not indicate agreement with its contents. If an employee refuses to sign, such refusal shall be noted, initialed by the employee, and witnessed. Appropriate department management shall review and

sign the form before routing it to the Human Resources Director for review. The original evaluation shall be filed in the employee's official personnel file. A copy of the approved performance evaluation form shall be provided to the employee. An employee who disagrees with his/her evaluation may file a written rebutting statement within thirty (30) calendar days after the evaluation. The rebutting statement shall be placed in the employee's official personnel file with the performance evaluation to which it refers.

8.10 - PROCEDURES: All performance evaluations shall be completed and forwarded to the Human Resources Director within ten (10) working days after the employee's evaluation date, except performance evaluations during probation which shall be processed as set forth in Rule 8.02. Evaluations shall be on forms and in the manner prescribed by the Human Resources Director. A performance evaluation that is not filed within the time limits above is not deemed to be waived. The supervisor shall prepare an evaluation at his/her earliest convenience.

RULE 9 - COMPENSATION AND HOURS

9.01 - THE PAY PLAN: The current City/District Pay Plan adopted by the Council/ Board shall establish the pay range and steps assigned to each classification in the City/District Service. The purpose of the pay plan is to provide fair and equitable rates of pay for City/District employees. Salary for each class shall be consistent with the work as outlined in the class specification and shall be based on the principle that comparable salaries shall be paid for comparable duties and responsibilities. To the extent provisions in each Memorandum of Understanding are contrary to provisions set forth in Section 9, the Memorandum of Understanding provision shall supercede this section.

9.02 - ADMINISTRATION OF THE PAY PLAN: The Human Resources Director, with concurrence of the Personnel Officer, shall recommend the pay plan annually to the City Council/District Board for consideration. The pay rates established by the meet and confer process shall be included. The Human Resources Director, with concurrence of the Personnel Officer, may also recommend pay plan modifications at any other time to the Council/Board. Such recommendations shall be subject to the meet and confer process. Recommended adjustments shall become effective upon adoption by the Council/Board.

9.03 - PAY UPON INITIAL APPOINTMENT: Initial pay for an employee in the City/District service shall be at the first step of the salary range in effect for the class to which appointed, except that the City/District Manager may authorize appointment at a higher step within the salary range of the class when he/she determines that interests of the City/District will best be served.

9.04 - WORK IN A HIGHER CLASS: An employee assigned in writing to perform all or substantially all of the duties of a vacant position or an absent employee in a higher-paid classification, shall be paid at the first step of the higher pay range or at the step which is not less than five per cent (5%) more than his/her current base pay rate after ten (10) consecutive full workdays or in accordance with the provisions of the current applicable Memorandum of Understanding. Payment shall be retroactive from the first day of assignment.

Unless provided otherwise in a Memorandum of Understanding, a management employee assigned, on an acting basis, to a higher-paid classification shall be paid at the first step of the higher pay range or at the step which is not less than five per cent (5%) more than his/her current base pay rate, provided:

- a) the assignment is of thirty (30) calendar days or more duration and for purposes other than vacation replacement; and
- b) all of the duties of the higher-paid class are performed.

9.05 - PAY FOLLOWING PROMOTION: An employee promoted to a higher-paid classification shall be assigned to the first step in the new pay range or at the step which equals no less than a five per cent (5%) increase over his/her current base pay rate, whichever is more, provided the maximum pay step for the new range is not exceeded. Consideration shall be given to any merit increase expected soon in the former class. Upon approval of the personnel officer, employees promoted may be assigned to a higher step in the new pay range.

9.06 - PAY FOLLOWING DEMOTION: An employee demoted involuntarily to a lower-paid classification shall be assigned to a step in the new pay range recommended by the department head and approved by the City/District Manager. An employee demoted voluntarily shall be paid at the step of the new pay range closest to the employee's base pay in the higher-paid classification but not exceeding the maximum step in the range.

9.07 - PAY FOLLOWING TRANSFER: An employee transferred to a position within the same classification or to another classification with the same pay range shall retain the same rate of base pay. A merit increase shall not be applicable at the successful completion of any probation or evaluation period required as a result of a transfer.

9.08 - ADJUSTMENTS: The City/District Manager may authorize pay step adjustments within the pay range of a classification when he/she determines that equity and the interests of the City/District will best be served.

9.09 - PAY FOLLOWING RECLASSIFICATION: An employee whose position is reclassified to a higher-paid class and who is appointed to the reclassified position shall be assigned to the first step in the new pay range or the step that is closest to but not lower than the employee's current base pay in the former classification. An employee whose position is reclassified to a lower-paid class and who is appointed to the reclassified position, shall be Y-rated and receive no change in base compensation.

9.10 - Y-RATING: An employee's pay is Y-rated when the employee is appointed to a classification in a lower pay range due to reclassification, elimination of a position, or reorganization and retains his/her current base pay until the maximum step of the new range equals or exceeds his/her base pay. He/she then becomes eligible for pay increases that do not exceed the maximum step of the new pay range.

9.11 - OVERTIME: Overtime shall be defined as hours assigned to be worked and actually worked (excludes bona fide meal periods) in excess of forty (40) hours in the designated seven (7) day workweek or in accordance with the provision of the applicable Memorandum of Understanding. Employees may be required to work overtime at the discretion of the supervisor.

All overtime must be authorized by the department head or his/her designee in advance of being worked. If prior authorization is not feasible because of emergency conditions, a confirming authorization must be obtained on the next regular workday following the date on which the overtime was performed. Unauthorized overtime shall be paid, however, employees working overtime when not expressly assigned or authorized to do so by their supervisor may be subject to discipline.

Eligibility - Regular and probationary full-time hourly employees are eligible for overtime pay and compensatory time. Regular part-time employees are eligible for overtime only. General employees assigned to standby status or in call back status shall be compensated for overtime as set forth in the current applicable Memorandum of Understanding.

9.12 - COMPENSATORY TIME - Eligible general employees shall accrue compensatory time as set forth in the current applicable Memorandum of Understanding adopted by Council/Board Resolution. Compensatory time accrues at the rate of 1.5 hours for each hour worked over 40 hours of actual work in the employee's work week.

Sworn Safety Employees - Twenty-four (24) hour Fire employees shall not be eligible for nor accumulate compensatory time. Compensatory time provisions for sworn Police employees are set forth in the current applicable Memorandum of Understanding adopted by Council Board Resolution.

During employment, compensatory time is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials). Employees separating from City/District service shall be compensated for all accrued, unused compensatory hours at the current FLSA regular rate of pay, or the average regular rate for the prior three years, whichever is higher. The City/District reserves the right to cash out accumulated compensatory time at any time.

9.13 - CALL BACK PAY FOR GENERAL EMPLOYEES: Eligible employees called back for previously unscheduled work during off-duty hours shall be paid as set forth in the current applicable Memorandum of Understanding adopted by Council/Board Resolution.

9.14 - EMERGENCY CALL-BACK PAY: Sworn Police and Fire employees called back to work in an emergency situation shall be paid as set forth in the current applicable Memorandum of Understanding approved by Council/Board Resolution.

9.15 - STANDBY PAY FOR GENERAL EMPLOYEES: Employees designated for standby status shall be compensated as set forth in the current applicable Memorandum of Understanding approved by Council/Board Resolution.

9.16 - COURT TIME PAY: Sworn Peace Officers subpoenaed to court as an officer of the City/District during off-duty hours shall be compensated as set forth in the current applicable Memorandum of Understanding approved by Council/Board Resolution.

9.17 - EDUCATIONAL INCENTIVE PAY: Upon submission of proper documentation and approval by the City/District Manager, sworn Safety non-management employees shall receive

educational incentive pay in addition to base pay as set forth in the current applicable Memorandum of Understanding approved by Council/Board Resolution. Proper documentation shall include diplomas, transcripts, and certificates of completion. The effective date shall be the date of successful completion, provided initial probation has been successfully completed and documentation is submitted within six (6) months, which shall be the maximum period of retroactivity. Retroactive educational incentive pay shall not be paid if claimed after employment ceases with the City/District.

9.18 - SPECIAL ASSIGNMENT/QUALIFICATION PAY: Upon submission of proper documentation and approval by the City/District Manager, employees shall receive special assignment/qualification pay in addition to base pay as set forth in the current applicable Memorandum of Understanding or Compensation and Benefits plan approved by Council/Board Resolution. Additional compensation shall be only for the duration of the performance of such special assignment/qualification duties.

9.19 - PREMIUM PAY: Premium pay shall be as set forth in the current applicable Memorandum of Understanding approved by Council/Board Resolution. If an employee becomes eligible for two or more premium pays for the same hours in addition to his/her straight-time rate of pay, the employee shall receive the straight-time rate of pay and only the highest premium pay that applies. Premium pay shall be based on the straight-time rate of pay when computed.

9.20 - UNIFORM ALLOWANCE: Employees who are required to wear, and/or maintain uniforms shall be provided uniforms or a uniform allowance as set forth in the current applicable Memorandum of Understanding or Compensation and Benefits plan approved by Council/Board resolution.

9.21 - WORKWEEK: The City/District Manager or his/her designee shall designate a workweek for employees in accordance with the law.

9.22 - ATTENDANCE AND AUTOMATIC RESIGNATION: Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves. All departments shall keep daily attendance records of employees that shall be reported to the Human Resources Department in the form and on the dates specified.

An employee is deemed to have resigned if the employee is absent for three (3) consecutive workdays, without authorization and/or notification during the period of absence. On the second working day of unauthorized absence the supervisor shall contact the employee by telephone, mail or other means at the employee's last known address. The depositing of a postage paid, first class letter in the United States mail addressed to the employee's last known place of residence shall constitute notice to the employee requiring the employee to return to work. The employee shall be informed that should he/she fail to report to work the next workday, or receive authorization for such absence, the employee will be deemed to have resigned. Employees separated from employment for job abandonment automatically waive all rights of appeal under these Rules. Such employees will be reinstated with such charge removed from the employee's record upon presentation of justification for absence, such as severe accident, severe illness, false

arrest, or mental or physical impairment, within three (3) days of the effective date of his/her resignation.

RULE 10 - HOLIDAYS

10.01 - OFFICIAL HOLIDAYS: Subject to the requirements of Section 10.04 below, regular and probationary full-time employees shall be entitled to the following holidays with pay:

New Year's Day	January 1
Martin Luther King Jr. Birthday	Third Monday in January
President's Day	February 22 or its legal substitute (third Monday in February)
Memorial Day	May 31 or its legal substitute (last Monday in May)
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday following Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25
New Year's Eve	December 31

When any day recognized as a holiday falls on a Sunday, the holiday shall be observed on the following Monday. When any day recognized as a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday.

10.02 - OTHER HOLIDAYS: Any other holidays given shall be set forth in the applicable current Memorandum of Understanding or Compensation and Benefits plan approved by City Council/ District Board Resolution. The City Council/ District Board may approve a day without work on a special day proclaimed by the President or Governor for public observance.

10.03 - OTHER RELIGIOUS HOLIDAYS: An employee may request in advance to be excused from work for the observance of a bona fide religious holiday subject to the approval of the department head and Human Resources Director. If approved, such time off shall be charged to the employee's available leave that the employee may designate. Approval of time off is subject to the needs of the City/District service and, if the City/District cannot reasonably accommodate the employee, no pay or other time off shall be given in lieu thereof.

10.04 - PAY FOR OFFICIAL HOLIDAYS: An employee shall be entitled to pay for an official holiday only if: (a) The employee would have been regularly scheduled to work; and (b) such employee is in a paid status on the date immediately preceding and the date immediately succeeding the holiday.

Regular and probationary full-time employees shall receive straight-time pay for official holidays set forth in Rule 10. Regular part-time employees who regularly work at least twenty

(20) hours per week shall receive straight-time pay for one-half of the hours included in each official holiday. Other employees shall not be eligible for paid holidays.

Employees on approved leave with pay (e.g. vacation, sick) shall receive straight-time pay but not additional pay on an official holiday and such time shall be recorded as a paid holiday for payroll purposes unless provided otherwise in the current applicable Memorandum of Understanding.

Employees on approved leave of absence without pay shall not receive compensation for official holidays.

Fire Shift and Sworn Police Department Personnel shall receive holidays in accordance with the current applicable Memorandum of Understanding and applicable department policies, rules and regulations.

10.05 - EFFECT OF OTHER LEAVE ON HOLIDAYS: When a day designated as a holiday in Section 10.01 or 10.02 of these Rules occurs during an employee's vacation leave, for payroll purposes the day shall be charged as a holiday instead of vacation. Sick leave shall not be approved for official holidays. An employee in no-pay status shall not receive nor accrue holiday leave.

RULE 11 – SICK AND DISABILITY LEAVE

11.01 - INTENT AND ADMINISTRATION: The objective of this section is to provide methods of furthering health and general welfare of City/District employees, as well as ensuring maximum and reasonable job attendance. Sick leave is to be used only for the bona fide illness or injury that precludes the employee from working or for legitimate medical appointments that cannot be scheduled during off duty hours. In the event scheduling during working hours is unavoidable, advance approval of the department head or his/her designee is required except in cases of accident or acute illness.

Sick leave shall be allowed only for the employee for the diagnosis, care or treatment of an existing health condition or preventive care, or specified purposes for an employee who is a victim of domestic violence, sexual assault or stalking. Employees may use up to one-half of their yearly accumulated sick leave for the diagnosis, care or treatment of an existing health condition or preventive care of a family member. Family member includes a parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandparent or grandchild.

A. General:

1. Employees may be granted sick leave in minimum units of one-half (1/2) hour for those reasons specified, provided that such time has been earned. A full day/shift of sick leave is determined by the number of hours in a workday or work shift.
2. To the extent permitted by law, department heads may request employees to support use of sick leave by verification of an attending physician's statement for each absence regardless of duration.

3. Department heads shall certify all approved or unapproved sick leave. Department heads shall maintain accurate records of sick leave use, including annual surveys to determine possible abuse of leave.
 4. Employees who are permanent and stationary and a Qualified Injured Worker, under the provisions of applicable Workers Compensation Law, may not use sick leave balances to extend employment upon the exhaustion of 4850 benefits. However, the use of sick leave beyond the exhaustion of 4850 benefits is allowed until such time as the employee has been retired for disability.
- B. Accrual: Only regular and probationary employees shall be eligible to accrue and use sick leave as set forth herein. Other employees shall not be eligible to receive this benefit. Regular and probationary full-time employees shall accrue sick leave at the rate of eight (8) hours per calendar month of actual service, except Fire employees regularly assigned to twenty-four (24) hour shifts, who shall accrue sick leave at the rate of twelve (12) hours per calendar month of actual service. Regular part-time employees who regularly work at least twenty (20) hours per week shall accrue four (4) hours of sick leave per calendar month of actual service. Probationary employees shall accrue and may use earned sick leave from the date of initial appointment in accordance with provisions of this Rule. An employee who is in pay status at least one-half of his/her regularly scheduled work hours in a pay period shall accrue one-half of the regular monthly sick leave for that pay period. An employee who is in pay status less than one half of his/her regularly scheduled work hours in a pay period shall not accrue sick leave for that pay period.
- C. Accumulation: Employees may accumulate sick leave as earned, but unused, without limit.

The City/District Manager shall establish necessary controls and procedures for the administration of sick leave provisions. Each department head is responsible for insuring that sick leave benefits are neither abused nor misused. In case of doubt as to the proper application of these Rules, the City/District Manager shall make the final determination.

11.02 - PROCEDURE TO USE APPROVED SICK LEAVE: In order to use accrued sick leave hours, an employee who is unable to report to work due to illness or injury shall notify his/her immediate supervisor within one hour of the time set for reporting to work. Failure to notify without good reason may result in the period of absence being considered unauthorized leave, which shall not be compensated. The department head shall make the determination in this regard subject to final approval by the City/District Manager.

It shall be the responsibility of the employee on sick leave to inform his/her immediate supervisor or department head on a daily basis of his/her condition and anticipated date of return to work.

If an employee has not recovered by the time his/her accumulated sick leave is exhausted, upon receipt of a written request accompanied by the attending physician's certificate that additional time is required to effect sufficient recovery, the City/District Manager may grant the employee a leave of absence without pay pursuant to provisions for such leave or may permit use of other

accrued leave available. No employee shall take sick leave with pay in excess of his/her accrued leave balance.

If an eligible employee becomes ill or injured while on authorized vacation leave the City/District Manager may approve charging the period of incapacity to sick leave upon written request and presentation of a doctor's certificate stating the dates of the illness or injury. Sick leave shall not be approved for official holidays.

11.03 - CERTIFICATION OF CAUSE: An employee who is absent on sick leave in excess of three (3) consecutive working days may be requested to the extent permitted by law to file with the Human Resources Director, through department management, a physician's certificate verifying the need for leave. Nothing herein shall prohibit the department head or Human Resources Director from requesting a physician's certificate to the extent permitted by law for each day of absence, regardless of duration. Provisions covering Fire Platoon employees are contained in the current Memorandum of Understanding.

11.04 - ABUSE OF SICK LEAVE: Any inappropriate use of sick leave and/or abuse of sick leave shall be just cause for disciplinary action. In order to assure compliance by employees with sick leave provisions, and to refrain from imposing undue requirements on all employees for the misconduct of a few, an administrative program is hereby established to identify probable cases of sick leave abuse and apply corrective measures. Except when sick leave use is known to be in connection with hospitalization, major injury or illness, or verified emergency leave, inappropriate frequent use or sick leave abuse, as used here, shall generally be defined as any of the following conditions:

- a) Where an employee utilizes more than three (3) days of sick leave in a quarter of a calendar year that are either the day before or after a holiday, or first or last day of the work week/shift.
- b) Where an employee uses all of their earned sick leave such that their wages are reduced because of sick leave without pay.
- c) Where an employee fraudulently utilizes any single occurrence of sick leave.
- d) Where an employee regularly uses sick leave in excess of the average sick leave use in a division or department.

Major injury or illness is defined as an injury or illness that incapacitates an employee for one (1) or more work weeks.

Where the department head or supervisor determines that sick leave privilege has been abused, appropriate action, including the denial of sick leave use and/or disciplinary action up to and including termination, may be taken. Provisions covering Fire Platoon employees are contained in the current Memorandum of Understanding.

11.05 - MENTAL HEALTH, DRUG AND ALCOHOL REHABILITATION: The City/District Manager, upon recommendation of the department head, may approve use of sick leave, other available leave or a leave of absence without pay, as appropriate, to enable a regular employee who requests such leave to participate in programs and facilities for mental health, drug or alcohol rehabilitation and may refer the employee to appropriate counseling or rehabilitation resources when:

- a) the employee requests such referral; and/or
- b) an employee's documented work performance indicates to the City/District Manager that such assistance may be of value in resolving the employee's problems affecting such work performance.

All such accommodations shall be consistent with the law. Employees to whom such accommodations are extended shall be expected to correct work performance problems effectively in a reasonable period of time or he/she may be subject to disciplinary procedures in the same manner and by the same standards as an employee who has not been provided such accommodation.

11.06 - USE OF MEDICATION WHICH AFFECTS PERFORMANCE: In the event an employee, for medical reasons, is required to take medication which may affect his/her ability to perform his/her regular duties (e.g. driving, operating machinery), the employee shall so inform his/her supervisor to enable appropriate assignment to duties.

11.07 - MEDICAL RELEASE: An employee who has suffered an illness or injury may be required to submit to the City/District Manager a medical release from his/her attending physician prior to returning to any part of his/her regular duties especially when the illness or injury may adversely affect the health or safety of self, the public or other. To the extent permitted by law, the City/District Manager also may require an employee to undergo an examination by a City/ District designated physician. The City/District Manager may disapprove the employee's return to work if, in the opinion of the City/District physician, the employee constitutes a health and safety risk to self, the public or other employees. The City/District Manager may order an employee to return to work if the City/District-designated physician reports that the employee is capable of doing so.

11.08 - FITNESS FOR DUTY: The City/District Manager or department head may, at City/District expense, require an employee to submit to a physical or mental examination/evaluation at any time there is reason to believe that the employee cannot (a) perform the essential functions of employment at a level of efficiency required by the City/District, (b) perform such duties without constituting a risk to the health or safety of the employee or other employees, staff, public, or City/District property. The purpose of the examination shall be to determine an employee's fitness to perform the essential functions of the job. Such physical or mental examination may be imposed as a condition of continued employment and may be performed by a doctor chosen by the City/District.

11.09 - INDUSTRIAL DISABILITY LEAVE: An employee who is unable to work due to an injury or illness, arising out of employment, which is declared to be compensable under the State of California Workers' Compensation Law, shall be granted industrial disability benefits, subject, however, to the provision of Section 11.11 of these Rules, and as follows:

- A. A sworn Safety employee shall be granted industrial disability leave and temporary disability benefits in accordance with Section 4850 of the California Labor Code.
- B. A general regular employee shall be granted leave with full compensation for the initial three (3) months immediately following the date of injury. Use of sick leave shall not be required during that period; however, temporary disability and long term disability payments shall be

integrated and endorsed to the City/District. Fringe benefits shall continue as usual. After the initial three (3) months, until the employee is recovered or is determined permanent and stationary or permanently disabled, workers' compensation and long-term disability benefits may be integrated with unused sick leave to assure no loss of pay. The employee shall be responsible for payment of the cost of continuance of any health, life, disability or dental coverage that he/she desires to retain, to the extent required by law.

- C. A general non-regular employee shall, if entitled, receive temporary disability payments in accordance with the law.
- D. An employee returning from industrial disability leave must submit a medical release in compliance with Section 11.08 of these Rules before the first day at work.
- E. In the event that an employee's claim for industrial disability is denied, any time off work for the disallowed disability shall be charged to sick leave, or if the employee so requests, may be charged to other available leave or deducted from pay.
- F. Employees shall be subject to temporary modified duty requirements in Section 11.11 of these Rules.
- G. In order to be eligible for Industrial Disability pay an employee must be available for treatment and examination throughout the length of his/her leave.

11.10 - TEMPORARY MODIFIED DUTY: Modified duty assignments may occur when an employee, injured on or off the job, or who has a medical condition, has been medically released for limited duty based on specific medical work restrictions. Temporary modified duty may be provided as follows:

- A. Industrial Disabilities: In the event that an employee on temporary disability leave is medically certified able to return to work with specific restrictions, he/she may request or be required by the City/District Manager to return to a temporary work assignment that complies with the medical restrictions. Such temporary work assignments may be to the same class the employee normally occupies or to another class, division, or department as the needs of the City/District require. Medical release provisions of these Rules shall apply and be complied with before the first day at work. An employee on a temporary modified duty assignment shall be paid at his/her current pay rate regardless of assigned duties. Available sick leave or other accrued leave may be used to offset a loss of pay, resulting from a reduced work week, or integrated with other benefits if necessary to equal the employee's regular payroll wages. General employees who have exhausted paid industrial disability provisions, in Section 11.10 of these Rules, shall be paid for hours worked only. Temporary modified duty assignments shall be in place during periods of recuperation or until an employee's condition is declared permanent and stationary. Doctor's certificates shall be required at regular intervals to evaluate progress and to enable a return to full duties as soon as medically approved.
- B. Non-Industrial Disabilities: Employees who are medically certified able to return to work with specific restrictions may request a temporary work assignment that complies with

medical restrictions. Such requests shall be evaluated in accordance with the law. Work assignments and submission of regular medical reports shall be required as provided in the above subsection. Employees who are working less than full-time shall be compensated at their current pay rate for hours worked only. Available sick leave or other accrued leave may be used to supplement hours worked or integrated with other benefits if necessary, except that the total amount of pay received by an employee shall not exceed the employee's regular compensation.

Employees on temporary modified duty assignments shall be off duty on official holidays. Temporary modified duty assignments shall be evaluated regularly and shall require the written approval of the City/District Manager for periods in excess of fourteen (14) calendar days. Nothing herein shall require the City/District Manager to approve temporary modified duty assignments nor shall give an employee the right to refuse an assignment that complies with medical restrictions. Such refusal may subject an employee to loss of benefits and/or disciplinary action.

RULE 12 - VACATION AND OTHER LEAVES

12.01 - VACATION LEAVE: The purpose of annual vacation leave is to allow each eligible employee a period of relaxation to enable him/her to return to his/her work mentally and physically refreshed.

12.02 - EMPLOYEES ELIGIBLE FOR VACATION LEAVE: When eligible, regular and probationary employees shall accrue and use vacation leave as provided in this Rule. Other employees shall not be eligible to receive this benefit.

12.03 - ACCRUAL OF VACATION LEAVE: Regular and probationary employees shall accrue and accumulate vacation time at the rates and limits set forth in the current applicable Memorandum of Understanding or Compensation and Benefits Plan approved by the Council/Board.

An employee who is in pay status at least one-half of the regularly scheduled work hours in a pay period shall accrue one-half of the regular monthly vacation leave for that pay period. An employee who is in pay status less than one-half of his/her regularly scheduled work hours shall not accrue vacation leave for that pay period.

During the initial six (6) months of actual service, full-time and part-time probationary employees may accrue but not use vacation leave unless approved by the City/District Manager, at his/her sole discretion in the cases of extraordinary circumstances.

12.04 - VACATION DEFERRAL: An employee may present a written request for vacation deferral to the City/District Manager no later than sixty (60) calendar days before the end of the calendar year in which the vacation leave was to be taken. In granting deferrals the City/District Manager may specify a time within which such excess vacation leave must be used. Should the employee fail to use such excess vacation leave within the time specified by the City/District Manager, he/she shall cease earning vacation leave until the balance falls below the maximum accrual allowed. Department heads shall give employees reasonable advance notice if vacation

leave requests will conflict with department needs and shall inform the City/District Manager if vacation denial is the reason for an employee's deferral request.

12.05 - USE OF VACATION AND VACATION INCREMENTS: The time at which an employee may use vacation time and the amount to be taken at any one time shall be determined by the department head with particular regard for the needs of the City/District and, insofar as possible, considering the wishes of the employee. Except in unusual circumstances, use of vacation leave shall be scheduled and approved in advance of the first day of absence. Approval of use of vacation leave shall be in a form and manner prescribed by the Human Resources Director and department rules.

Employees are encouraged to use vacation leave in increments of at least five (5) consecutive working days or at least one (1) tour of duty for Fire employees regularly assigned to work twenty-four (24) hour shifts. However, employees shall not use vacation leave in increments of less than one hour. Sworn Fire and Police employees shall use vacation leave in compliance with Government Code sections 53250 and 38634, respectively.

12.06 - WORK DURING VACATION: Employees shall not work for the City/District or be called back during vacation leave, except in an emergency as determined by the department head and approved by the City/District Manager. An employee required to work shall not be charged for vacation leave and shall be compensated as if working on his/her regular schedule.

12.07 - VACATION PAYMENT AT TERMINATION: Employees eligible for vacation leave who separate from employment will be paid a lump sum for unused accumulated vacation at the time of termination. Such payment shall be at the employee's rate of pay at the time of termination.

When termination is caused by the death of the employee, said payment for unused vacation leave shall be paid to the appropriate beneficiary/dependent in accordance with the law.

12.08 - SICK LEAVE DURING VACATION: Upon an employee's request to the City/District Manager, leave time that is medically certified in accordance with Rule 11, Sick Leave, shall not be charged to vacation leave.

12.09 - HOLIDAYS DURING VACATION LEAVE: Employees shall not be charged vacation leave for official holidays that occur during designated vacation leave. Such time shall be recorded as a paid holiday for payroll purposes.

12.10 - LEAVE OF ABSENCE: When determined to be in the best interests of the employee and the City/District, the City/District Manager may approve a leave of absence without pay for a regular or probationary employee for a period up to six months. Such leave is a privilege, not a right, and must be requested in writing by the employee, stating the reason and requested dates, and must be recommended by the department head. The request, if approved, shall include the address and the phone number where the employee may be contacted during the leave.

Employee benefits shall not be continued during any leave without pay in excess of one (1) calendar week unless any insurance contract provision permits and the employee agrees in

writing to pay the total monthly cost by a method satisfactory to the Finance Director. Benefits not paid as agreed shall terminate. Employees on leave of absence without pay in excess of one (1) calendar week shall not accrue leave or service credit, but shall retain unused accruals and service credit as of the date leave began. Employees on leave in excess of thirty (30) calendar days shall return City/District property as set forth in Rule 13, Section 13.05.

An employee returning to the same classification from which he/she took leave shall be paid at the current rate in the same step and range of the class in which employed.

An employee on leave shall confirm in advance of the expiration of the leave his/her intention to return. An employee who fails to report promptly at the expiration of his/her leave without sufficient cause shall be subject to disciplinary action and possible termination. A leave of absence may be revoked by the City/District Manager upon a determination that the reason for leave was not as stated or did not serve the City/District's best interests. In either case, the employee shall be notified by certified mail; regular employees shall be given an opportunity to respond as set forth in Rule 14, Discipline.

12.11 - UNAUTHORIZED ABSENCE: Except in extraordinary circumstances, an employee who is unable to report for work shall notify his/her department head or supervisor within one hour of the time set for reporting to work. Failure to do so shall result in considering the period of absence as unauthorized leave. Any unauthorized absence of an FLSA overtime eligible employee shall be without pay and shall reduce an employee's pay accordingly. Unauthorized absences and/or failure to return to work within twenty-four (24) hours after being so instructed may constitute grounds for disciplinary action. An employee absent without authorized leave for seventy-two (72) hours shall be deemed to have automatically resigned.

12.12 - BEREAVEMENT LEAVE: Unless provided otherwise in a Memorandum of Understanding, in the event of a death in the immediate family of a regular or probationary employee shall be entitled to up to three (3) working days of bereavement leave to attend to personal matters relating to the death. The phrase "immediate family member" is defined in Section 2, Definitions. In the event that three (3) working days is insufficient time, an additional three (3) working days may be granted and any working days shall be charged to the employee's sick leave and/or vacation time, as designated by the employee. Additional days may be approved by the City/District Manager and charged to the employee's available unused leave. This leave shall not be accumulated and is in addition to sick leave and vacation benefits, except where additional time off is taken as provided above.

Requests for bereavement leave must be in writing, state the relationship of the family member, and be approved in advance by the department head and City/District Manager.

12.13 - MILITARY LEAVE: Military leave shall be granted in accordance with the provisions of California Military and Veterans Code section 395 *et seq.* and the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 *et seq.* The employee shall furnish the Personnel Officer with copies of the military orders, whenever possible.

12.14 - JURY DUTY AND COURT APPEARANCES: Regular and probationary employees required to report for jury duty during regularly scheduled work hours shall notify the

department head as soon as possible and shall be entitled to leave with pay until released by the court. Such pay is provided only when the employee remits to the City/District, within five (5) calendar days after receipt, all fees excepting those specifically allowed for mileage and subsistence.

An employee subpoenaed to appear in court during regularly scheduled working hours, solely as a result of employment with the City/District, shall receive full pay for such appearance until released by the court, provided the employee remits fees received to the City/District in the manner specified for jury duty. An employee subpoenaed to appear in court in a matter unrelated to his/her City/District employment shall be permitted time off without pay unless the employee chooses to utilize available unused leave. Sworn Police personnel shall be compensated in accordance with the provisions of the Memorandum of Understanding.

An employee shall inform department management when the court releases him/her. Department management shall then determine when the employee shall return to complete regularly scheduled work hours, giving due consideration to the court schedule of the employee in the preceding twenty-four (24) hours and department staffing and service needs.

The employee is responsible for keeping his/her department head informed of his/her court schedule. Department heads shall be responsible for assuring employees' compliance with these provisions and for seeking an exemption through the City/District Manager from jury officials when an employee's absence shall seriously impair City/District operations.

12.15 - MATERNITY LEAVE AND PREGNANCY DISABILITY: Employees shall be entitled to leave benefits as provided by Pregnancy Disability Leave Law ("PDLL), the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Specific guidelines regarding PDLL, FMLA, and CFRA are contained within the administrative policies.

Employees disabled due to pregnancy, childbirth or related medical conditions are entitled to a leave of absence for the time they are disabled up to a maximum of four months. Employees are eligible for pregnancy disability leave upon hire. The City/District shall comply with all state and federal rules and regulations governing pregnancy disability leaves. Leave shall be concurrent when applicable.

12.16 - CALIFORNIA PAID FAMILY LEAVE: Employees who are covered by State Disability Insurance (SDI) are eligible for Family Temporary Disability Insurance (FTDI) (also known as the California Paid Family Leave program) benefits while taking care of sick or injured family member(s). These benefits are paid by the State Employment Development Department. There is no requirement that the employee work for the City/District any particular length of time before becoming entitled to this leave. However, no employee can receive more FTDI benefits than he/she earned in wages during the base period for calculating benefits. Employees are not eligible if they are receiving SDI benefits for workers' compensation benefits. FTDI benefits may be integrated with other City/District benefits/leaves where applicable.

12.17 - OTHER LEAVES OF ABSENCE: The City/District shall comply with all state and federal regulations affording employees time away from work, including but not limited to,

family and medical leave, pregnancy disability, voting, school leave, or such other leaves as may be implemented from time to time by state and federal regulation.

RULE 13 - SEPARATION FROM SERVICE AND LAYOFF PROCEDURES

13.01 - RESIGNATION: An employee who wishes to resign from City/District service shall submit his/her written resignation to the department head at least fourteen (14) calendar days in advance of the resignation date. Written notice shall include the effective date of and the reason for the resignation, and shall be forwarded to the Human Resources Director. An employee's failure to give the required timely written notice may be cause for denying future employment.

An employee who provides a verbal resignation shall receive an immediate confirmation of such resignation from his/her supervisor. The confirmation shall be in writing and include the date and time the resignation was submitted, as well as the names of any witnesses to the resignation. The supervisor shall immediately notify the department head and Human Resources Director of receipt of such resignation.

A resignation becomes final when accepted by the City/District Manager or designee. Once a resignation has been accepted by the City/District Manager or designee, it cannot be withdrawn.

When an employee resigns to avoid disciplinary charges or discharge, the effective date of his/her termination shall be set by the department head with the approval of the City/District Manager. The employee may work the remaining scheduled hours or be paid in lieu of working, as determined to be in the best interests of the City/District.

When an employee resigns as a result of retirement from the City/District, such employee shall advise the department head in writing and initiate arrangements with the Personnel Department at least ninety (90) calendar days in advance of the planned retirement.

13.02 - REINSTATEMENT AFTER RESIGNATION: An employee who requests to return to City/District employment within twelve (12) months after resignation may be considered as provided in Rule 7, Section 7.10.

13.03 - RETURN OF CITY/DISTRICT PROPERTY: An employee who separates for any reason or is laid off from City/District service shall return all issued City/District equipment, clothing, identification cards, credit cards and keys on the last day of work. The City/District may seek legal recourse for unreturned items. The employee may authorize a payroll deduction for unreturned items.

13.04 - EMPLOYEE EXIT INTERVIEW: An employee who separates from or is laid off from City/District service shall participate in an exit interview with the Human Resources Department. Information resulting from the exit interview shall be placed in the employee personnel file and discussed with the City/District Manager and department head as applicable. An employee's refusal to be interviewed shall be noted in his/her personnel file.

13.05 - LAYOFFS: Whenever, in the judgment of the City Council/District Board, it becomes necessary to abolish any position, the employee holding such position or employment may be

laid off or demoted without disciplinary action and without the right of appeal. The City/District Manager shall designate the number and positions for layoff as approved by the Council/Board.

13.06 - ORDER OF LAYOFFS: Employees will be laid off in the inverse order of their seniority in their classification in the department. Seniority is determined based upon date of hire in the classification and higher classifications in the department. Pursuant to Section 13.29, a layoff out of the inverse order of seniority may be made. Within each class, employees will be laid off in the following order, unless special skills are required:

- a) Temporary;
- b) Regular Part-Time;
- c) Probationary;
- d) Regular.

In cases where there are two or more employees in the classification from which the layoff is to be made who have the same seniority date, such employees shall be laid off on the basis of the last evaluation rating in the classification, providing such rating has been on file at least thirty (30) days and no more than twelve (12) months prior to layoff as follows:

- First, all employees having ratings of "improvement needed";
- Second, all employees having ratings of "competent" or "satisfactory"; and
- Third, all employees having ratings of "outstanding" or exceeds standards."

The Human Resources Director shall provide seniority lists before layoff notices are prepared.

13.07 - NOTICE TO EMPLOYEES: Regular and probationary employees shall receive written notice stating the reason for layoff a minimum of thirty (30) calendar days prior to the date of expected layoff. Similar notice shall be provided to any affected recognized employee organizations representing the classes to be laid off. As a matter of courtesy, written notice will be given at the earliest possible date to non-regular employees who will be laid off. The notice shall inform employees of the procedure to be followed and the rights to which he/she is entitled. Department heads shall make every effort to allow employees who are to be laid off reasonable time off to seek other employment. Employees may use accrued vacation time to receive pay during such time off.

13.08 - POSITIONS AVAILABLE FOR EXERCISE OF DISPLACEMENT OR PRIORITY EMPLOYMENT RIGHTS: An employee may exercise displacement or priority employment rights only for positions that the City/District intends to fill.

13.09 - DISPLACEMENT: A full-time regular or probationary employee who is laid off from his/her classification shall be entitled to displace another employee as follows:

- a) The employee seeks to displace another employee with less seniority and who is working in an equal or lower paying classification;
- b) The applicable position is within the same representation/bargaining unit; and
- c) The employee meets the minimum qualifications and he/she has held prior regular status in the applicable classification, unless provided otherwise in an applicable Memorandum of Understanding.

To displace another employee successfully an employee must be fully qualified, trained, and capable of performing all work in the new classification. Part-time employees may displace only other part-time employees. When minimum qualifications have increased, the Human Resources Director may temporarily waive the increased requirements if previous successful performance is documented, provided the new requirements are met within a reasonable time.

Employees identified for layoff who have displacement rights to equal or lower paying classifications must declare their intention to exercise these rights at least twenty (20) calendar days prior to layoff; otherwise displacement rights will automatically terminate. An employee who declares displacement rights may not also claim priority employment rights for other vacant positions pursuant to Section 13.11. Employees laid off as a result of another employee's exercise of displacement rights shall not be entitled to an additional thirty (30) calendar days notice, but the minimum notice shall be fourteen (14) calendar days.

13.10 - PAY FOLLOWING EXERCISE OF DISPLACEMENT RIGHTS: An employee who exercises his or her displacement rights to another classification shall be assigned to a pay step in the current range of the new classification that represents the least loss in base pay. An employee displaced to a position in the same classification shall retain the same base pay.

13.11 - PRIORITY EMPLOYMENT RIGHTS WITHIN REPRESENTATION UNITS: After all employees have exhausted their displacement rights provided by the Memorandum of Understanding of their respective bargaining unit and/or Section 13.09 of this Rule, any vacant positions remaining in the unit may be filled by displaced unit employees in order of seniority who meet the minimum qualifications for the vacant positions; however, no employee shall fill a vacant position at a higher salary range than that from which he/she was originally laid off.

13.12 - PRIORITY EMPLOYMENT RIGHTS OUTSIDE REPRESENTATION UNITS: If all displaced members in a unit have filled vacant positions under the above provisions and vacancies remain, employees who are laid off in other representation units may request priority employment rights for vacant positions that have no reemployment list and for which they meet the minimum requirements of the position. Such minimum requirements may be waived by the Human Resources Director provided the employee meets the educational requirements for the position and has the capacity, adaptability and special skills needed to perform the duties of the position. Such employees shall be offered priority employment rights for a period beginning with notification of layoff and ending ninety (90) calendar days after layoffs occur. Priority employment rights may not be used to move to a classification in a higher salary range than that from which the employee was originally laid off.

13.13 - PAY FOR EMPLOYEE EXERCISING PRIORITY EMPLOYMENT RIGHTS: An employee exercising priority employment rights to occupy an available position shall be paid at the current range for that classification and at a pay step recommended by the department head and approved by the City/District Manager.

13.14 - REEMPLOYMENT LISTS: Regular and probationary employees who are laid off, demoted, or who have exercised employment rights set forth in this Rule in lieu of layoff shall have their names placed on reemployment lists for the classification from which they were laid

off and any classification previously held in order of total continuous time served in probationary and regular status in the City/District service.

An employee may also request to be placed on the reemployment lists for positions that the employee meets the minimum qualifications, except that an employee shall not be placed on a list for a position that has a higher maximum salary range than that of the position from which he or she was laid off. An employee who has never served in a classification shall not receive a reemployment offer before an employee on the list who was laid off from or has served in that classification.

13.15 - LIFE OF REEMPLOYMENT LIST: Employees' names will remain on the reemployment list for a period of twenty-four months, unless such persons are sooner employed.

13.16 - STATUS OF LAID OFF EMPLOYEES: Layoff of regular and probationary employees is not considered separation from City/District service. Separation occurs at the end of the life of a reemployment list, unless the employee chooses to separate in lieu of being placed on a reemployment list, or requests in writing to be removed from the reemployment list(s).

13.17 - BENEFITS: In the event of layoff, any regular or probationary employee enrolled in the City/District health benefit plan on the last day of service with the City/District may continue to participate in the employee benefit plans as provided in the Consolidated Omnibus Reconciliation Act (COBRA).

All benefits and leave accruals shall cease on the last day on payroll in accordance with the provisions of the applicable benefit carriers and the law. Contributions to the Public Employees Retirement System (PERS) will cease on the last day on payroll. Employees will be provided with retirement options available under PERS.

13.18 - NOTICE OF REEMPLOYMENT OPPORTUNITY: The City/District shall send notice of reemployment by certified mail to an employee's last address of record. The depositing of a certified mail letter in the United States mail addressed to the employee's last address of record shall constitute notice to the employee. It is the responsibility of the employee who has been laid off to keep the City/District informed of his/her current address and telephone number. Employees have ten (10) working days from the mailing date of such notice to notify the City/District Human Resources Department regarding their intention to return to a position offered. If at the end of ten (10) working days from the date of mailing, no response has been received from the laid off employee, the City/District shall fill positions in the following order:

- a) The laid off employee next in line for recall, if available for work, until the reemployment list is exhausted; and then
- b) By the normal recruiting process.

If an employee on layoff fails to respond within ten (10) working days of the mailing of the written offer of reemployment sent by certified mail, the employee shall forfeit the right to reemployment and his/her name shall be removed from the reemployment list. An employee who is selected from the list to fill a vacancy who refuses the assignment, shall be removed from the list without right of appeal. An employee reemployed into a classification not previously

occupied shall be required to complete a probationary period of the length usually required for that class.

In order to expedite the reemployment process, the City/District may notify more than one employee simultaneously of reemployment, indicating the order of priority to each person.

13.19 - STATUS OF REEMPLOYED EMPLOYEE: A regular or probationary employee reemployed in a regular or probationary position within twelve (12) months following layoff shall receive credit for prior service for purposes of vacation accrual and seniority. Benefits shall not accrue during the layoff period. If the employee has withdrawn PERS funds, the employee must reach an agreement with PERS as to appropriate arrangements for reinstatement to the retirement system.

13.20 - PROBATION FOR REEMPLOYED EMPLOYEE: A probationary period of the length usually required for that class shall be required for an employee reemployed into a classification not previously occupied. All provisions for probationary employees shall apply except that in the case of rejection, the employee's name would remain on the reemployment lists for other classes.

13.21 - ANNIVERSARY DATE OF REEMPLOYED EMPLOYEE: Layoff time that exceeds thirty (30) calendar days shall cause the anniversary date of the employee to be adjusted commensurate with the length of absence from pay status consistent with Rule 7, Section 7.07.

13.22 - EVALUATION DATE OF REEMPLOYED EMPLOYEE: Layoff time that exceeds thirty (30) calendar days shall cause the evaluation date of the employee to be adjusted commensurate with the length of absence from pay status.

13.23 - PAY OF REEMPLOYED EMPLOYEE: A reemployed employee shall receive pay as follows:

- a) An employee reemployed into the classification from which he or she was originally laid off shall be paid at the current rate for that classification and at the pay step held at the time of layoff.
- b) An employee reemployed into a classification previously held but not from that which he/she was originally laid off shall be paid at the current rate for that classification and at the pay step that most closely approximates, but does not exceed, the pay step held in the classification from which the employee was originally laid off.
- c) An employee reemployed into a classification not previously held shall be paid at the current rate for that classification and at a pay step recommended by the department head and approved by the City/District Manager.

13.24 - MEDICAL EXAMINATION FOR RECALLED EMPLOYEE: To be reemployed, any employee must be fit for duty with or without reasonable accommodation as determined by a City/District-designated physician.

13.25 - EXCEPTION TO SENIORITY-BASED LAYOFFS: The City/District Manager may approve deviations in layoffs or demotion in lieu of layoff based on seniority in those cases where, because of the specific or unusual demands of a given position, the application of

seniority alone would result in the assignment and retention of employees without special skills and/or training to maintain a satisfactory level of performance within a reasonable training time. In such cases, the affected employees shall be given written notice of the determination and the reasons therefor.

RULE 14 - DISCIPLINE

14.01 - POLICY: The City/District may reprimand, suspend, reduce pay, demote, or discharge any employee in the City/District service. Cause for discipline, as listed in the following section, must be established for regular classified employees.

An employee may be placed on administrative leave without pay pending potential disciplinary action (1) when the department head believes that the employee's continued presence at the work site could have detrimental consequences for City/District operations, or (2) pending investigation into charges of misconduct. Notwithstanding any of the above, the City/District will not suspend or reduce the pay of any employee who the City/District has determined to be exempt from overtime compensation under the Fair Labor Standards Act, except as authorized by law.

14.02 - CAUSES FOR DISCIPLINE: Employees in the City/District Service may be disciplined for reasons that include, but are not limited to, the following:

Excessive absenteeism, tardiness, or absence without authorized leave;

- A. Abuse of sick leave, which includes taking sick leave without a doctor's certificate when required, or using sick leave for unauthorized purposes;
- B. Incompetency, which is an inability to comply with the minimum standard of an employee's position for a significant period of time;
- C. Inefficiency or inexcusable neglect of duty, which means a failure to perform duties required of an employee's position;
- D. Unsatisfactory job performance;
- E. Being under the influence of alcohol, drugs, or other intoxicants while on duty, using alcohol or drugs while on duty, testing positive for drugs or alcohol in violation of the City/District's policies, or being impaired by alcohol or drugs while on duty;
- F. Furnishing false information to secure appointment, including making a false statement on an application for employment or promotion;
- G. Dishonesty involving employment, including falsifying time sheets or any other official City/District records, or making untruthful statements orally or in writing;
- H. Violation of City/District confidentiality policies, including disclosure of confidential information to an unauthorized source(s);

- I. Neglect of duty and/or negligence in the care and handling of City/District property; damage or waste of public property, equipment or supplies; or unauthorized use of public property, supplies or equipment for personal or private purposes;
- J. Insubordination and/or willful disobedience, which includes a willful failure to conform to duly established orders or directions of persons in supervisory positions;
- K. Discourteous or disrespectful treatment of the public, other employees, or City/District officials;
- L. The conviction of a crime having a nexus to City/District employment. The record of conviction shall be conclusive evidence of the conviction. The Human Resources Department may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere, is deemed to be a conviction within the meaning of this provision.
- M. Any willful act of misconduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the City/District, or to the employee's department or division;
- N. Working overtime without authorization;
- O. Outside employment not specifically authorized by the City/District;
- P. Violation of City/District personnel rules, administrative policies and procedures, department rules and regulations, safety rules, resolutions, ordinances and codes;
- Q. Violation of City/District Policy Against Harassment, Discrimination, and Retaliation;
- R. Failure to comply with OSHA Safety Standards and City/District safety policies;
- S. Willful and/or intentional acts of fraud or misrepresentation in obtaining benefits, including workers' compensation benefits;
- T. Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his or her official duties; and
- U. Possession of weapons on City/District property, unless authorized.

If any of the above causes are declared unconstitutional or legally void, the remainder shall continue in effect.

14.03 - COUNSELING AND REPRIMANDS: An employee whose work or conduct is unsatisfactory may be verbally counseled and/or provided a written reprimand. A written

summary of verbal counseling or a written reprimand may be placed in the employee's personnel file. The employee will be asked to sign the written confirmation of verbal counseling or the written reprimand. An employee's refusal to sign shall be noted, initialed, and witnessed before filing in the personnel file. The notice, hearing and appeal processes provided in this Rule shall not apply to counseling statements or reprimands. An employee who disagrees with the content of the counseling document may file a written rebuttal statement within thirty (30) days. Such written rebuttal shall be placed in his/her personnel file with the written confirmation of the counseling or the written reprimand.

14.04 - REDUCTION IN PAY: A department head may reduce an employee's pay for cause. A reduction in pay for disciplinary purposes shall take one of two forms: 1) a decrease in salary to a lower step within the salary range; or 2) a decrease in salary paid to an employee for a fixed period of time. Documents related to reduction in pay shall become part of the employee's personnel file when discipline becomes final.

14.05 - DEMOTION: An employee may be demoted to a lower-paid class for cause as a disciplinary action. Documents related to a demotion shall become part of the employee's personnel file when the discipline is final.

14.06 - SUSPENSION: An employee may be suspended without pay or benefits for cause for up to 30 calendar days. Documents related to a suspension shall become part of the employee's personnel file when the discipline is final.

14.07 - DISCHARGE: The City/District Manager may discharge an employee for cause. Documents related to discharge shall become part of the employee's personnel file when the discipline is final.

14.08 - WHO MAY TAKE DISCIPLINARY ACTION: The department head may take disciplinary action with the concurrence of the Human Resources Director. The City/District Manager is responsible for reviewing disciplinary actions upon an employee's appeal of the disciplinary action.

14.09 - CONFERENCE AND APPEAL: Only regular employees in the Classified Service shall have the right to the conference and appeal process defined in this Rule. However, regular employees in the Classified Service shall not have the right to conference and appeal for counseling or reprimands, but rather shall have the right of rebuttal as defined in Section 14.03. The additional procedural requirements of the Public Safety Officers Procedural Bill of Rights Act (Gov. Code § 3300 *et seq.*) shall also apply to City/District Peace Officers. The additional procedural requirements of the Firefighters Procedural Bill of Rights Act (Gov. Code § 3250 *et seq.*) shall also apply to City/District Firefighters.

The following categories of persons can be terminated at-will and have no rights to any of the pre- or post-disciplinary processes or procedures in these Rules: (1) temporary employees, (2) provisional or seasonal employees, (3) probationary employees, (4) any person who serves pursuant to a contract, and (5) any person who is designated "at-will" in any City/District policy, document, acknowledgement, resolution or ordinance.

A. NOTICE OF INTENT TO DISCIPLINE: The employee shall be provided a written notice of intent to discipline that contains the following:

- a) The level of discipline intended to be imposed;
- b) The specific charges upon which the intended discipline is based;
- c) A summary of the misconduct upon which the charges are based;
- d) A copy of all written materials, reports, or documents upon which the intended discipline is based;
- e) Notice of the employee's right to respond to the department head regarding the charges within five calendar days from the date of the Notice, either orally during an informal conference, or in writing, or both;
- f) The date, time, and department head before whom the employee may respond, either orally during the informal conference, or in writing, or both, after no less than 5 working days from the date of the notice;
- g) Notice of the employee's right to have a representative of his/her choice at the conference, should he/she choose to respond orally; and
- h) Notice that the failure to respond at the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline.

The notice shall be provided in person or by certified mail, a copy of which is also provided to the Human Resources Department.

B. EMPLOYEE'S RESPONSE: The employee may have a representative present during all stages of the disciplinary process, including the conference with the department head regarding the notice of intent to discipline. The conference will be an informal meeting at which the employee has an opportunity to rebut the charges against him or her and present any mitigating circumstances. The department head will consider the employee's presentation before taking any final disciplinary action. The employee's failure to make an oral response at the arranged conference time, or the employee's failure to cause his or her written response to be delivered by the date and time specified in the notice, constitutes a waiver of the employee's right to respond prior to the imposition of the discipline. In that case, the proposed disciplinary action will be imposed on the date specified.

C. FINAL NOTICE OF DISCIPLINE: After considering the employee's response, or after the expiration of the employee's time to respond to the notice of intent, the department head shall: a) dismiss the notice of intent and take no disciplinary action against the employee; b) modify the intended disciplinary action; or c) impose the intended disciplinary action. Within ten (10) working days of receiving the employee's response, the department head shall prepare and provide the employee a notice that contains the following:

1. The level of discipline, if any, to be imposed and the effective date of the discipline;
2. The specific charges upon which the discipline is based;
3. A summary of the misconduct upon which the charges are based;
4. A copy of all written materials, reports, or documents upon which the discipline is based; and
5. A statement of the nature of the employee's right to appeal.

A copy of the notice shall be provided to the Human Resources Department.

D. **APPEAL OF DISCIPLINARY DECISION TO THE CITY/DISTRICT MANAGER:** An employee may appeal from a final notice of discipline by delivering a written answer to the charges and a request for appeal to the City/District Manager. The written answer and request for appeal must be received no later than 10 working days from the date of the department head's decision, except where City/District Codes or Rules and Regulations provide another appeal process, in which case the other appeal process may be used.

E. **DATE AND TIME OF APPEAL HEARING:** The City/District Manager shall set a date for an appeal hearing within ten (10) working days of receipt of a timely written answer and request for appeal. Any employee who, having filed a timely written answer and request for appeal, and who has been notified of the time and place of the appeal hearing, and who fails to appear personally at the hearing, may be deemed to have abandoned his or her appeal. In this case, the City/District Manager may dismiss the appeal.

F. **IDENTIFICATION OF ISSUES, WITNESSES, AND EVIDENCE:** No later than 10 working days prior to the appeal hearing, the parties will provide each other and the City Clerk/District Secretary a statement of the issues to be decided, a list of all witnesses to be called (except rebuttal witnesses), a brief summary of the subject matter of the testimony of each witness, and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City/District will use numbers to identify its evidence; the employee shall use alphabet letters. Neither party will be permitted to call during the hearing any witness who has not been identified pursuant to this section, nor to use any exhibit not provided pursuant to this section, unless that party can show that they could not have reasonably anticipated the need for the witness or exhibit.

G. **CONDUCT OF THE APPEAL HEARING:**

1. **SUBPOENAS:** The City Clerk/District Secretary has authority to issue subpoenas in the name of the City/District prior to the commencement of the hearing. Each party is responsible for serving his/her/its own subpoenas. City/District employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City/District employees who are subpoenaed to testify during non-working hours will be compensated for the time spent at the hearing.
2. **CONTINUANCES:** The City/District Manager may continue a scheduled hearing only upon good cause shown, and upon payment of any cancellation fees.
3. **RECORD OF THE PROCEEDINGS:** All disciplinary hearings may, at the discretion of the City/District Manager, be either recorded by a court reporter or tape recorded. Any party who requests a transcript of the proceedings must pay for its own copy of a transcript.
4. **AUTHORITY OF THE CITY/DISTRICT MANAGER:** As further detailed in this Rule, the City/District Manager has authority to control the conduct of the hearing and to affirm, modify, or revoke the discipline. The City/District Manager may designate a representative to act on his/her behalf to conduct an appeal hearing. If the City/District Manager exercises his/her authority and appoints a hearing officer, the hearing officer shall render a decision that shall be advisory to the City/District Manager. The City/District Manager has the

authority to accept, reject, or amend any advisory decision. In the event a hearing officer is selected, the hearing officer shall comply with all provisions of this Rule in conducting the hearing and rendering an advisory decision per Section 11 of this Rule.

5. CONDUCT OF THE HEARING:

- A. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner the City/District Manager decides is the most conducive to determining the truth.
- B. Any relevant evidence may be admitted if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.
- C. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. An objection is timely if made before submission of the case.
- D. The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- E. Irrelevant and unduly repetitious evidence may be excluded.
- F. The City/District Manager shall determine relevancy, weight and credibility of testimony and evidence.
- G. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon the request of either party.
- H. All witnesses shall be sworn in for the record prior to testifying at the hearing. The City/District Manager shall request each witness to raise his or her right hand and respond to the following: "Do you swear that the testimony that you are about to give at this hearing is the truth, the whole truth, and nothing but the truth?"

6. BURDEN OF PROOF AT THE HEARING: The City/District has the burden of proof by a preponderance of the evidence.

7. RIGHT TO DUE PROCESS: The employee shall have the following due process rights during the hearing:

- a) The right to be represented by legal counsel or another chosen representative, at his or her own expense;
- b) The right to call and examine witnesses on his or her behalf;
- c) The right to introduce evidence;
- d) The right to cross-examine opposing witnesses on any matter relevant to the issues;

- e) The right to impeach any witness regardless of which party first called him or her to testify; and
 - f) The right to rebut evidence against him or her.
8. HEARING TO BE CLOSED TO THE PUBLIC: The hearing will be closed to the public unless the employee requests that it be open.
9. PRESENTATION OF THE CASE: The parties will address their remarks, evidence, and objections, to the City/District Manager. All parties and their counsel or representatives shall not disparage the intelligence, morals, or ethics of their adversaries or of the City/District Manager. The City/District Manager may terminate argument at any time and issue a ruling regarding an objection or any other matter. The City/District Manager may alter the order of witnesses, limit redundant or irrelevant testimony, or directly question the witness. The hearing shall proceed in the following order unless the City/District Manager directs otherwise:
- a) The City/District shall be permitted to make an opening statement.
 - b) The employee shall be permitted to make an opening statement.
 - c) The City/District shall produce its evidence.
 - d) The employee shall produce his or her evidence. The City/District, followed by the employee, may offer rebuttal evidence.
 - e) Closing arguments of no more than 20 minutes shall be permitted at the discretion of the City/District Manager. The City/District shall have the right to argue first, the employee may argue second, and the City/District may reserve a portion of its argument time for rebuttal.
 - f) The City/District Manager or the parties may request the submission of written briefs. The City/District Manager will determine whether to allow written briefs, the deadline for submitting briefs, and the page limit for briefs.
10. WRITTEN FINDINGS AND DECISION: The City/District Manager shall render a statement of written findings and decision after the hearing has been completed and the briefs, if any, have been submitted. If the City/District Manager conducts the hearing, the decision of the City/District Manager is final. If a hearing officer renders an advisory decision, any decision by the City/District Manager to accept, reject, or amend that advisory decision shall be final.
11. PROOF OF SERVICE OF THE WRITTEN FINDINGS AND DECISION: The City/District Manager shall send his or her final decision, along with a proof of service of mailing, to each of the parties and to each of the parties' representatives.
12. STATUTE OF LIMITATIONS: The City/District Manager's written findings and decision is final. There is no process for reconsideration. Pursuant to Code of Civil Procedure section 1094.6, the parties have 90 days from the date of the proof of service of mailing of the written findings and decision to appeal the decision to the Superior Court in and for the County of San Mateo.
- 14.10 - ADMINISTRATIVE PROCEDURES: The City/District Manager may establish any administrative procedures he or she deems necessary to carry out the intent of this Rule.

14.11 - NO RETRIBUTION: No employee shall be penalized in any way for availing himself/herself of the disciplinary appeal process.

RULE 15 - GRIEVANCE PROCEDURE

15.01 - POLICY: This grievance procedure is intended to assure that every reasonable effort will be made to resolve problems as near as possible to the point of origin.

15.02 - ELIGIBILITY TO FILE A GRIEVANCE: A grievant is a regular classified employee or a recognized group of such employees affected by an act or omission of the City/District that occurred no more than 21 calendar days prior to the initiation of the grievance, provided that the act or omission falls within the definition of "grievance" as described herein.

15.03 - DEFINITION OF A "GRIEVANCE": Subject to the exclusions listed in this Rule, a grievance is defined as any dispute that: (1) is job-related, (2) is wholly or partially within the province of the City/District to rectify or remedy, (3) concerns terms and conditions of employment, (4) involves the interpretation, application, or alleged violation of these Rules, and (5) is not subject to any other City/District dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

The following matters are excluded from the definition of "grievance":

- a. Requests for changes in wages, hours, or working conditions, including any impasse or dispute in the meet and confer process or matter within the scope of representation;
- b. Requests for changes in the content of employee evaluations or performance reviews, oral or written warnings, reprimands or counseling memos;
- c. Challenges to the decision to reclassify, layoff, transfer, deny reinstatement, or deny a step or merit increase;
- d. Challenges to any disciplinary action; and
- e. Challenges to examinations or the appointment to positions.

No dispute shall be considered a grievance that does not conform to this definition, unless provided otherwise in a current applicable Memorandum of Understanding.

15.04 - GRIEVANCE PROCEDURE: The grievance procedure shall consist of the following four steps:

1. **INFORMAL DISCUSSION:** Within 21 calendar days of the occurrence of the act(s) that constitute the grievance, an employee shall discuss the grievance with his/her immediate supervisor, who shall investigate and attempt to resolve the matter. The supervisor shall give the employee an oral reply within 21 days after the discussion. If the employee is not satisfied with the reply, he or she may proceed to Step 2.

2. **DIVISION HEAD:** Any grievance not resolved at Step 1 may be submitted in writing to the division head no later than 21 days after the date of the supervisor's oral reply. The written grievance shall identify: a) the specific provision of these Rules or an applicable Memorandum of Understanding allegedly violated, misinterpreted, or misapplied; b) the specific act or omission which gave rise to the alleged violation, misinterpretation, or misapplication; c) the date or dates on which the violation, misinterpretation, or misapplication allegedly occurred; d) the documents, witnesses or other evidence that support the grievance; e) the desired solution or remedy; f) the signature and identity of grievant; and g) the person, if any, the grievant has chosen to be his or her representative. No grievance will be accepted for processing until all of the information listed above is provided.

The grievant shall provide a copy of the written grievance to the immediate supervisor and the Human Resources Director. Within 21 calendar days thereafter, the division head shall schedule a meeting with the grievant for the parties to work at resolving the grievance. The division head shall give the grievant a written reply within 21 calendar days after the meeting and shall file a copy with the Human Resources Director. If the grievant is not satisfied with the response, he/she may proceed to Step 3.

3. **DEPARTMENT HEAD:** Any grievance not resolved at Step 2 may be submitted in writing to the department head no later than 21 days after the date of the division head's written reply. The grievant shall provide the City/District Manager with copies of the Step 2 response. The grievant shall provide a copy of the written grievance to the division head and the Human Resources Director. Within 21 calendar days thereafter, the department head shall schedule a meeting with the grievant for the parties to work at resolving the grievance. The department head shall give the grievant a written reply within 21 calendar days after the meeting and shall file a copy with the Human Resources Director. If the grievant is not satisfied with the response, he/she may proceed to Step 4.
4. **CITY/DISTRICT MANAGER:** Any grievance not resolved at Step 3 may be submitted in writing no later than 21 days after the date of the department head's written reply. The submittal of the grievance shall, by mutual agreement, be to either the City/District Manager or to advisory fact-finding. The grievant shall provide copies of the Step 2 and 3 responses.
 - a) **Submittal to the City/District Manager:** In the event that a dispute is referred to the City/District Manager, he/she shall schedule a meeting within twenty one (21) calendar days with the employee to discuss the matter. After consideration of the facts and an investigation, if the City/District Manager deems necessary, the City/District Manager shall give his or her written decision to the grievant. The decision of the City/District Manager shall be final and binding.
 - b) **Submittal to Advisory Fact-Finding:** In the event that a dispute is referred to advisory fact-finding, the parties shall mutually agree upon an individual or a group, not to exceed three (3), to hear the facts of the case. If the parties cannot mutually agree as to the fact finder(s) within twenty one (21) calendar days after referral, the matter

shall be referred to the California State Mediation and Conciliation Service for advisory fact-finding and any costs divided equally between the two parties. The advisory fact-finding body shall render its recommendations to both parties within thirty (30) calendar days after referral. Within twenty one (21) calendar days after receipt of the advisory recommendations, the City/District Manager shall consider them and give his/her written decision to the employee. The decision of the City/District Manager shall be final and binding.

15.05 - **DECISION ON GRIEVANCE:** The decision of the City/District Manager shall be final and binding. The City/District Manager's/Fact Finder's decision shall be limited as follows:

- a) The decision shall neither add to, detract from, nor modify the language of these Rules or any applicable Memorandum of Understanding.
- b) The decision shall be confined to the precise issue(s) the grievance has raised and that the grievant has submitted.
- c) Any monetary award in favor of the grievant may not exceed wages or benefits that the grievant has actually lost as a result of the matters alleged in the grievance. In no event shall any grievance award include any compensatory damages or attorneys' fees.

15.06 - **SETTLEMENT OF GRIEVANCE:** Any grievance shall be deemed settled which is not appealed to the next step within the specified time limit unless an extension of time to a definite date has been mutually agreed upon in writing. Any grievance that the grievant fails to timely move to the next step shall be deemed resolved on the basis of the last disposition.

15.07 - **REPRESENTATION:** An employee may have a representative of his/her choice present at all stages of the grievance procedure, except that no one may be represented by an employee he or she supervises, and no employee may be represented by his or her supervisor or department head. If the representative is a fellow employee, that employee will receive time off from his or her work assignment for the time of the grievance meeting or hearing plus reasonable travel time. Forty-eight hours prior to the grievance meeting, the employee shall inform the Human Resources Office whether he or she shall be represented at the grievance meeting and shall identify the representative.

15.08 - **NO RETRIBUTION:** An employee shall not be penalized in any way for availing him or herself of this procedure.

15.09 - **WITHDRAWAL:** A grievant may withdraw any grievance at any time, without prejudice, by giving written notice to the City/District representative who last took action on the grievance, and by providing a copy of the notice to the Human Resources Department.

15.10 - **DELEGATION:** The City/District Manager may delegate non-involved department heads or other management-level employees to act on his or her behalf in this process. The finding and recommendations they render will be advisory to the City/District Manager, whose ultimate decision will be final and binding.

15.11 - COMPLIANCE WITH ORDERS BEFORE FILING GRIEVANCE: If an employee is given an order that he or she wishes to grieve, the employee must first comply with the order and file a grievance later, unless the employee reasonably believes that the assignment endangers the health or safety of the employee or others or if the employee reasonably believes that the requested assignment violates the employee's constitutional rights.

RULE 16 - MISCELLANEOUS

16.01 - ACKNOWLEDGEMENT: In accepting employment with the City/District each employee agrees to comply with City/District ordinances and resolutions, personnel rules and regulations, administrative rules, procedures and policies established by the City/District Manager, and rules, regulations and directives of the department in which he/she is employed.

16.02 - CIVIL DEFENSE: By State law every employee holding an appointment in the City/District service automatically becomes a civil defense worker in an emergency or disaster. Assignments for each department are stated in the City/District Emergency Preparedness Plan.

16.03 - SAFETY PRACTICES: Each employee is expected to perform his/her defined work in such a way as to prevent damage to property or injury to himself/herself or others and to report observed hazards to his/her supervisor.

16.04 - CHANGES OF EMPLOYEE ADDRESS OR STATUS: It is the responsibility of the employee to keep his/her immediate supervisor and the Human Resources Department informed of changes in residence/address, telephone number, marital status, beneficiaries, military status, emergency contact information, and any other pertinent information. Notification must occur within fourteen (14) calendar days after the change.

16.05 - GRATUITIES: An employee may not receive a gratuity from any individual, organization, or vendor doing business with the City/District without prior approval from the employee's supervisor. Under no circumstances is a gratuity's estimated aggregate value to be more than one hundred (\$100) dollars.

For the purpose of this policy, a gratuity is defined as a gift or service rendered to an individual. Gifts shall include, but are not limited to, money, candy, alcoholic beverages, tickets to events, trips, or the use of equipment or property. If an employee receives approval to accept a gift, the employee shall be encouraged to present and share it with the entire department or group.

16.06 - UNIFORMS: Employees required to wear uniforms while on duty shall adhere to departmental and City/District policy.

16.07 - USE OF CITY/DISTRICT IDENTIFICATION: In no event shall City/District uniforms, badges, identification cards or official insignias be worn while an employee is engaged by any employer other than the City/District, nor shall an employee loan or permit use of such items to unauthorized persons.

16.08 - POLITICAL ACTIVITY: The political activities of City/District employees shall be in compliance with State and Federal law. In addition, City/District employees shall not be permitted to:

- a) Participate in political activities during working hours;
- b) Political campaigning in City/District buildings or on premises adjacent to City/District buildings; or
- c) An employee from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

An employee elected to the governing body or appointed to an official advisory body of the City/District shall be required to relinquish his/her appointment to the City/District service.

16.09 - UNAUTHORIZED SOLICITING ON CITY/DISTRICT PROPERTY: Employees shall not solicit for any purpose on City/District property whether during on-duty or off-duty hours without the written permission of the City/District Manager.

16.10 - OTHER EMPLOYMENT: The City/District is the primary employer for all of its employees. Employment or enterprise outside of the City/District is a privilege and may only be undertaken in the following circumstances:

- a) Such employment does not impair the employee's ability to perform required duties or conflict with the City/District's interests; and
- b) Such employment is approved in writing by the department head and a copy is filed in the employee's personnel file in the Human Resources Department.

Approval may be denied or revoked for non-compliance with the provisions of a) and b) above. Approvals are subject to review by the City/District Manager.

During the workday, employees are expected to devote their full time in the performance of their assigned duties as City/District employees. Any outside work, part-time job, hobbies, or personal business must be performed during off-duty unpaid hours.

16.11 - EMPLOYEE USE OF CITY/DISTRICT FACILITIES: If available, employees may use City/District facilities with the prior approval of the City/District Manager. City/District property is to be used only for conducting City/District business unless otherwise authorized. City/District property includes, but is not limited to: telephones, cell phones, desks, computers (including hardware and software), file cabinets, lockers, communications stored or transmitted on City/District property (such as e- and voice-mails), vehicles and any other City/District property used by City/District employees in their work. Employees do not have a reasonable expectation of privacy in City/District property or equipment.

City/District property may be monitored and searched at any time and for any reason. Messages sent or received on City/District equipment, including cell phones, may be saved and reviewed by others. As a result, City/District employees have no expectation of privacy in the messages sent or received on City/District property or equipment. In addition, employees have no expectation of privacy when using social media on City/District equipment, including computers and cell phones. Employees are responsible for ensuring no information they wish to keep private is accessible to the City/District through their social media interaction.

Every City/District employee is required to adhere to all City/District rules and policies while on City/District property or using City/District property or equipment.

16.12 - EMPLOYEE USE OF CITY/DISTRICT COMMUNICATIONS EQUIPMENT: City/District employees may use City /District telephones and email for personal use provided that the use:

- a. Is kept to a minimum and limited to break times or non work hours;
- b. Does not have any impact upon other City/District employees or operations;
- c. Allows the employee to more efficiently perform City/District work; and
- d. Is not abusive, illegal, or inappropriate.

The following are examples of inappropriate and prohibited uses of the City's/District's communications systems:

- a. Exposing others, either intentionally or unintentionally, to material which is offensive, obscene or in poor taste;
- b. Any use that would be offensive to a reasonable person because it involves an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, medical condition (cancer or HIV/AIDS related), genetic characteristics, and physical or mental disability (whether perceived or actual);
- c. Communication of confidential City/District information to unauthorized individuals within or outside the City/District;
- d. Sending messages with content that conflicts with any City/District policies, rules or other applicable laws;
- e. Unauthorized attempts to access City/District data or systems;
- f. Theft or unauthorized copying of electronic files or data;
- g. Initiating or sustaining chain letters; and
- h. Intentionally misrepresenting one's identity for improper or illegal acts.

16.13 - DRUG FREE WORKPLACE: The City/District's workplace shall be drug and alcohol free. Refer to the Administrative Policy, *Drug Free Workplace Policy*, for more information.

16.14 - POLICY AGAINST VIOLENCE IN THE WORKPLACE: Acts of violence, whether threatened, gestured, or carried out will not be tolerated in a City/District workplace. Anyone witnessing or becoming the subject or victim of such behavior shall immediately report it to the proper authorities for investigation. Minimizing the threat of violence is a duty of all employees to ensure a safe workplace. Refer to the Administrative Policy, *Policy Against Violence in the Workplace*, for more information.