

***RULES OF THE CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS***



***As adopted and amended through February 19, 2023  
under the authority granted by Article X, Section 10 of  
the Constitution of the State of Louisiana***

***published March 9, 2023***

## **RULE CHANGES IN 1997**

|                       |  |                           |
|-----------------------|--|---------------------------|
| Rule VIII, Section 4  | Civil Leave                                      | amended March 24, 1997    |
| Rule I, No. 19        | Consecutive Service                              | amended April 24, 1997    |
| Rule II, Section 7    | Special Counsel & Other<br>Professional Services | amended April 24, 1997    |
| Rule V, Section 9     | Substance Abuse Testing                          | amended June 2, 1997      |
| Rule III, Section 8   | Transfer of a Functional Unit                    | amended June 26, 1997     |
| Rule I, No. 33        | Immediate Family                                 | amended November 20, 1997 |
| Rule VIII, Section 10 | Family Medical Leave                             | amended November 20, 1997 |
| Rule V, Section 9.15  | Substance Abuse Testing                          | amended November 20, 1997 |

## **NO RULE CHANGES IN 1998**

## **RULE CHANGES IN 1999**

|                            |  |                           |
|----------------------------|--|---------------------------|
| Rule V, Section 9.13       | Substance Abuse Testing                                  | amended February 25, 1999 |
| Rule I, No. 4              | Annual Rate  | amended March 4, 1999     |
| Rule I, No. 42             | Monthly Rate   | amended March 4, 1999     |
| Rule I, No. 60             | Regular Hourly Base Rate                                 | amended March 4, 1999     |
| Rule IV, Section 1.3 (a-c) | The Pay Plan   | amended March 4, 1999     |
| Rule IV, Section 1.5       | The Pay Plan   | amended March 4, 1999     |
| Rule IV, Section 1.6 (a-d) | The Pay Plan   | amended March 4, 1999     |
| Rule IV, Section 4.1       | Pay Rates of Casual Laborers and<br>Temporary Workers    | amended March 4, 1999     |
| Rule IV, Section 8 (a-g)   | Longevity Pay Increases                                  | amended March 4, 1999     |
| Rule I, No. 35             | Job Series   | amended April 29, 1999    |
| Rule III, Section 1.2      | Creating Classes and Allocating<br>Positions             | amended April 29, 1999    |
| Rule III, Section 5.3      | Dual Assignments   | amended April 29, 1999    |
| Rule V, Section 5.5        | Establishment of Promotion Lists<br>and Employment Lists | amended April 29, 1999    |
| Rule VI, Section 4.8 (a)   | Reinstatement and Reemployment                           | amended April 29, 1999    |
| Rule XII, Section 1.1      | Layoffs Administration                                   | amended April 29, 1999    |
| Rule IV, Section 2.3       | Pay Increases  | amended December 16, 1999 |

## **RULE CHANGES IN 2000**

|                                   |                                  |   |
|-----------------------------------|----------------------------------|---|
| Rule IV, Section 12               | Incentive pay                    | amended September 21, 2000,<br>adopted by Council October.<br>5, 2000 |
| Rule VIII,<br>Section 2.1(d)1,3,4 | Sick Leave                       | amended October 27, 2000  |
| Rule IX, Section 1.4              | Maintaining Standards of Service | amended December 14, 2000   |
| Rule II, Section 11.5             | Compliance with Orders           | amended December 14, 2000   |

## **RULE CHANGES IN 2001**

|                            |                               |                          |
|----------------------------|-------------------------------|--------------------------|
| Rule III, Section 6        | Contracts                     | amended January 25, 2001 |
| Rule II, Section 6.1 & 6.2 | Summary Disposition of Appeal | amended January 25, 2001 |
| Rule I, Number 52          | Privatize, Privatization      | amended March 22, 2001   |

**RULE CHANGES IN 2001** (continued)

|                         |   |                            |
|-------------------------|---|----------------------------|
| Rule V, Section 5       | Establishment of Promotional Lists and Employment Lists | amended July 25, 2001      |
| Rule II, Section 13     | Selection of Special counsel and and Hearing            | adopted September 17, 2001 |
| Rule V, Section 8       | Non-Competitive Examinations                            | amended September 17, 2001 |
| Rule VIII, Section 1.1  | Annual Leave  | amended December 13, 2001  |
| Rule VIII, Section 10.1 | Family Medical Leave                                    | amended December 13, 2001  |

**RULE CHANGES IN 2002**

|                         |                                  |  |
|-------------------------|----------------------------------|--|
| Rule IX, Section 1.4    | Maintaining Standards of Service | adopted November 13, 2002  |
| Rule IV, Section 1.3(a) | Pay Plan                         | adopted December 16, 2002  |
| Rule IV, Section 9.2(a) | Pay Plan                         | approved by Council June 5, 2003<br>adopted December 16, 2002,<br>approved by Council June 5, 2003,<br>effective July 13, 2002 |

**RULE CHANGES IN 2003**

|                      |                         |   |
|----------------------|-------------------------|---|
| Rule IV, Section 8.1 | Longevity Pay Increases | amended December 13, 2001<br>approved by Council February 6, 2003,<br>effective January 1, 2002 |
|----------------------|-------------------------|---|

**RULE CHANGES IN 2004**

|                              |                                       |                           |
|------------------------------|---------------------------------------|---------------------------|
| Rule I, #25, #58             | Definition of “Director” and “Record” | amended December 13, 2004 |
| Rule VIII, Sections 1, 2 & 3 | Annual and Other Forms of Leave       | amended December 13, 2004 |
| Rule VIII, Section 10        | Family Medical Leave                  | amended December 13, 2004 |
| Rule X                       | Records Rule                          | amended December 13, 2004 |
| Rule XIII                    | Veterans Preference                   | amended December 13, 2004 |

**RULE CHANGES IN 2005**

|                       |  |  |
|-----------------------|--|--|
| Rule II, Section 2.3  | Emergency Rules                                | amended September 29,2005<br>effective retroactive to August 29,2005 |
| Rule I, #20           | Definition of “Consecutive Service”            | amended and effective November 14, 2005                              |
| Rule II, Section 12.6 | Administration of the Employee-Member Election | amended November 14, 2005  |
| Rule XII, Section 6   | Preferred Reemployment Benefits                | amended and effective December 12, 2005                              |
| Rule VI, Section 4.1  | Reemployment and Reinstatement                 | amended and effective December 12, 2005                              |

**RULE CHANGES IN 2006**

|                       |                 |                      |
|-----------------------|-----------------|----------------------|
| Rule II, Section 4.21 | Attorneys’ Fees | amended May 15, 2006 |
|-----------------------|-----------------|----------------------|

## **RULE CHANGES IN 2006 (continued)**

|   |  |  |
|---|--|--|
| Rule IV, Section 11                         | Emergency Rate of Pay  | amended May 15, 2006,<br>adopted by the Council May 25, 2006<br>effective June 1, 2006 |
| Rule VI, Section 4.9<br>Rule II, Section 13 | Reinstatement and Reemployment<br>Selection of Professional Service<br>Contractors | amended and effective June 19, 2006  |
| Rule VIII, Section 1.3                      | Annual Leave Carried Forward   | amended July 17, 2006<br>amended and effective November 20,<br>2006                    |
| Rule V, Section 8.1                         | Non-competitive Exams  | amended December 18, 2006  |

## **RULE CHANGES IN 2007**

|  |   |   |
|--|---|---|
| Rule V, Section 9<br>Rule III, Section 4 | Substance Abuse Testing<br>Temporary Work in a Higher<br>Classification | amended and effective February 28, 2007<br><br>amended September 17, 2007 |
|--|---|---|

## **RULE CHANGES IN 2008**

|                    |               |  |
|--------------------|---------------|--|
| Rule IV, Section 2 | Pay Increases | amended November 17, 2008<br>approved by the Council April 23, 2009<br>effective April 5, 2009 |
|--------------------|---------------|--|

## **RULE CHANGES IN 2009**

|   |  |   |
|---|--|---|
| Rule VIII, Section 1.3<br>Rule XII, Section 9 | Annual Leave Carried Forward<br>Furlough to Avoid Layoff | amended and effective January 12, 2009<br>amended November 30, 2009<br>effective December 1, 2009 |
| Rule I, Section 1                             | Definition of Furlough                                   | amended November 30, 2009<br>effective December 1, 2009   |
| Rule V, Section 5.4                           | Combining Lists  | amended December 14, 2009<br>effective January 1, 2010  |

## **RULE CHANGES IN 2010**

|                        |   |  |
|------------------------|---|--|
| Rule VIII, Section 2.9 | Sick Leave (Police I.O.D. pay)          | amended January 25, 2010<br>effective February 1, 2010                     |
| Rule XII               | Layoffs                                 | amended March 15, 2010<br>effective April 1, 2010                          |
| Rule VI, Section 4     | Reinstatement and Reemployment          | amended March 15, 2010<br>effective April 1, 2010                          |
| Rule VIII, Section 2.9 | Sick Leave (Police I.O.D. pay)          | amended June 21, 2010<br>effective July 1, 2010                            |
| Rule IV, Section 9.8   | Overtime Compensation in<br>Emergencies | amended and effective July 19, 2010<br>approved by Council August 26, 2010 |

## **RULE CHANGES IN 2011**

|                             |                               |   |
|-----------------------------|-------------------------------|---|
| Rule VIII, Section 2.12 (g) | Leave Donation (annual leave) | amended March 21, 2011<br>effective April 1, 2011 |
|-----------------------------|-------------------------------|---|

## **NO RULE CHANGES IN 2012**

## **RULE CHANGES IN 2013**

|                         |                          |  |
|-------------------------|--------------------------|--|
| Rule V, Section 2.5     | Examinations             | amended February 18, 2013<br>effective March 1, 2013   |
| Rule VIII, Section 10.1 | Family and Medical Leave | amended February 18, 2013<br>effective March 1, 2013   |
| Rule XIII, Section 1.1  | Veteran's Preference     | amended February 18, 2013<br>effective March 1, 2013   |
| Rule VIII, Section 5    | Leave Without Pay        | amended October 21, 2013<br>effective November 1, 2013 |

## **RULE CHANGES IN 2014**

|                               |                           |   |
|-------------------------------|---------------------------|---|
| Rule I, Section 1, #42        | "Letter of Reprimand"     | amended February 17, 2014<br>effective March 1, 2014                                |
| Rule II, Section 4.1          | Appeals                   | amended February 17, 2014<br>effective March 1, 2014                                |
| Rule VIII, Section 1.4        | Leave Use                 | amended February 17, 2014<br>effective March 1, 2014                                |
| Rule XI, Sections 1.1 and 1.3 | Discipline                | amended February 17, 2014<br>effective March 1, 2014                                |
| Rule VI, Section 5.2          | Limited-Term Appointments | amended March 17, 2014<br>effective April 1, 2014                                   |
| Rule IV, Section 9            | Overtime                  | amended April 28, 2014<br>approved by Council June 2014<br>effective April 28, 2014 |
| Rule IV, Section 11           | Emergency Rate of Pay     | amended April 28, 2014<br>approved by Council June 2014<br>effective April 28, 2014 |

## **RULE CHANGES IN 2014 (continued)**

### Mayor's "Great Place to Work"-Related Changes:

|                      |  |  |
|----------------------|--|--|
| Rule 1, #38          | Definition of "Law"                            | amended August 25, 2014,<br>effective September 1, 2014              |
| Rule IV, Section 2.2 | Special Assignment Pay                         | amended August 25, 2014,<br>adopted by the Council 2014              |
| Rule IV, Section 2.4 | Departmental and Promotional<br>Certifications | amended August 25, 2014,<br>adopted by the Council 2014              |
| Rule IV, Section 2.5 | (a) Merit Increases                            | amended August 25, 2014,<br>adopted by the Council 2014              |
| Rule IV, Section 2.5 | (b) Merit Increases                            | amended August 25, 2014, adopted by the<br>Council December 11, 2014 |
| Rule IV, Section 2.6 | Pay Above Minimum                              | amended August 25, 2014, adopted by the<br>Council December 11, 2014 |
| Rule IV, Section 2.7 | Extraordinary Qualifications                   | amended August 25, 2014, adopted by the<br>Council December 11, 2014 |
| Rule V, Section 2.4  | Minimum Qualifications                         | amended August 25, 2014<br>effective September 1, 2014               |
| Rule V, Section 5.2  | Length of Lists                                | amended August 25, 2014<br>effective September 1, 2014               |
| Rule V, Section 10.1 | Workplace Diversity & Inclusion                | adopted August 25, 2014<br>effective September 1, 2014               |

|                      |                                   |  |
|----------------------|-----------------------------------|--|
| Rule VI, Section 1.1 | Filing of Vacancies               | amended August 25, 2014<br>effective September 1, 2014 |
| Rule VI, Section 2.1 | Change imposes multiple deadlines | amended August 25, 2014<br>effective September 1, 2014 |

**RULE CHANGES IN 2014** (continued)

Mayor’s “Great Place to Work”-Related Changes (continued):

|                              |                                     |  |
|------------------------------|-------------------------------------|--|
| Rule VI, Section 2.3         | Selective Certification             | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VI, Section 3.1         | Change eliminates rule of three     | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VI, Section 3.2         | (a) Order of certification lists    | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VI, Section 3.2         | (b) Change eliminates sliding bands | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VI, Section 4.1         | Reinstatement & Reemployment        | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VI, Section 4.3         | Preferred reemployment              | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VI, Section 6.1         | Appeals on appointments, etc.       | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VII, Section 1.2        | Working Test Period                 | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VIII, Section 4.2       | No Leave Charged during Training    | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule X, Section 1.6          | Inclusion Index                     | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule XI, Sections 1.1 - 1.13 | Performance Evaluation System       | amended August 25, 2014<br>effective September 1, 2014                         |
| Rule VI, Section 3.1         | Change eliminates rule of three     | re-amended November 3, 2014<br>effective December 1, 2014                      |
| Rule VI, Section 4.1         | Reinstatement & Reemployment        | re-amended November 3, 2014<br>effective December 1, 2014                      |
| Rule I, #40                  | Leave Day(s)                        | amended October 20, 2014, adopted by<br>the Council February 5, 2015           |
| Rule IV, Section 13          | Holiday Pay                         | amended October 20, 2014, adopted by<br>the Council February 5, 2015           |
| Rule I, #35                  | Immediate Family                    | amended December 15, 2014<br>effective January 1, 2015                         |
| Rule I, #80                  | Parental Leave                      | amended December 15, 2014<br>effective January 1, 2015                         |
| Rule VIII, Section 9         | Parental Leave                      | amended December 15, 2014, adopted by<br>the Council effective January 1, 2015 |

**RULE CHANGES IN 2015**

|                            |  |   |
|----------------------------|--|---|
| Rule IV, Section 2.5 (b)   | Merit Pay                                    | amended February 9, 2015, adopted by the<br>Council April 16, 2015                    |
| Rule III, Section 5        | Dual Assignments                             | amended June 15, 2015, effective July 1,<br>2015, adopted by the Council July 9, 2015 |
| Rule X, Section 1.3        | Personnel, Payroll and<br>Attendance Records | amended July 20, 2015<br>effective August 1, 2015                                     |
| Rule VIII, Section 2.9 (a) | Sick Leave (Police Injured<br>On Duty Leave) | amended July 20, 2015<br>effective August 1, 2015                                     |

## **RULE CHANGES IN 2015 (continued)**

|                                   |                                       |   |
|-----------------------------------|---------------------------------------|---|
| Rule I                            | “Cumulative Service Time”             | amended July 20, 2015, adopted by the Council August 20, 2015       |
| Rule VI, Section 4.8              | Reinstatement/Reemployment            | amended July 20, 2015, adopted by the Council August 20, 2015       |
| Rule XII, Section 6.6 (See above) |                                       |   |
| Rule IV, Section 2.2              | Special Assignment Pay                | amended July 20, 2015, adopted by the Council February 4, 2016      |
| Rule IV, Section 2.7              | Extraordinary/Superior Qualifications | amended November 16, 2015, adopted by the Council February 6, 2016  |
| Rule IV, Section 8                | Longevity Pay                         | amended July 20, 2015, adopted by the Council August 20, 2015       |
| Rule VIII, Section 1.2            | Bonus Annual Leave Days               | amended July 20, 2015, adopted by the Council August 20, 2015       |
| Rule VIII, Section 2.2            | Bonus Sick Leave Days                 | amended July 20, 2015, adopted by the Council August 20, 2015       |
| Rule III, Section 4               | Temporary work in a higher class      | amended September 21, 2015, adopted by the Council February 6, 2016 |

## **RULE CHANGES IN 2016**

|                         |                            |   |
|-------------------------|----------------------------|---|
| Rule I, #33             | “Examination”              | amended June 20, 2016, effective July 1, 2016                   |
| Rule II, Sections 4 & 8 | Appeals                    | amended June 20, 2016, effective July 1, 2016                   |
| Rule II, Section 6      | Contracts                  | amended June 20, 2016, effective July 1, 2016                   |
| Rule IV, Section 2.5    | Merit Increases            | amended June 20, 2016, adopted by the Council September 8, 2016 |
| Rule IV, Section 9      | Overtime                   | amended June 20, 2016, adopted by the Council September 8, 2016 |
| Rule VI, Section 3      | Certification of Eligibles | amended June 20, 2016, effective July 1, 2016                   |
| Rule XI, Section 1      | Performance Evaluation     | amended June 20, 2016, effective July 1, 2016                   |

## **RULE CHANGES IN 2017**

|                               |  |   |
|-------------------------------|--|---|
| Rule II, Section 8            | Contempt                                       | amended January 9, 2017, effective February 1, 2017                 |
| Rule I, Paragraph 10          | Base Rate Definition                           | amended February 20, 2017   |
| Rule IV, Section 2.5          | Merit Pay                                      | amended February 20, 2017, effective April 6, 2017                  |
| Rule IV, Section 14           | Pay Upon Promotion                             | amended February 20, 2017, effective April 6, 2017                  |
| Rule VIII, Section 4.1        | Civil Leave                                    | amended February 20, 2017, effective February 7, 2017               |
| Rule II, Sections 12.5 & 12.7 | Administration of the Employee-Member Election | amended March 20, 2017  |
| Rule VII, Section 2.8         | Working test period                            | amended September 25, 2017  |
| Rule IV, Section 11.2         | Emergency Pay                                  | amended September 25, 2017, adopted by the Council October 26, 2017 |

## **RULE CHANGES IN 2018**

|                           |   |                           |
|---------------------------|---|---------------------------|
| Rule IV, Section 9.7 (a)  | Overtime                                  | amended March 19, 2018    |
| Rule III, Section 4.1 (b) | Temporary Work in a Higher Classification | amended May 21, 2018      |
| Rule V, Section 9(c)      | Substance Abuse Testing                   | amended November 19, 2018 |

## **RULE CHANGES IN 2019**

|                                      |   |                          |
|--------------------------------------|---|--------------------------|
| Rule IV, Section 14                  | Prescriptive Period for Back Pay Claims | amended January 28, 2019 |
| Rule XI                              | Performance Evaluations                 | amended January 28, 2019 |
| Rule XII, Section 3.3, 3.4, 5, & 8.3 | Layoffs                                 | amended January 28, 2019 |
| Rule VIII Section 9.1                | Leave for Parental Reasons              | amended May 31, 2019     |
| Rule IV, Section 2.5 (h)             | Merit Pay                               | amended October 6, 2019  |

## **RULE CHANGES IN 2020**

|                         |  |  |
|-------------------------|--|--|
| Rule I                  | “Emergency Family and Medical Leave”             | amended April 20, 2020   |
| Rule I                  | “Emergency Sick Leave”                           | amended April 20, 2020   |
| Rule VIII, Section 2.14 | Emergency Paid Sick Leave                        | amended April 20, 2020   |
| Rule VIII, Section 10.2 | Emergency Family and Medical Leave Expansion Act | amended April 20, 2020   |
| Rule I                  | “Pay Equity Adjustment”                          | amended June 7, 2020   |
| Rule I                  | “Salary Compression”                             | amended June 7, 2020   |
| Rule IV, Section 2.8    | Pay Equity Adjustment                            | amended June 7, 2020   |
| Rule II, Section 4.22   | Electronic Signatures                            | amended July 20, 2020  |
| Rule XII, Section 9.2   | Furlough Adjustments                             | amended and adopted by the Council effective December 21, 2020 |

## **RULE CHANGES IN 2021**

|                               |   |  |
|-------------------------------|---|--|
| Rule VIII, Section 1.2        | Bonus Annual Leave Days                       | amended June 10, 2021 and adopted by the Council effective June 17, 2021 |
| Rule II, Section 4.17         | Appeal Process                                | amended June 21, 2021  |
| Rule IV Section 1.6           | Shift Differential                            | amended June 21, 2021, adopted by the Council effective June 27, 2021    |
| Rule IX Section 1.4           | Investigations of Classified Employees        | amended July 19, 2021  |
| Rule III, Section 7.1(b)      | Unclassified Positions                        | amended July 19, 2021  |
| Rule VI Section 6             | Investigations of Appointments and Promotions | amended July 28, 2021  |
| Rule VII Section 2.9          | Interruption of Working Test Period           | amended July 28, 2021  |
| Rule XI Section 1.5 (a) & (e) | Performance Evaluation Timeframe              | amended September 29, 2021   |
| Rule II Section 9.2           | Waiver or Reduction of Costs                  | amended September 29, 2021   |

## **RULE CHANGES IN 2022**

|                           |   |  |
|---------------------------|---|--|
| Rule IV Section 14        | Retention Pay Based on Outside Job Offers | amended April 11, 2022 and adopted by the Council effective May 22, 2022 |
| Rule IV Section 2.8 (3) b | Pay Equity Adjustment                     | amended April 11, 2022 and adopted by the Council effective May 22, 2022 |
| Rule V Section 8.1(d)     | Non-competitive Classifications           | amended May 16, 2022   |
| Rule VI Section 3.5(d)    | 45 Day Certification Period               | amended October 17, 2022   |



## **RULE CHANGES IN 2023**

|   |                         |   |
|---|-------------------------|---|
| Rule XI 1.6 (e)   | Performance Evaluations | amended November 3, 2022 and adopted by the Council effective January 23, 2023  |
| Rule IV Section 2.5   | Merit Pay               | amended November 3, 2022 and adopted by the Council effective January 23, 2023  |
| Rule IV Section 1.3(b) & 9.1(b)   | Fire Pay Cycle          | amended January 20, 2023 and adopted by the Council on February 19, 2023        |
| Rule I #82 &<br>Rule VIII Sections 9, 9.1, 9.4 &<br>Rule IV Section 9.4 | Parental Leave          | amended January 20, 2023 and adopted by the Council effective February 19, 2023 |

**RULES OF THE  
CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

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## CITY CIVIL SERVICE RULES

(as adopted December 9, 1953, and adopted and amended July 22, 1975 effective August 1, 1975, and in accordance with Article X of the Louisiana State Constitution of 1974)

### RULE I

#### DEFINITIONS

(amended May 8, 1958, September 24, 1979, November 8, 1979, November 16, 1979, August 28, 1980, March 12, 1981, October 26, 1982, April 19, 1983, July 12, 1984, September 13, 1984, October 23, 1985, February 13, 1986, January 21, 1988, May 19, 1988, August 24, 1989, amended September 27, 1990, amended October 25, 1990, City Council approved December 6, 1990, April 20, 1995, April 24, 1997, November 20, 1997, March 4, 1999, April 29, 1999, amended December 13, 2004, effective January 1, 2005, amended November 14, 2005, effective November 14, 2005, amended November 30, 2009, amended February 17, 2014, effective March 1, 2014, amended August 25, 2014, effective September 1, 2014, amended December 15, 2014, effective January 1, 2015)

**Section 1. The following words and phrases, when used in these Rules, shall have the following meaning:**

1. "Accumulated Annual Leave": annual leave earned and not used.
2. "Advance in Rate of Pay": a salary increase given to an employee for a reason other than a change in the classification of the employee's position or a change in the established pay grade of the employee's class of positions. (amended September 27, 1990)
3. "Allocation": the official determination of the class to which a position in the classified service belongs.
4. "Annual Rate": the amount established exclusively by the Civil Service Commission as enumerated in the pay grade table of the classified pay plan which represents salary or wages earned by or paid to any employee by reason of services rendered in any position. (adopted March 4, 1999, effective March 28, 1999)
5. "Appointing Authority": any officer, board, agency, commission, or person having the power to make appointments to positions in the city service.
6. "Appointment": the designation of a person, by due authority, to become an employee in a position, and his induction into employment in the position.
7. "Appropriate Employment List": the list established for a particular class of position or, in the absence of such a list, another list of names of persons who, because they meet certain required standards or possess certain minimum qualifications, are deemed by the Director to be eligible for appointment to a position in a class other than the class for which they were examined or in which they have permanent status.

8. "Average Service Rating": the simple arithmetic mean of the average scores (the actual numerical values) given on the employee service rating forms. (amended November 16, 1979)
9. "Band": a series of test scores, defined by a high score and a low score, which, based upon the psychometric properties of the total distribution of test scores, may be interpreted as indicative of a given level of knowledge, skill or ability for a job class. (adopted October 26, 1982, effective October 26, 1982)
10. "Base Rate": that amount established exclusively by the Civil Service Commission as enumerated in the pay range table of the classified pay plan which represents salary or wages earned by or paid to any employee by reason of services rendered in any position, exclusive of all overtime payment, longevity pay, shift differential pay, special rates of pay and temporary pay increases earned in accordance with these rules.
11. "Bonus Sick Day(s), Bonus Vacation Day(s)": sick or vacation leave days that are in addition to employees' normal accrual. These are measured and used in the manner described in the definition for "leave days" (amended April 20, 1995).
12. "Certification ": official notice to an appointing authority, by the Department, of a list of names of persons from an appropriate employment list, who are eligible to be considered for appointment to a position in the classified service.
13. "Certification after Probation": official notice by an appointing authority that an employee has satisfactorily completed his working test period.
14. "City Service" or "Civil Service of the City": all offices and positions of trust or employment with the city, any department, agency, board or commission thereof, or corporation organized for public purposes, including persons employed by city or joint federal and city agencies administering city and federal relief and other funds, other than the military and naval service, irrespective of whether the pay for the offices and positions of trust or employment be paid out of the city treasury either in whole or in part, except those excepted by the provision of Article X of the Constitution of Louisiana.
15. "Class" or "Class of Positions": a definitely recognized kind of employment in the classified service, designed to embrace positions that are so nearly alike in the essential character of their duties, responsibilities, and consequent qualification requirements, that they can fairly and equitably be treated alike under like conditions for all personnel purposes.
16. "Classification Plan": all the classes of positions established for the classified service.
17. "Classified Service": all offices and positions of trust or employment in the city service, except those placed in the unclassified service by Section 2 of Article X of the Constitution of Louisiana.
18. "Commission": the City Civil Service Commission.
19. "Competitive Position": any position in the classified service that is subject to the

requirements relating to appointment on the basis of competitive tests of fitness, and applies to every position in the classified service that is not expressly excepted or included among the positions in the unclassified service.

20. "Consecutive Service": continuous performance of official duties under current employment in the classified service for an uninterrupted period of time. In cases where an employee has been separated under the provisions of Rule IX because of inability to work due to an on-the-job injury, or as the result of a layoff under the provisions of Rule XII, the employee, upon reinstatement, shall retain his/her original consecutive service date. However, consecutive service is broken by an employee's dismissal, resignation, or retirement, except when an employee enters a Deferred Retirement Option Plan (DROP) or retires due to layoff. (adopted August 28, 1980, amended January 21, 1988, effective February 1, 1988, amended April 24, 1997, amended and effective November 14, 2005)
21. "Continuous Examination": an examination for which no final filing date has been set, which will be given on more than one date, and from which the resulting employment list is an open list.
22. "Cumulative service time": that time of consecutive service, as defined above, prior to a break in service, which, when meeting the conditions of these Rules, counts as additional service time towards the calculation of longevity pay increases, annual bonus leave days and sick bonus leave days.
23. "Demotion": a change of an employee in the classified service from a position in one class to a position in another class for which a lower pay grade is provided in the pay plan. (amended July 12, 1984, effective August 1, 1984, amended September 27, 1990)
24. "Department": the Department of City Civil Service, including both the Commission and the Director.
25. "Departmental Certification": certification from a promotional register of a list of persons who already have permanent status in a lower class of positions in the same department.
26. "Director": shall mean the Personnel Director as provided for in Article X of the Louisiana State Constitution. (amended December 13, effective January 1, 2005)
27. "Division": any major section or officially designed component or part of an organization unit of city government. (amended November 8, 1979)
28. "Dual Assignment": The assignment on an occasional basis of additional duties and responsibilities ordinarily not embraced by the employee's classification, but comprising such different and distinct characteristics that the employee discernibly functions in another classification of work. (adopted July 12, 1984, effective August 1, 1984)
29. "Eligible": a person whose name is on a list.
30. "Emergency Family and Medical Leave": absence from duty in accordance with the provisions of the Emergency Family and Medical Leave Expansion Act of the Families First Coronavirus Response Act, as provided in Rule VIII, section 10.2. This definition shall expire on December 31, 2020.

31. "Emergency Sick Leave": absence from duty in accordance with the provisions of the Emergency Paid Sick Leave Act of the Families First Coronavirus Response, as provided in Rule VIII, section 2.14. This definition shall expire on December 31, 2020.
32. "Employee": a person legally occupying a position.
33. "Employment List": an original entrance employment list, a promotion employment list, or a reemployment list.
34. "Entrance Examination": an examination for positions in a particular class, admission to which is not limited to persons employed in the city service.
35. "Examination": the entire qualifying procedure through which an applicant for a classified position must go in his attempt to gain a place on an employment or promotional list. An examination is any formal assessment or combination of assessments used to evaluate an applicant's qualifications, licenses, certificates and job-related experience. Examinations include but are not limited to tests, rating of experience and training, assessment of minimum qualifications, resume evaluations, structured oral examinations, and job interviews. (amended June 20, 2016)
36. "Functional Unit": any officially designated subsection of a division which is contained in an organization unit of city government. (adopted November 8, 1979)
37. "Furlough": a period of absence from work without pay required of employees by an appointing authority for fiscal or other valid reasons, in order to avoid a layoff. (adopted November 30, 2009)
38. "Immediate Family": an employee's father or mother, wife or husband, son or daughter, brother or sister, grandfather and (*sic*) grandmother and if living under the same roof with the employee, other relatives or relatives by marriage or a domestic partner who is registered with the Clerk of Council in accordance with Chapter 87, Section 87-5 of the City Code. (amended November 20, 1997, effective December 1, 1997, amended December 15, 2014, effective January 1, 2015)
39. "Job Series": a series of classes or a group of positions which have a close occupational relationship and provide a natural career progression. (amended April 29, 1999)
40. "Lateral Classification Change": the change of an employee from a position in one classification to one in another classification at the same pay grade for which the employee is qualified. (amended April 20, 1995)
41. "Law": Article X of the Constitution of Louisiana and the Rules adopted pursuant to Article X of the Constitution, shall be known as the Law. (amended August 25, 2014, effective September 1, 2014)
42. "Layoff": the termination of an employee because of lack of work or financial appropriation, abolition of position, or any other cause which is not of a disciplinary nature and does not warrant an appeal. (amended May 19, 1988, effective June 1, 1988)



43. "Leave Day(s)": a period of time equivalent to an employee's regularly scheduled working day.
- For employees whose work week is thirty-five (35) hours, "leave day" is defined as seven (7) hours.
  - For employees whose work week is forty (40) hours, "leave day" is defined as eight (8) hours.
  - For non-exempt law enforcement personnel, "leave day" is defined as eight (8) hours and thirty-three (33) minutes.
  - For Fire Department employees on a "24 hour on - 48 hour off" work schedule, "leave day" is defined as twelve (12) hours. (amended April 20, 1995)
  - For Fire Department employees on a "5 day - 46 hour work schedule, "leave day" is defined as nine (9) hours and twelve (12) minutes. (amended October 20, 2014, effective November 1, 2014)
44. "Leave Year": a continuous period of twelve calendar months beginning on January 1 of any year.
45. "Letter of Reprimand:" a letter of reprimand is an early step in a progressive disciplinary system. It points out job performance areas that need improvement. It may be used to support additional disciplinary steps and, as such, is kept in a centralized personnel file to be referred to as needed. This characteristic distinguishes it from other documentation, such as a documentation of oral counseling, which is not kept centrally. (Amended February 17, 2014, effective March 1, 2014)
46. "List": an employment list, an original entrance employment list, a promotion employment list, or a reemployment list.
47. "Monthly Rate": the amount established by taking the annual rate and dividing by 12. (adopted March 4, 1999, effective March 28, 1999)
48. "Open List": a list to which eligibles may be added from time to time through the continuous examination procedure.
49. "Organization Unit": any agency, board, commission or department of city government that is designated by rule or regulation as a complete governmental unit for purposes of administration of this Law. (amended November 8, 1979)
50. "Original Entrance Employment List": an employment list for a class resulting from tests of fitness open to all applicants who meet the prescribed requirements for admission to the tests, regardless of prior employment in the classified service.
51. "Pay": salary, wages, fees, allowances, and all other forms of valuable consideration, or the amount of any one or more of these, earned by or paid to any employee by reason of services rendered in any position; does not include allowances for expenses authorized and incurred as incidents to employment.
52. "Pay Equity Adjustment": an adjustment to an employee's pay to maintain uniform pay within an occupational group/career series or job classification.
53. "Pay Plan: all the scales of rates of pay prescribed under provisions of the Law for classes

of positions in the classified service.

54. "Pay Status" of an employee: his presence for work or absence on authorized leave with pay during and throughout each working day in a specified period.
55. "Personnel Form, Personnel Document, Payroll Document": the forms or documents, paper or electronic, designated by the Personnel Director for use in effecting personnel or payroll changes. (amended April 20, 1995)
56. "Position": any office or any employment, in the service of the city, or two or more of them, the duties of which call for services to be rendered by one person, including positions jointly employed by federal and City agencies administering federal and City relief funds.
57. "Preferred Reemployment": a special case of reemployment which provides the employee with unique rights and is available only to employees who have been laid off. (amended April 20, 1995)
55. "Privatize", "Privatization": The performance by private enterprise or other public, private or non-profit entities of a function or service which has been, or could be, provided by employees in the classified service. (amended March 22, 2001, effective April 1, 2001)
56. "Promotion": a change of an employee in the classified service from a position in one class to a position in another class for which a higher pay grade is provided in the pay plan. (amended July 12, 1984, effective August 1, 1984, amended September 27, 1990)
57. "Promotion Employment List" or "Promotion List": an employment list for a class resulting from tests of fitness limited to applicants who are employees of lower classes in the classified service.
58. "Promotional Examination": an examination for positions in a particular class, admission to which is limited to qualified applicants who possess permanent or probationary status in a classification with a lower pay grade. Probationary appointments to classifications having the same pay grade and temporary appointments to higher classifications which do not void the employee's permanent or probationary status shall not disqualify applicants who are otherwise qualified. (amended September 13, 1984, effective October 1, 1984, amended September 27, 1990)
59. "Public Hearing": a hearing held after written public notice has been posted at the principal office of the Civil Service Commission not less than twenty-four (24) hours before the meeting, at which any person may have a reasonable opportunity to be heard, in accordance with rules and regulations adopted by the Commission. (amended September 24, 1979)
60. "Public Notice": shall consist of the posting of a notice of intention on the part of the Commission or Department to take certain action. This notice shall be posted on a bulletin board located at the offices of the Department or published in the official journal of the City.
61. "Record": Any form, record, document or similar conveyance in physical or electronic form. (amended December 13, 2004, effective January 1, 2005)

62. "Reemployment": the reappointment, via a reemployment list, of a former regular employee who was separated for reasons other than fault or delinquency, to a position in the class from which he or she was separated. Also, the reappointment of a present employee who had been demoted. (amended April 20, 1995)
63. "Reemployment List": an employment list for a class consisting of a list of names of persons who have previously occupied positions allocated to the class, and who have been found to be entitled to certification for reappointment to positions of the class.
64. "Regular Employee": an employee who has been appointed to a position in the classified service in accordance with the Law and these Rules and who has completed the working test period.
65. "Regular Hourly Base Rate": a gradient mode of salary converted from any of the uniform annual salary steps established exclusively by the City Civil Service Commission as enumerated in the salary table of the Classified Pay Plan. (adopted April 19, 1983, amended March 4, 1999, effective March 28, 1999)
66. "Regulation": a definition, policy, or mode of procedure, consistent with the Rules, formally prescribed in writing by the Director to govern the manner of giving effect to a part of Section 10, Article X of the Constitution of Louisiana and these Rules.
67. "Re-Hire": the employment of a former employee who has no rights beyond those of a new employee, but for whom personnel records may exist. (amended April 20, 1995)
68. "Reinstatement": the reappointment of a former working test or regular employee who was separated from his or her position for reasons other than fault or delinquency. Reinstatement is made to a position in the same class, with the same department, as that vacated by the employee. (amended April 20, 1995)
69. "Salary Compression": occurs when there is only a small difference in pay between employees regardless of their skills or experience.
70. "Selective Certification": certification to an appointing authority by the Department of a list of names of persons who have been specifically selected from an appropriate employment list because of their possession of certain necessary and specified qualifications.
71. "Sick Leave": absence from duty because of the employee's (1) illness or injury, or (2) quarantine by health authorities. Sick leave shall also be granted for absence because of death in the immediate family of the employee (see definition for "immediate family"). (amended April 20, 1995)
72. "Sick Leave with Pay": (a) payment on account of sickness or accident disability (including quarantine by health officials and absence before or after childbirth due to medical reasons); or (b) payment for time absent due to death in immediate family. (adopted December 28, 1978)
73. "Special Hourly Base Rate": a gradient mode of salary which is determined by combining the supplemental pay established by the state legislature with city millage distribution

dedicated for increasing the pay of police and fire personnel, converting that sum to an hourly rate, which is then added to the regular hourly base rate. (adopted April 19, 1983, amended October 23, 1985, effective April 13, 1986)

74. "Substance Abuse Testing": an appropriate screening procedure to test for the presence of any substance, medication or drug that, when taken or used alone or in combination with some other substance or drug, will modify one or more of the normal sensory or motor body functions (i.e., coordination, reflexes, vision, etc.) in an individual. This includes alcohol; any and all forms of narcotics, depressants, stimulants or hallucinogens whose sale is restricted or controlled by law, as well as prescription medication legally obtainable in Louisiana, but which nevertheless has been obtained or used illegally. (adopted August 24, 1989, effective September 1, 1989)
75. "Temporary Appointment": an appointment for a limited period of service without acquisition by the appointee of any continuing right to be retained as an employee beyond that period.
76. "Termination of Service": Separation of an employee from his position by reason of death, resignation, layoff, dismissal, expiration of his term of appointment, or failure to return after the expiration of a period of authorized leave.
77. "Test": a specific phase of the examination process, such as a written test, performance test, oral interview, experience rating, etc.
78. "Transfer": the change of an employee from a position in one organization unit to a position in another organization unit in the same classification; see also "Lateral Classification Change". (amended April 20, 1995)
79. "Unassembled Examination": an examination or test for which candidates are not all assembled in the same place at the same time.
80. "Voluntary Demotion": a change made with the employee's consent to a classification at a lower pay grade. (April 20, 1995)
81. "Working Test Period Employee": an employee who has been appointed to a position from an employment list, but who has not completed the working test period. The terms "probation period" and "probationary employee" shall be considered identical with "working test period" and "working test employee".
82. "Parental Leave": leave for parental reasons is a period of absence for eligible employees who have obtained at least twelve months of service, subject to the restrictions provided herein, relative to the birth, adoption, or placement of a child which meets the requirements of a qualifying event under the Family Medical Leave Act (FMLA). (amended January 20, 2023, effective February 19, 2023)
83. "Parental role": a parent, legal guardian, or person with whom a child has been placed via adoption or foster care. (adopted January 20, 2023, effective February 19, 2023)

## RULE II

### ORGANIZATION, RULES, AND PROCEDURES OF COMMISSION

(as adopted December 9, 1953 and amended May 19, 1954, January 9, 1957, June 12, 1957, July 6, 1972, January 11, 1973, February 27, 1974, January 30, 1975, July 22, 1975, March 13, 1980, November 13, 1980, June 10, 1982, July 8, 1982, October 15, 1982, October 26, 1982, August 25, 1983, September 8, 1983, October 19, 1983, November 10, 1983, December 15, 1983, December 11, 1986, January 21, 1988, May 19, 1988, August 18, 1994, June 19, 1995, August 22, 1996, November 21, 1996, April 24, 1997, December 14, 2000, January 25, 2001, adopted September 17, 2001, amended September 29, 2005, amended November 14, 2005, amended May 15, 2006, amended July 17, 2006, amended February 17, 2014, effective March 1, 2014, amended June 20, 2016, effective July 1, 2016)

#### Section 1. ORGANIZATION OF THE COMMISSION

- 1.1 The domicile of the Commission shall be within the City of New Orleans. The Commission shall be composed of five members, all of whom are electors of the City, three of whom shall constitute a quorum for the transaction of business and appeals. The findings of a majority of such quorum shall control. (amended January 21, 1988, effective February 1, 1988)
- 1.2 Members of the commission shall serve overlapping terms of six years as hereinafter provided. Each Commissioner shall serve until his successor is appointed. (amended January 21, 1988, effective February 1, 1988)
- 1.3 The presidents of Dillard University, Loyola University, Tulane University and Xavier University in New Orleans, after giving consideration to representation of all groups, each shall nominate three persons. The municipal governing authority shall appoint one member of the Commission from the three persons nominated by each University. As provided in Section 12 of this Rule, the municipal governing authority shall appoint an employee-nominee to the remaining position on the Commission. (adopted January 21, 1988, effective February 1, 1988)
- 1.4 Vacancies in any of the four University-nominated appointments shall be filled in accordance with procedures for the original appointments and from the same source. Within thirty days after a vacancy occurs, the University president concerned shall submit the required nomination. Within thirty days thereafter, the municipal governing authority shall make the appointment. If the municipal governing authority fails to appoint within the thirty days, the nominee whose name is first on the list of nominees automatically shall become a member of the Commission. (adopted January 21, 1988, effective February 1, 1988)

- 1.5 Each of the four University-nominated Commission members shall be paid fifty dollars for each day of actual attendance at a meeting of the Commission, not to exceed four thousand dollars for any member in any year, and shall be reimbursed for actual travel expenses authorized by the Commission. (amended January 21, 1988, effective February 1, 1988)
- 1.6 Election of a Chairman: The Commission shall, at the regular meeting in September of each year, elect one of its members Chairman for a term of one year, or until a successor is duly elected. If because of death, resignation or otherwise, the office of Chairman is vacated before the expiration of the term of office, the Commission shall elect a successor at its next regular meeting. (amended January 1, 1988, effective February 1, 1988)
- 1.7 Rules of Order: The Commission shall not be bound by any rules of order, evidence or procedure in its meetings, hearings or investigations, except such as it may itself establish. (amended January 21, 1988, effective February 1, 1988)
- 1.8 The Personnel Director, acting as Secretary to the Commission, shall keep adequate records and minutes of its business and official actions. (amended January 21, 1988, effective February 1, 1988)

Section 2. RULES

- 2.1 Adoption or amendment: These rules shall be adopted or amended by the Commission only after public hearing.
- 2.2 Effective date of amendments: An amendment to the rules shall become effective on the first day of the month following the date of adoption by the Commission, unless otherwise specifically provided.
- 2.3 Upon the proclamation of a state of emergency by the Governor of the State of Louisiana or the Mayor of the City of New Orleans in accordance with law, the Commission or the Chairman of the Commission acting alone if the Chairman is unable to convene a meeting of a quorum of the Commission after diligent effort, may adopt such rules as it or the Chairman may deem necessary, or as may be requested by the Mayor as necessary, for the preservation of the public fisc and may, by Order directed to the Personnel Director, empower the Personnel Director to adopt interim emergency administrative rules and procedures consistent with these Rules, as amended, provided that all actions taken by the Director pursuant hereto shall be ratified by the Commission as soon as practicable at any regular or special subsequent meeting thereof. The provisions of this rule shall be retroactive to August 29, 2005. (amended September 29, 2005, effective August 29, 2005)

Section 3. MEETINGS

- 3.1 At least one regular meeting of the Commission shall be held in each month except in the months of July and August. (amended January 21, 1988, effective February 1, 1988)

- 3.2 Special meetings may be held at times and places specified by call of the Chairman, or of any three members of the Commission.
- 3.3 Notice of the time and place of all regular meetings shall be given in writing to each member of the Commission by the Personnel Director. (amended January 21, 1988, effective February 1, 1988)
- 3.4 Meetings of the Commission shall be open to the public.
- 3.5 Unless otherwise specified by the Commission, meeting of the Commission shall be held at its offices in space provided for it by the proper city officials, and the Commission shall maintain its records at that office.
- 3.6 Unless otherwise specified by the Commission, no weapons shall be allowed at any Commission meeting or employee appeal hearing. Weapons of any kind must be relinquished to the custody of the Personnel Director or his representative. (adopted January 21, 1988, effective February 1, 1988)

#### Section 4. APPEALS

- 4.1 Regular employees in the classified service shall have the right to appeal disciplinary actions to the Commission, including dismissal, involuntary retirement, demotion, suspension, fine, reduction in pay, or letters of reprimand as defined in Rule I. However, a demotion, reinstatement to a lower classification, transfer, reduction in pay or layoff resulting from the application of the provisions of Rule XII governing layoffs shall not be considered a disciplinary action and thus shall not warrant an appeal except as provided in Sections 4.5 and 9.1 of Rule II. (amended June 10, 1982; May 19, 1988, effective June 1, 1988, amended February 17, 2014, effective March 1, 2014)
- 4.2 Persons appealing to the Commission shall do so in writing. (amended June 10, 1982)
- 4.3 Appeals to the Commission must be actually received in the Department of Civil Service no later than the close of business on the thirtieth (30th) calendar day following the date of the disciplinary letter provided to the employee by the Appointing Authority. Should the thirtieth (30th) calendar day fall on a weekend or an official city holiday, written appeals will be accepted no later than the close of business on the work day immediately following. The date the appeal is date/time stamped in the Civil Service Office shall be presumed to be the date of receipt of an appeal. (amended June 10, 1982; August 25, 1983; January 21, 1988, effective February 1, 1988)
- 4.4 The burden of proof on appeal, as to the facts, shall be on the appointing authority, except as provided in Section 4.8 of this Rule. (amended June 10, 1982)

- 4.5 Employees in the classified service who allege that they have been discriminated against because of their political or religious beliefs, sex, race, age, disability or sexual orientation shall have the right to appeal to the Commission. (amended June 10, 1982; July 8, 1982, effective July 8, 1982, amended January 23, 1992)
- 4.6 Persons who shall have applied for, or shall have been examined for, the classified service and shall not have established their status as permanent classified employees and who allege that they have been discriminated against because of their political or religious beliefs, sex, race, age, disability or sexual orientation in review of their applications, admission to the examination, the scoring of examinations, the establishment of eligible lists or certification shall have the right to appeal to the Commission.
- 4.7 Persons alleging discrimination under Sections 4.5 and 4.6 of this Rule shall file an appeal with the Civil Service Commission within thirty (30) calendar days of the alleged discriminatory act. This appeal shall contain the following information:
- (a) The type of alleged discrimination.
  - (b) The name(s) of the person(s) alleged to have committed the discriminatory act(s).
  - (c) The date(s) of such act(s).
  - (d) Where and in what manner such act(s) occurred. (amended June 10, 1982)
- 4.8 In all cases of alleged discrimination, the burden of proof on appeal, as to the facts, shall be on the appellant. (amended June 10, 1982)
- 4.9 Parties shall have the right, but shall not be required, to be represented by counsel. Any such counsel must be admitted to practice before the Supreme Court of the State of Louisiana. However, students eligible under the provision of Rule XX of the Rules of the Louisiana Supreme Court are also eligible to practice before the Commission. (adopted January 9, 1957, amended and effective June 10, 1982, amended and effective November 10, 1983.
- 4.10 Six legible copies of any petitions, writs, briefs, or other documents other than the initial appeal submitted by either party or requested by the Commission shall be submitted.
- 4.11 (a) In response to disciplinary actions involving ten (10) days or less of lost pay, the employee may choose to use the Alternative Dispute Resolution (ADR) process set forth in Section 5 of this Rule. Election to proceed with ADR is voluntary and may be rejected by either party. Once accepted, the choice is final and no further appeal is allowed.



- (b) For suspensions or fines in excess of ten (10) working days, dismissals, demotions and involuntary retirements, any resulting appeal will be assigned to a hearing examiner. The hearing examiner shall be a licensed attorney who will conduct a formal hearing in accordance with the Code of Civil Procedure. The hearing examiner is empowered to administer oaths, rule on the admissibility of testimony and evidence and supplement the record with pertinent questions. The hearing examiner will prepare a report of the proceedings for the Commission within fifteen (15) working days after the completion of the hearing; the report may include reference to the relative weight or credibility of testimony and evidence, as well as other observations relevant to the legal strength of either party's arguments (adopted November 21, 1996, effective November 21, 1996).
- 4.12 The Commission shall initiate a hearing of the appeal within sixty (60) calendar days after the appeal is filed with the Commission. Any Party to an appeal may submit a written request for a continuance to the hearing examiner with a copy to the Commission. The hearing examiner may grant the request only upon a showing of good cause by the requesting party. However, if such a motion is filed less than five (5) calendar days prior to the appeal hearing, the hearing examiner will grant the request only upon a showing of extraordinary circumstances. The hearing examiner shall grant further continuances only when the party requesting the continuance establishes extraordinary circumstances. If a continuance is granted, the parties to the appeal must select a new date for the hearing and advise the hearing examiner and Commission of the rescheduled date within seven (7) calendar days. When the continuation of a hearing is granted at the request of an appellant, it shall be deemed to be a waiver of back pay for the period of time occasioned by the delay, unless the Commission shall rule otherwise. For the purposes of this Rule, an email to the hearing examiner, with a copy to the Commission, shall constitute a written request. (amended June 20, 2016, effective July 1, 2016)
- 4.13 Dismissal for Non-appearance at Hearing of Appeal (adopted October 18, 1983, effective October 18, 1983)
- (a) If neither the appointing authority nor his counsel appears at the place and time fixed for a hearing in which a disciplinary action is at issue, without having been granted a continuance, the Commission may order the disciplinary action reversed.
- (b) If neither the appellant nor his counsel appears at the place and time fixed for a hearing, without having been granted a continuance, the Commission may order the appeal dismissed.
- (c) If either the appellee or the appellant fails to appear at the place and time fixed for a hearing, but counsel for the absent party is present, the absent party shall be deemed to have waived his appearance and the hearing shall proceed and testimony may be taken in the absence of the party with the same effect as if the party were present.
- (d) Nothing in this Rule shall prevent the Commission or a Hearing Examiner from continuing the appeal if it or he learns the reason for the absence of the party and his attorney and determines that it was justifiable under the circumstances. (Sections (a) - (d) adopted October 18, 1983, effective October 18, 1983.

- 4.14 An official transcript of employee appeal hearings shall be made by the Court Reporter appointed by the Civil Service Commission and only this transcript, its accompanying exhibits and the hearing examiner's report shall constitute the complete and official record of said hearings. (adopted March 13, 1980; amended June 10, 1982, adopted December 17, 1992, effective December 31, 1992.

However, the hearing examiner's report shall be furnished to the parties only after the Commission renders its decision in the matter. No briefs from the parties will be filed (accepted) after the expiration of twenty days following the submission of the matter for adjudication by the Commission. (adopted June 19, 1995)

- 4.15 Audio recordation of appeal hearings before the Commission or its Hearing Examiners, other than by the Court Reporter, shall be allowed only for the purpose of private reference as provided by the Canon of Judicial Ethics, and only in those instances where all parties involved have agreed to the taping. No private tape recording may be released for publication or played publicly prior to completion of all hearings and subsequent appeals, if any, in the case, subject to appropriate penalties in law. No other audio recordation and no video recordation shall be allowed. (adopted March 13, 1980; amended April 10, 1980, June 10, 1982)

- 4.16 In rendering a decision on any appeal, the Commission in its discretion may modify the disciplinary action of the appointing authority. Such action may include reducing the penalty of a dismissal to that of a suspension for a period in excess of one hundred twenty (120) calendar days. (adopted June 10, 1982)

- 4.17 Appeals to the Commission shall be decided promptly but in any event within ninety (90) calendar days after completion of a hearing except when counsel is allowed time to submit memoranda and/or briefs, in which event the ninety (90) calendar day period shall start running upon expiration of the time given by the Commission for submission to it of the briefs, memoranda or reports requested by the Commission. In the event the hearing has been held before a Hearing Officer or Referee appointed by the Commission, the ninety (90) day period shall begin to run upon receipt by the Commission of the Hearing Officer's Report and official transcript of the testimony of said hearing. (amended June 10, 1982)

In the event counsel requests the opportunity to review the transcript of the hearing in order to file memoranda and/or briefs, the ninety (90) day period shall begin to run upon expiration of the time allowed by the Commission for submission of said documents. The Commission in its discretion may require the waiver of back pay during the time necessary to file memoranda and/or briefs. (adopted November 13, 1980)

In the event of a remand by the Commission to the Hearing Examiner or Referee appointed by the Commission, the ninety (90) day period shall be considered to have been interrupted. (amended February 27, 1974)

The entire appeal process from the date of the receipt of the employee appeal by the Department of Civil Service to the date of the rendering of a decision by the Commission shall be completed within six (6) months, absent exceptional circumstances justifying the need for further time beyond six months as approved by the Chairperson of the Commission. The time period of any delays caused by pre-hearing motions upsetting the hearing date or

by a party's request for continuance shall be added to the six month period. (adopted June 21, 2021, effective July 1, 2021)

- 4.18 All decisions of the Civil Service Commission will be considered final on the date of issuance except as provided in Section 4.19. If a re-hearing is granted, the Rules of the Commission regarding time limitations as set forth in Sections 4.12 and 4.17 of this rule shall apply. (adopted October 26, 1982; amended January 21, 1988, effective February 1, 1988)
- 4.19 The Commission shall receive and consider any application for re-hearing filed within ten (10) calendar days of the issuance of the decision by the Civil Service Commission. In such cases, the decision will be considered final on the date of notification of the disposition of the request for re-hearing. (amended January 21, 1988, effective February 1, 1988)
- 4.20 Decisions of the Civil Service Commission may be appealed to the Court of Appeal, 4th Circuit. Such appeals must be filed with the Personnel Director within thirty (30) calendar days of the date that the decision becomes final. (adopted January 21, 1988, effective February 1, 1988)
- 4.21 Attorneys' Fees (adopted May 15, 2006, effective June 1, 2006)
- (a) When the Commission renders a decision it may order either party to pay attorney's fees in an amount not to exceed \$1,500 if the disciplinary action or the appeal was frivolous or malicious.
  - (b) The hearing examiner may allow such evidence and argument in support of the request for attorney's fees as is deemed appropriate considering the status of the appeal at the time the request for attorney's fees is filed. Any request for attorney's fees must be filed in writing with the Commission prior to the final disposition of the appeal.
- 4.22 Commissioners may execute decisions electronically, provided security procedures are in place that ensure the authenticity of each Commissioner's digital signature, including a time and date stamp on which the signature was authorized, and provided that the Commission ensures encryption measures are in place to ensure secure access of the software application. (adopted July 20, 2020)

(Section 4 amended January 9, 1957, July 6, 1972, February 27, 1974, March 13, 1980, April 10, 1980, November 13, 1980, Sections 4.1 - 4.10, 4.12 and 4.14 - 4.17 amended on June 10, 1982 with additional Amendment to Section 4.5 on July 8, 1982; Section 4.18 adopted October 26, 1982; Section 4.3 amended August 25, 1983; amended October 18, 1983, November 10, 1983, January 21, 1988, May 19, 1988, June 19, 1995 Section 4.11 adopted November 21, 1996, Section 4.21 adopted May 15, 2006)

## Section 5. ALTERNATIVE DISPUTE RESOLUTION

- 5.1 In order to expedite the process of resolving appeals stemming from lesser offenses, reduce appeal costs for both the City and the employee, render a fair decision within a short period

of time, and in general, simplify the overall administration of the appeal process, the Commission hereby establishes an Alternative Dispute Resolution process.

- 5.2 The jurisdiction of the Commission's Alternative Dispute Resolution (ADR) process shall be limited to:
- (a) suspensions of not more than 10 days or,
  - (b) fines of not more than 10 days pay or,
  - (c) fines of not more than 10 days annual leave.
- 5.3 If an employee files an appeal which is perfected, either the appointing authority or the employee may make application for the use of the ADR process, but all parties must concur in the use of ADR before it can be commenced.
- 5.4 The parties must acknowledge in writing that they agree to comply with and abide by the provisions of the ADR process prior to the commencement of the proceedings.
- 5.5 The format of the Commission's Alternative Dispute Resolution process shall be as follows:
- (a) strict rules of evidence are not applicable.
  - (b) there shall be no formal discovery process.
  - (c) there shall be no written transcript of the proceedings.
  - (d) an audio tape of the proceedings shall be made to assist in rendering a judgment.
- 5.6 A written opinion prepared by the arbitrator shall be promulgated within five (5) working days of the completion of the proceedings.
- 5.7 The arbitrator shall have the authority to compel the production of documents which the arbitrator deems relevant to the proceeding.
- 5.8 The arbitrator shall have the authority to sustain, reverse or modify the disciplinary action and/or penalty assigned by the appointing authority.

(Sections 5.1 - 5.8 adopted August 22, 1996, effective August 22, 1996)

Section 6. SUMMARY DISPOSITION OF APPEAL (adopted January 25, 2001, effective February 1, 2001)

- 6.1 At any time after an appeal has been docketed, a written request may be filed by any interested party for summary disposition thereof on any of the following exclusive grounds:
- (a) that the Commission lacks jurisdiction of the subject matter, or of the person

against whom relief is sought,

- (b) that the appellant has no legal right of appeal,
- (c) that the appeal has not been made in the required manner,
- (d) that the appeal has not been timely filed as required by Rule II, Section 4.3 or 4.7 of the Commission's Rules,
- (e) that the appeal has become moot,
- (f) that the written notice expressing the cause for the action complained against is insufficient; or, that the cause as expressed does not constitute legal grounds for the disciplinary action.

The request for summary disposition shall specifically state the subsection of this Section upon which it is based.

- 6.2 Written requests for summary disposition shall be considered by the Commission, which may require the submission of additional briefs. In all cases in which the appellant and the appointing authority are represented by counsel, oral argument shall be heard only on Order of the Commission and only after written request therefore by the party.(adopted January 25, 2001, effective February 1, 2001)
- 6.3 In the event that an appellant fails to appear at the time fixed for the hearing of the appeal, without having requested and having been granted a continuance, the matter may be dismissed on oral motion made before the Commission or the Hearing Examiner.
- 6.4 If the Commission denies the request or refers it to the merits, it may later reconsider the request at any time prior to the final disposition of the appeal.
- 6.5 The Commission, on its own motion, may at any time summarily dispose of an appeal on any of the grounds listed in either Section 6.1 or 6.3 of this Rule.
- 6.6 When the Commission summarily disposes of an appeal, its decision shall be final on the date it disposes of the case. The Director shall provide written notification of the Commission's decision to all parties.
- 6.7 An appellant may withdraw or abandon an appeal at any time prior to the hearing thereof by filing with the Director a written notice of intention to do so, or upon oral motion before the Commission or the Hearing Examiner. After an appeal has been heard, it may be withdrawn or abandoned only with the approval of the Commission. Where the Commission gives its approval of such withdrawal or abandonment, the Director shall provide written notification of the Commission's decision to all parties.
- 6.8 All motions for summary disposition shall be filed with the Civil Service Commission at least fifteen (15) calendar days prior to the date established for hearing. The Commission, for good cause shown, may allow the late submission of such a motion. Oppositions to motions for summary disposition shall be filed no later than five (5) calendar days prior to the date established for the Commission's meeting. For good cause shown, the Commission

may allow an opposition to be filed after the five-day deadline.

(Sections 6.1 - 6.7 adopted December 15, 1983, effective December 15, 1983,  
Section 6.8 adopted June 20, 2016, effective July 1, 2016)

Section 7. SPECIAL COUNSEL AND OTHER PROFESSIONAL SERVICES

- 7.1 The Commission, when it deems appropriate, shall seek the assistance of professionals having specialization in one or more fields as necessary to enable the Commission and the Department to comply with its Constitutional mandate as outlined in Article X.
- 7.2 The Commission shall have the right to retain Special Counsel of its choosing to represent the Civil Service Department and the Commission in all legal matters. When so directed by the Commission, such Special Counsel shall be vested with power and authority to defend, to institute and prosecute and to intervene in any or all suits or other proceedings, civil or criminal, as may be deemed necessary for the assertion or protection of the rights and interests of the Commission, the Civil Service Department, classified employees and merit principles.
- 7.3 The Special Counsel shall be admitted to practice before the Supreme Court of the State of Louisiana.
- 7.4 Compensation for services rendered shall be determined by the Commission and paid by the City of New Orleans.
- 7.5 The Commission shall approve all procedures used in granting professional contracts relative to the operations of the Department. These procedures shall further its purposes, goals and mandates.

(Sections 7.1-7.3 Adopted October 15, 1982, effective October 15, 1982, amended April 24, 1997)

Section 8. OATHS, TESTIMONY, PRODUCTION OF RECORDS AND DEPOSITIONS

- 8.1 Parties are encouraged to work together on the identification of exhibits to be introduced during the course of the appeal hearing and engage in an open exchange of information and documentation related to the appeal without the need for the issuance of subpoenas. However, the Commission, each member of the Commission, the Director, or other persons designated by the Commission, may administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by the Commission pursuant to the Law and Rules. All applications for the issuance of subpoenas must be filed with the City Civil Service Commission at least fifteen (15) business days prior to the date established for the hearing. (amended June 12, 1957, January 11, 1973 and June 20, 2016)
- 8.2 Whenever any party to an appeal, now or hereafter pending before the Commission, desires to take the testimony of a witness or witnesses who reside outside of the State or reside within the State but outside of Orleans Parish, the testimony of the witnesses, after due notice in

writing to the opposing party or his counsel, a copy of which said notice shall be furnished the Commission, may be taken in a manner and form as nearly consonant as possible with applicable provisions of the Louisiana Code of Civil Procedure. (adopted May 19, 1954)

8.3 Motions related to the subpoena of witnesses or documents, or any motions with respect to the requested documents and/or information shall be submitted to the hearing examiner no later than ten (10) calendar days prior to the date established for the appeal hearing. Those parties wishing to file motions after the ten-day deadline must notify the hearing examiner in writing. The hearing examiner, for good cause shown, may allow the late submission of such a motion. Oppositions to motions filed under this Section shall be filed no later than five calendar days prior to the date established for the appeal hearing. For good cause shown, the hearing examiner may allow an opposition to be filed after the five-day deadline. (adopted June 20, 2016, effective July 1, 2016)

8.4 Contempt of the Commission: A contempt of the Commission or its Hearing Examiner is an act or omission by an attorney and/or witness tending to obstruct or interfere with the orderly discharge of the responsibilities and duties of the Commission or its Hearing Examiner, or that impairs the dignity or authority of the Commission or its Hearing Examiner.

A contempt of the Commission includes, but is not limited to, any of the following acts:

(a) Willful failure to comply with a subpoena or summons to appear before the Commission or its Hearing Examiner, proof of service of which appears of record.

(b) Willful violation of an order excluding, separating, or sequestering a witness.

(c) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a non-incriminating question when ordered to do so by the Commission or its Hearing Examiner.

(d) Insolent or disorderly behavior toward the Commission or an attorney or other officer or Hearing Examiner of the Commission, tending to interrupt or to interfere with the business of the Commission or its Hearing Examiner or to impair its dignity or authority.

(e) Breach of the peace, boisterous conduct, or violent disturbance tending to interrupt or to interfere with the business of the Commission or its Hearing Examiner or to impair its dignity or authority.

(f) Use of insulting, abusive or discourteous language by an attorney or other person before the Commission or its Hearing Examiner, or in a motion, plea, brief or other document filed with the Commission or its Hearing Examiner in irrelevant criticism of the Commission, a Commissioner, its Hearing Examiner, an attorney, the Director or his/her staff.

(g) Action by any person taken or ordered to be taken without approval of the Commission when such approval for the action is required by either the State Constitution or by Civil Service Rule.

(h) Failure of any person to comply with any order or directive of the Commission unless

otherwise stayed by a Court of proper jurisdiction or unless within the time limits for such compliance provided by applicable rule or law.

(i) Willful failure of an attorney to appear at the time and place set for the hearing in which he/she is to participate.

(j) Any officer or employee in the classified service who willfully refuses or fails to appear before the Commission or its designated Referee/Hearing Examiner in response to a subpoena or a request under the provisions of these Rules, or having appeared refuses to testify or answer any question after instructed to do so by the Hearing Examiner, or who fails to produce any subpoenaed documents found pertinent to the hearing by the Hearing Examiner may be found by the Hearing Examiner to be guilty of contempt in accordance with these Rules and, in addition to that which is provided for in these Rules, may be found by the Commission to have forfeited his/her office or position and may be found by the Commission to be ineligible thereafter for appointment to any position in the classified service for a period not to exceed two years or be subject to a suspension from his/her position. Furthermore, the Commission and/or its Hearing Examiner/Hearing Examiner may grant any and all negative inferences based upon any officer or employee's failure to respond to a duly issued subpoena.

#### 8.5 Procedure for Punishing for Contempt

(a) When a person has committed a contempt of the Commission or a Hearing Examiner in the presence of the Commission or a Hearing Examiner, he/she may be found guilty and punished therefore by the Commission or Hearing Examiner forthwith, without any trial other than affording him/her an opportunity to be heard orally by way of defense or mitigation.

(b) When a person is charged with committing a contempt outside of the presence of the Commission or a Hearing Examiner, he/she shall be tried by the Commission on a Rule to show cause alleging the facts constituting the contempt. The Rule may be issued by the Commission or Hearing Examiner on its own motion, or on motion of the Director.

(c) A copy of the motion and of the Rule shall be served on the person charged, in the manner of a subpoena, not less than forty-eight hours prior to the time assigned for trial of the Rule.

(d) If a person charged with contempt is found guilty, the Commission shall render an order reciting the facts constituting the contempt, adjudging the person charged with the contempt guilty thereof, and specifying the punishment imposed pursuant to Article X, § 11 of the Louisiana Constitution.

### Section 9. PREPARATION OF THE RECORD

9.1 On appeals from the Civil Service Commission, the Uniform Rules of the Court of Appeal, Fourth Circuit, shall generally apply. The application for appeal, assignment of errors, bond or other required documents, including, without limitation thereto, a written designation, if any, of the portions of the record to be transcribed, shall be submitted to the Director of the Civil Service Department in triplicate with a copy thereof being furnished each opposing party and the official reporter. The cost of the record as prepared by the Civil Service



Department, exclusive of the transcript of testimony, shall be a minimum of \$25.00. In addition thereto, there shall be a reasonable charge per page for any reproduction necessary. The costs shall be made payable to the Director of the Department of Civil Service and must be received at least five business days before the return date. The party requiring the transcript of testimony or any part thereof shall at his own expense arrange for this with the Civil Service Department and make payment to the Department within twenty (20) days of the mailing of the cost of the appeal. (adopted July 6, 1972, amended February 27, 1974, September 8, 1983, August 18, 1994)

If the appellant fails to pay the estimated costs within the time specified, the Commission upon its own motion or motion by any party, may extend the time within which the costs must be paid, not to exceed twenty (20) days. The failure to pay costs of the appeal after an extension of time has been granted by the Commission shall be cause for dismissal unless a written request by appellant for an additional extension of time to pay costs is received on or before the extended return day. Additional request for extensions of return day must be made to the Civil Service Commission, in writing. Such requests may be forwarded to the appellate court for review and consideration. (adopted September 8, 1983, effective September 8, 1983, August 18, 1994)

## 9.2 Waiver or Reduction of Costs

The Commission may enter an order waiving or reducing the costs for appeals under Rule II, section 4.20 on the motion of an individual stating that the individual is unable to pay the costs of the appeal because of poverty and lack of means. The motion seeking waiver or reduction of the costs payable to the Director shall be filed within 30 days of the final order at issue. The individual shall attach an affidavit similar in form and substance to the Civil District Court for the Parish of Orleans form affidavit for in forma pauperis status. The submission of supporting documents reflecting that the individual is receiving public assistance benefits or that the individual's income is less than or equal to one hundred twenty-five percent of the federal poverty level shall create a rebuttable presumption that the individual is entitled to an order waiving or reducing the costs. The Commission may consider a motion to waive or reduce costs without oral argument with the consent of the Appointing Authority (adopted and effective September 29, 2021).

## Section 10. EMPLOYEE DISCLOSURE OF INFORMATION

- 10.1 No employee shall be subjected to discipline or discriminatory treatment by an appointing authority because he or she gives information, testimony or evidence in a prudent manner to appropriate authorities concerning conduct prohibited by law or regulation which he or she reasonably believes to have been engaged in by any person(s). If the employee incurs such treatment despite this admonition, he or she shall have a right of appeal to this Commission. (adopted October 18, 1983, effective October 19, 1983.)

## Section 11. COMPLIANCE WITH ORDERS

- 11.1 In all appeals to the Commission under these Rules wherein a final judgment has been rendered by either the Commission, the Court of Appeal, Fourth Circuit, or the Louisiana State Supreme Court, immediate steps shall be taken by the City to fully comply with the

judgment. This restoration shall include, where appropriate, reimbursement for all back wages and emoluments due and accrued annual and/or sick leave, less an offset for any wages earned during the period for which back pay was restored. (adopted December 11, 1986, effective January 1, 1987)

- 112 Appropriate documentation to establish wages earned shall include check stubs and, if available, appropriate IRS income statements. In lieu of such documentation, a notarized statement of wages earned for the period in question shall be provided. Additionally, the Appointing Authority is granted the right to check wage records through the State Department of Labor. (adopted January 21, 1988, effective February 1, 1988)
- 113 In cases of reinstatement ordered by the Commission where payment for previously accrued annual and/or sick leave has already been made to the employee, the employee shall have the option of purchasing either or both all accrued annual and/or sick leave. However, in no instance shall an employee be allowed to purchase fractions of accumulated leave. (adopted December 11, 1986, effective January 1, 1987)
- 114 In the event that the reinstatement ordered in Section 10.1 is not fully accomplished within forty-five (45) days from the date the judgment becomes final, on application from the employee or his legal counsel, the Commission may assess appropriate attorney's fees for services occasioned by the City's failure to comply with provisions of this Section in a timely manner. (adopted December 11, 1986, effective January 1, 1987)
- 115 In order to effect compliance with its orders, the Commission may issue orders withholding compensation from any person or entity, who, after investigation by public hearing, has been found by the Commission to be employed or paid by any agency subject to the Commission's jurisdiction contrary to the provisions of the Constitution or the Commission's Rules. Such orders may be directed to the officer having the authority to approve the payroll or issue the paycheck for such employee or entity, and the officer to whom it is directed and any other person to whom such order is directed shall make no payment of compensation or authorize the making of any such payment to such person or entity until authorized by the Commission upon penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are otherwise provided by the Constitution and/or the Rules. (adopted December 14, 2000)

## Section 12. ADMINISTRATION OF THE EMPLOYEE-MEMBER ELECTION

- 12.1 In accordance with the provisions of Article X, Section 4, of the Constitution of the State of Louisiana, a nominating election shall be held among classified employees of the City to fill a position on the City Civil Service Commission.
- 12.2 In order to be eligible for consideration as a candidate for the employee-nominated member of the City Civil Service Commission, an individual must be an elector of the City of New Orleans and an employee in the classified service of the City.
- 12.3 A classified employee who desires to be a candidate in the nominating election for membership on the City Civil Service Commission must submit the following information before the final filing date:

1. Name, social security number, current job classification, and City agency where currently employed.
  2. Proof of registration to vote in Orleans Parish.
- 12.4 The nominating election for employee membership on the City Civil Service Commission shall be administered by the Civil Service Department using prescribed forms developed for that purpose. When an election is announced, employees wishing to qualify for the seat on the Commission may obtain the appropriate filing forms from the Civil Service Department during the specified pre-election time period. Nominees will be allowed the option of submitting a brief biographical sketch (50-word maximum) for enclosure with the official ballot, which, if submitted, must be received in the Civil Service Department by the close of business on the final date for qualifying. Failure to submit the required forms/documents in a timely manner will result in the disqualification of the nominee.
- 12.5 The election process shall be conducted by sealed ballot which may be mailed or delivered in person to the Civil Service Department or mailed to a designated vendor selected by the Personnel Director. The official ballot of qualified nominees, listed in alphabetical order, will be prepared by the Civil Service Department or designated vendor and mailed to each classified employee hired on or before the final date for qualifying. (amended March 20, 2017)
- Only official ballots returned in sealed official envelopes which are received by the close of business on the final day designated for the receipt of ballots will be counted. All costs of the election process and any subsequent run-off, protest or judicial challenge shall be adequately funded by the City of New Orleans.
- 12.6 Employees will be allowed to vote for three (3) candidates in the nominating election (amended November 14, 2005, effective December 1, 2005).
- 12.7 Tabulation of official ballots will be performed by the Civil Service Department or designated vendor at a time, place and date determined by the Director. If the tabulation is conducted by the Civil Service Department, then each candidate may designate one observer (other than the candidate) to be present when the official ballots are tabulated. If the designee is a City employee and the time of tabulation of ballots is during the designee's regular work day, annual leave shall be allowed by the designee's appointing authority. If the tabulation of ballots occurs at the conclusion of the designee's normal work week or work period, any time spent in observing the tabulation of ballots shall not be compensable. (amended March 20, 2017)
- 12.8 The Director will certify and give public notice of the results of the election and transmit to the City Council the names of the three (3) employees who received the largest number of votes. The candidate receiving the largest number of votes will be listed first, followed by the candidate who finished second, and then by the candidate who finished third.
- 12.9 Within (30) calendar days following the transmittal of names of the three (3) nominees to the City Council, the Council shall make an appointment of one (1) employee. If the municipal governing authority fails to appoint within the thirty (30) calendar days, the

nominee whose name is first on the list of nominees automatically shall become a member of the Commission

- 12.10 The employee member appointed by the City Council shall serve a six (6) year term which may be completed even if, during the course of the term, the employee retires from City employment. In the event of the death, resignation or dismissal of the employee member of the Commission, a nominating election shall be called within sixty (60) calendar days to fill a new six (6) year term.
- 12.11 The employee member of the Commission shall be placed on civil leave when attending meetings of the City Civil Service Commission during the employee member's regular work day, and will not incur any reduction in salary for time spent away from his or her regular job. Thus, no honorarium shall be granted to the employee member, except for retired employees.
- 12.12 The employee member of the Commission will be required to read transcripts of employee appeal hearings and to write opinions based on the facts determined therein. This portion of the employee Commission member's duties must be completed outside normal working hours, and is not eligible for remuneration.

(Sections 12.1 - 12.12 adopted January 21, 1988, effective February 1, 1988)

Section 13. SELECTION OF PROFESSIONAL SERVICE CONTRACTORS (adopted September 17, 2001, amended July 17, 2006, effective August 1, 2006)

- 13.1 The retention of Special Counsel pursuant to Rule II, Section 7, and such Hearing Examiner(s) pursuant to Rule II, Section 4, and other providers of professional services as the Commission may deem necessary in furtherance of its duties and responsibilities under the Louisiana Constitution shall be subject to the competitive selection procedure set forth herein.
  - (a) The Commission shall annually, or when otherwise necessary, prepare an advertisement requesting proposals from professional service contractors.
  - (b) Such advertisements shall be published in the Official Journal of the City and in such supplemental publications or journals as the Commission shall determine are necessary. The Commission shall attempt to obtain at least three proposals from qualified contractors. If fewer than three proposals are received, the Commission may require additional advertisement.
  - (c) A Selection Review Rating Committee is hereby established. The Commission shall select three of its members to serve on the Selection Review Rating Committee.
  - (d) The Selection Review Rating Committee shall consider the specialized experience and technical competence, performance history, including cost control, work quality and ability to meet schedules and deadlines, the applicant's current workload, maintenance of an office, residence or domicile within Orleans Parish,

willingness to promote full and equal business opportunities in accordance with the City's Disadvantaged Business Enterprise Program and costs.

- (e) The specific selection criteria and weighting factors to be used for evaluation of proposals pursuant to this Rule for a particular contract award shall be in writing and shall be available upon request to any interested person immediately following the initial advertisement requesting proposals. The weighting of the criteria shall be determined by the Selection Review Rating Committee for each proposed procurement based on the nature of the proposed contract. The Commission shall review and approve the weighting factors for each procurement or type of procurement.
- (f) The Selection Review Rating Committee shall submit to the Commission the three best proposals, based on its evaluation and judgment. The Commission shall make a selection for the award of the professional services contract from one of the three submitted after giving consideration to the written evaluations prepared by the Selection Review Rating Committee.

## **RULE III**

### **CLASSIFICATION PLAN**

(amended May 9, 1956, July 22, 1975, August 9, 1979, July 8, 1982, July 12, 1984, February 13, 1986, September 27, 1990, August 22, 1996, June 26, 1997, April 29, 1999, January 25, 2001, September 17, 2007, amended June 15, 2015, effective July 1, 2015, approved by the Council July 9, 2015)

#### **Section 1. CREATING CLASSES AND ALLOCATING POSITIONS**

- 1.1 Whenever, in the opinion of the Director, there is necessity for establishing a new class, or revising or abolishing an existing class in the classification plan, he may anticipate formal action of the Commission by adding the new class or revising or abolishing an existing class. Such action shall be subject to ratification by the Commission at its next regular meeting.
- 1.2 Subject to approval by the Personnel Director, whenever a job series is affected by the creation, revision or abolishment of a job class, any regular employee having obtained permanent status in a higher job class in a job series shall for purposes of reinstatements, qualifying for examinations, and layoffs be considered as having permanent status in all lower job classes within that series or a related class of positions. (amended April 29, 1999)
- 1.3 Hearings on appeals from allocations: If any employee believes that his position has been improperly allocated, he may protest the allocation by presenting such forms or documents as the Director may prescribe. The Director or any person designated by him may hold special hearings to determine the facts of each case and the Director shall make his decision on the basis of the written statements and forms presented by the employee and on the facts brought out in the hearing. The employee shall have the right to appeal to the Commission if dissatisfied with the action of the Director.

#### **Section 2. FORCE AND EFFECT OF CLASSES**

- 2.1 The specification of the classes of position in the classification plan, and their various parts, shall have the following force and effect:
  - (a) In a class specification, the use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of similar kind or quality.
  - (b) In determining the class to which any position should be allocated, the class specification shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, qualifications requirements, and relations to other classes, as together affording a picture of the kind of employment that the class is intended to embrace.
  - (c) Qualifications commonly required for positions of different classes such as acceptable physical condition, residence within the City of New Orleans (except

when waived), honesty, sobriety, and industry shall be deemed to be implied as qualification requirements for entrance to each class even though they are not specifically mentioned in the specifications.

- (d) The code number assigned to each class of positions by the Civil Service Department may be used in all official records of the City in place of the actual title.

(Section 2.1 amended February 13, 1985, effective January 13, 1986)

### Section 3. STATUS OF INCUMBENT WHEN POSITION IS REALLOCATED

- 3.1 Subject to approval by the Civil Service Commission, when a position is reallocated to another class because of a gradual change in its duties and the Director deems it impracticable to hold a competitive examination to fill the position, the incumbent, if a regular employee, may continue to occupy the position under the other classification on a permanent basis provided he/she meets the minimum qualifications for that position.

### Section 4. TEMPORARY WORK IN A HIGHER CLASSIFICATION

- 4.1 Subject to the approval of the Director, whenever a regular employee is required by the appointing authority to temporarily perform, on a full-time basis, duties in a vacant full-time position of another classification having a higher pay grade, the employee shall be entitled to receive additional compensation subject to the following conditions:
  - (a) The vacancy in the higher position must have been caused by the resignation, termination, retirement, or leave greater than twenty (20) consecutive working days by the incumbent for exempt employees and greater than five (5) consecutive working days for non-exempt employees. (Amended July 20, 2015, effective February 4, 2016).
  - (b) Payment for temporary work in a higher classification continues until the work in a higher classification ceases, or the vacant position is filled, defunded, unallocated, or ceases to exist for any other reason. Any position temporarily vacated must be filled with a permanent appointment or conditional or temporary appointment in accordance with Rule VI, Section 5. (Amended July 20, 2015, effective February 4, 2016, amended May 21, 2018)
  - (c) The rate of pay for work performed in a higher classification may be up to the minimum monthly rate for that classification, depending upon the employee's qualifications. However, if the employee's monthly salary exclusive of longevity is at or above the minimum for the higher classification or if increasing the employee's salary to the minimum of the higher class would result in an increase of less than five percent (5%), a pay increase of five percent (5%) shall be authorized for the eligible time spent in the higher class. (Amended July 12, 1984, effective August 1, 1984, amended September 17, 2007, effective October 1, 2007).

- (d) If, while performing work in a higher classification, the employee is separated from the service, any payment of terminal leave shall be paid in accordance with the employee's rate of pay in his or her permanent (primary) classification.
- (e) If a vacancy occurs and an appropriate employment list is available for certification, the appointing authority shall not require an employee to work temporarily in the higher classification, but rather must submit appropriate personnel forms to fill the vacancy on a permanent basis. (Amended July 20, 2015, effective February 4, 2016).
- (f) In the absence of an appropriate employment list, the appointing authority may designate an employee to work temporarily in a higher classification, provided the selection criteria is fair, equitable and uniform in application. When an appropriate employment register is subsequently established, and the appointing authority has an employee temporarily working in a higher classification, the appointing authority must submit appropriate personnel forms and fill the position on a permanent basis within thirty (30) calendar days of the date that the register is established.
- (g) Additional credit on promotional examinations cannot be obtained for work performed on a temporary basis in a higher classification; nor can the appointing authority reduce the length of the probationary period of any employee who temporarily served in a higher classification and subsequently is promoted to that classification from a Civil Service register.
- (h) Payment under this section shall not be available to employees who are receiving payment for performing the same duties under Rule III, Section 5 related to Dual Assignments.

(Section 4.1 (a)-(g), adopted August 9, 1979, effective the first pay period in 1980 per City Council Motion #—79 236)

## Section 5. DUAL ASSIGNMENTS

- 5.1 The prior approval of the Personnel Director is required before any designation of duties constituting a dual assignment is permitted.
- 5.2 Prior to appointment in a dual assignment, the employee proposed for the assignment must satisfy all minimum qualification requirements for that classification as determined by the Civil Service Department, including possession of any license or certificate required for positions allocated to that classification.
- 5.3 No employee shall perform in a dual assignment on a full-time basis. Dual assignments are granted only to compensate employees for work done on an occasional or intermittent basis. Any position temporarily vacated for more than three months must be filled with a conditional or temporary appointment in accordance with Rule VI, Section 5.
- 5.4 Payment of annual leave, sick leave, terminal leave and designated city holidays shall be in



accordance with the employee's pay rate in his or her primary classification.

- 5.5 Except for those Uniformed Fire Suppression personnel who receive a special dual assignment rate as identified in the classified pay plan, the rate of pay for work performed in an authorized dual assignment shall be the minimum annual rate or authorized hiring rate for that classification. However, if the proposed dual assignment is in a class with a higher pay grade than his or her primary classification and the employee's rate of pay is equal to or exceeds the minimum or authorized hiring rate for the proposed dual assignment, a pay increase of five percent (5%) shall be authorized for all time worked in the assignment

(amended September 27, 1990, amended June 15, 2015, effective July 1, 2015, approved by the Council July 9, 2015)

(Section 5.1 - 5.4 adopted July 12, 1984, effective August 1, 1984, amended April 29, 1999)

Section 6. CONTRACTS (adopted January 25, 2001, effective February 1, 2001)

Employees of the City of New Orleans are divided into the unclassified and the classified service. The unclassified service is limited to those employees serving in positions identified in Article X, § 12(B) of the Louisiana Constitution or positions added to the unclassified service through Rule III, § 7.1. All other employees are in the classified service.

- 61 The Personnel Director shall review and approve any proposed contract for personal or professional services to be entered into by the City, including but not limited to cooperative endeavor agreements, and amendments thereto, to insure compliance with Article X of the Louisiana Constitution and to determine whether such contract would result in the displacement of employees within the City's classified service. If the Director determines that a contract would result in the displacement of employees within the classified service, he/she will submit the proposed contract to the Commission for review and approval. The proposed contract shall be provided by the City to the Director within a reasonable amount of time prior to the effective date of the contract in order to facilitate review by the Commission in accordance with Section 6.4 of this Rule.
- 62 If the Commission determines that employees within the City's classified service would be displaced as a result of the contract, the Commission shall determine whether the City is entering into the contract for reasons of efficiency and economy and not for politically motivated reasons.
- 63 In determining whether or not the City is entering into the contract for reasons of efficiency and economy, the Commission will consider, but will not be limited to, the following:
- (a) A report from the City that details the fiscal savings and/or efficiency gains, if any, that are realized by such a contract. Such a report shall contain an estimate of the cost to the City for providing the services contemplated by the proposed contract using employees in the classified service or the impact to the efficient delivery of the City services in the proposed contract using employees in the classified service.
  - (b) A report detailing any continuing costs to be incurred by the City that would be directly associated with the proposed contracted function. These continuing costs

shall include, but not be limited to, those for inspection, supervision, and monitoring.

- (c) A report prepared by the Civil Service Department staff as to the effect the proposed contract for personal or professional services may have on employees in the City's classified service, including potential layoffs.

- 64 A copy of the proposed contract, and the items listed in Section 6.3 of this Rule, shall be reviewed with the Commission at a public meeting. The Commission shall not approve the contract prior to a subsequent meeting, with due notice given to the public of the proposed provisions of the privatization contract. Due notice shall include individual notification to affected employees. The City and the Civil Service Department staff shall facilitate notice of the Commission's public meetings to the affected employees. Any such notice shall contain an explanation of the effects of the contracted services on the status of current employees, as well as any specific contractual commitments contemplated by the parties, which affect the interests of displaced employees.
- 65 Commission approval of a proposed contract for privatization shall be effective only for the term stated in the contract submitted to and reviewed by the Commission. A copy of the approved contract shall be kept by the Civil Service Department for the duration of the agreement.

(Section 6 revised and adopted June 20, 2016, effective July 1, 2016)

## Section 7. UNCLASSIFIED POSITIONS

- 7.1 At its discretion, the City Civil Service Commission may add additional positions to the unclassified service, if:
  - (a) after a thorough review and analysis of the duties and responsibilities of the position, the Commission has determined that they neither are appropriate for, nor should they be performed by, a classified employee and,
  - (b) the position is essentially of a sensitive nature and has considerable discretion and,
    - (i) is a department head position or is a position equivalent in rank, duties, and responsibilities to a department head position OR
    - (ii) is a deputy department head position or is a position equivalent in rank, duties, and responsibilities to a deputy department head position and the position has the expressed written authority to act on behalf of the department head position or equivalent position in his/her absence OR
    - (iii) is the executive director position of a city board or is a city board position equivalent in rank, duties, and responsibilities to an executive director position of a city board OR
    - (iv) is a deputy executive director position of a city board or is a position

equivalent in rank, duties, and responsibilities to a deputy executive director position of a city board or is a chief position of a city board and the position has the expressed written authority to act on behalf of the executive director position or equivalent position in his/her absence OR

(v) is a position which has been delegated policymaking authority directly by the final policymaker, which is the mayor or board of directors of a city board, through either an expressed written request by the mayor or a board resolution from a city board, to make city-wide policy for the city or entitywide policy for a city board; employees charged with the creation of administrative rules and procedures associated with policy implementation do not meet this provision OR

(vi) is a position regarding which the Director of the Civil Service Department, subject to final review by the Civil Service Commission, has determined it is infeasible to conduct an effective merit-based examination, except for those positions expressly covered under Rule V, Section 8, and

(c) the position is audited on a regular basis by the Civil Service Department to determine the continuing appropriateness of the unclassified status.

7.2 The Commission may revoke a position previously allocated to the unclassified service if:

(a) the Commission determines that the position no longer meets the prerequisites for continuing in the unclassified service, or

(b) appropriate classifications and/or registers of eligibles are now in existence which can be utilized to fill the position in the merit system, or

(c) after further review it has been determined that organizational changes warrant either abolishing the position or reallocating the duties and responsibilities to other position(s) in the classified service.

7.3 The Commission shall have the authority to initiate such audits and investigations of positions placed in the unclassified service by the Commission, as deemed necessary to protect the integrity of the merit system and maintain an equitable relationship between positions in the classified and unclassified services.

7.4 If after a position formerly allocated to the unclassified service by the City Civil Service Commission has been revoked by action of the Commission, and no appropriate register of eligibles is in existence to fill the position in the classified service, the Commission may permit the individual who previously occupied the position to serve in a temporary appointment, subject to the provisions of Rule VI of these Rules.

(Sections 7.1 - 7.4 adopted August 22, 1996, effective August 22, 1996; Section 7.1 (b) amended July 19, 2021)

Section 8. TRANSFER OF A FUNCTIONAL UNIT

- 8.1 Written notification shall be provided to the Director of any intent to transfer a functional unit, comprised in whole or in part of classified employees, from one appointing authority to another. This notification shall be received by Civil Service at least forty-five (45) days prior to the effective date of the transfer and shall contain the reasons for the transfer and the classifications and positions to be affected. The Civil Service Commission will review and consider the proposed transfer to determine its effect on the classified service.
- 8.2 All employees shall be notified in writing by their appointing authority of their pending transfer and of the duties and responsibilities assigned to the new position at least ten (10) calendar days prior to the effective date of the transfer.

(Sections 8.1 - 8.2 adopted June 26, 1997, effective July 1, 1997)

## RULE IV

### PAY PLAN

(as adopted December 9, 1953 and amended July 14, 1954, December 12, 1956, June 12, 1957, October 17, 1968, October 9, 1969, March 27, 1975, July 22, 1975, April 27, 1976, July 8, 1976, April 27, 1977, July 14, 1977, February 18, 1979, February 28, 1979, August 9, 1979, effective November 29, 1979, September 11, 1980, December 29, 1980, April 19, 1983, December 15, 1983 and effective November 15, 1984; amended October 23, 1985, effective April 13, 1986; October 1, 1986, April 30, 1987, effective May 21, 1987; December 21, 1989, amended September 27, 1990, October 25, 1990 approved by the City Council December 6, 1990, April 20, 1995; amended February 22, 1996, effective February 22, 1996; amended March 28, 1996; approved by the Council April 18, 1996, amended October 24, 1996, approved by the City Council March 4, 1999, effective March 28, 1999, amended December 16, 1999, amended September 21, 2000, approved by the Council October 5, 2000, adopted by Commission December 16, 2002, approved by the Council June 5, 2003, effective July 13, 2003, amended May 15, 2006, adopted by the Council May 25, 2006, effective June 1, 2006, amended November 17, 2008, adopted by the Council April 23, 2009, effective April 5, 2009, amended July 19, 2010, adopted by the Council August 26, 2010, effective July 19, 2010, amended April 28, 2014, adopted by the Council June 2014, effective April 28, 2014, amended August 25, 2014, adopted by the Council December 11, 2014)

#### Section 1. THE PAY PLAN

- 1.1 On the effective date of Article X of the Constitution of Louisiana, the present pay plan and its amendments for the classified service as adopted under the former Constitution, R.S. 33:2406 and the Rules of the previous Commission shall be incorporated as part of this Rule.
- 1.2 The Director shall, from time to time, recommend changes in the pay plan rendered desirable by changes in classes, economic conditions, or other factors. Such changes shall become effective only after approval by the City Civil Service Commission and the governing authority of the City. (adopted July 14, 1954)
- 1.3 The pay of all positions in the classified service shall be determined in accordance with the pay plan in effect and in accordance with the provisions of the Civil Service Law regardless of any provisions or appropriation for any different salary rate or mode of payment for any position. The regular hourly base rate shall be determined as follows:
  - (a) For those non-exempt employees engaged in law enforcement activities, their regular hourly base rate shall be computed by dividing the annual salary by twenty-six (26), and then dividing the quotient by eighty-five and a half (85.5). (Adopted by Commission December 16, 2002, approved by the Council June 5, 2003, effective July 13, 2003)

- (b) For those non-exempt employees engaged in fire protection activities, their regular hourly base rate shall be computed by dividing the annual salary by twenty-six (26), and then dividing the quotient by one hundred and six (106). (amended January 20, 2023 and adopted by Council February 19, 2023 to be effective June 18, 2023).
- (c) For all other employees, their regular hourly base rate shall be computed by dividing the appropriate annual salary by fifty-two (52), and then dividing the quotient by either thirty-five (35), forty (40) or forty-six (46) depending upon the employee's assigned work schedule.

(Section 1.3 (a) - (c) amended October 23, 1985, ratified by the City Council October 24, 1985, effective April 13, 1986, amendment approved by Council March 4, 1999, effective March 28, 1999)

- 1.4 If, for one class of positions, two or more rates of pay are established to reflect equitably the difference in the unpleasant or dangerous aspects of various assignments made in the class of positions, changes in assignments shall result in corresponding salary adjustments. Such salary adjustments shall not be considered either as pay increases or pay reductions, but must be reported to the Director.
- 1.5 Where it is necessary to establish wages on an hourly, daily, or weekly basis, such rates may be computed without regard to existing annual rates as long as they are within the established pay grade for the class and have prior approval of the Personnel Director. (adopted October 17, 1968, amended September 27, 1990, approved by Council March 4, 1999, effective March 28, 1999)
- 1.6 Full-time employees in the classified service who, by virtue of their assignments are required to work a seven (7), eight (8), ten (10), or twelve (12) hour shift around the clock, shall be granted additional monetary compensation in accordance with the provisions listed below. (amended June 19, 2021, effective June 27, 2021)

If, in conjunction with the establishment of flextime and/or compression of the work week into four (4) work days, the provisions of the following sub-sections (a) through (e) are met, employees shall continue to be eligible for benefits under the provisions of this section. (amended April 30, 1987, effective May 21, 1987)

- (a) Employees with work assignments beginning between the hours of 7:00 P.M. and 1:00 A.M. shall receive a shift differential amounting to an increase of 5% in pay. (amended September 27, 1990, October 24, 1996)
- (b) Employees with work assignments beginning between the hours of 2:00 P.M. and 7:00 P.M. shall receive a shift differential amounting to an increase of 2 ½% in pay. (amended October 24, 1996)
- (c) Non-Exempt employees who may be required to work overtime after the completion of their assigned shift shall be paid overtime which is calculated upon their appropriate hourly base rate. (amended April 19, 1983)

- (d) The payment of shift differentials shall apply for only those hours that the employee actually works on the respective shift. Annual leave, sick leave, and all other forms of leave including the provisions of Rule VIII, Sections 2.9, 2.10, or 2.11 shall not be included under the provisions of this section.
- (e) Any City Agency, Board Commission or Department which determines that the payment of shift differentials is not warranted for its operations, shall submit a request for an exemption from the provisions of this section to the Civil Service Commission, accompanied by a detailed justification for the exemption. (Adopted August 9, 1979 and effective November 29, 1979)

(Sections 1.6 (a)-(d) adopted by the City Council March 4, 1999, effective March 28, 1999.)

## Section 2. PAY INCREASES

- 2.1 The rate of pay for any employee in a classified position who is paid below the maximum rate of pay of the pay range prescribed in the pay plan for the class of positions involved may be advanced, subject to the following limitations: (amended December 12, 1956, September 27, 1990, October 25, 1990, November 17, 2008, August 25, 2014)
  - (a) Except for an increase in the rate of pay resulting from a longevity pay increase, a limited term special assignment, or in conjunction with a revision in the pay grade, adjustments in the rate of pay may become effective only if the conditions set forth elsewhere in this section are met, and provided that equitable treatment is assured for all classified personnel. (amended September 27, 1990)
  - (b) No advance in the rate of pay shall become effective until adequate funds are made available for all organizations units employing classified personnel.
  - (c) No advance in the rate of pay for an employee shall be made until that employee has completed at least two consecutive months of employment immediately following the date of his original appointment.
- 2.2 Subject to the revocation of the Personnel Director, an appointing authority may grant a prospective increase up to 5% within the pay grade to any employee given a special assignment for a limited term within his class of positions, provided that there shall be a corresponding pay reduction at the completion of the special assignment. Any increase above 5% or expected to last beyond one year shall require approval of the Personnel Director.
  - (a) Special assignments must be beyond the scope of current duties and responsibilities, but need not be in higher classification.
  - (b) Special assignment pay shall not be available for additional duties assigned or assumed as a result of the resignation, termination, retirement, or leave of another employee.
  - (c) A written notice of the intention to affect the increase in pay as well as the corresponding reduction in pay on the completion of the special assignment shall be

given to the employee when the increase is granted.

- (d) Increases and reductions in pay along with written justification for the increase shall be reported to the Personnel Director in such manner as the Personnel Director may prescribe.

(amended September 27, 1990, November 17, 2008, August 25, 2014, adopted by the Council December 11, 2014)

2.3 Subject to the prior approval of the Commission and the availability of funds, a special cost-of-living payment in addition to an employee's usual compensation may be made to all classified employees, or to such classifications or positions as the Commission in its sole discretion may determine, which special payment may be granted without regard to provisions set forth elsewhere in these Rules. This Rule does not create a property right in any employee for such payment, nor shall said payment be considered an increase in the pay grade or rate of pay of any employee for retirement benefits, overtime rates or for any other purpose whatsoever. Any cost of living adjustment adopted by the Commission pursuant to this rule shall become effective only after approval by the governing authority. (adopted March 27, 1975, amended September 27, 1990, December 6, 1990, December 16, 1999)

2.4 At such time as service-wide increases are granted, the rate of pay for all employees in the classified service shall be advanced uniformly so that each employee in the classified service receives a percentage increase equal to that granted every other employee, subject to the following limitations:

- (a) Certification must be made to the Commission by the Mayor that adequate funds are available in every organization unit employing classified personnel.
- (b) The pay increase shall be made effective service-wide on the same date and at the same time.
- (c) No base rate shall be below the minimum established in the pay plan.
- (d) No base rate shall be above the maximum established in the pay plan. (amended September 27, 1990, October 25, 1990, November 17, 2008)

(amended September 27, 1990, October 25, 1990, approved by the City Council December 6, 1990, amended August 25, 2014, and again December 5, 2014, adopted by the Council December 11, 2014, amended June 20, 2016, approved by the City Council September 8, 2016)

## 2.5 Merit Pay

In order to promote a high performing workforce, classified employees who exceed expectations shall receive annual merit-based payments:

- (a) Annually, each organizational unit shall budget two percent (2%) of the combined base rates (as defined in Rule I, Number 10) of pay of all permanent classified positions filled in the organization unit as of January 1 of that year.



Effective for the 2023 observation year to be paid in 2024 and thereafter:

- (b) An employee who is in active status for at least one year prior to the end of the annual review period and has completed the performance evaluation process shall be granted a merit payment, provided that the appointing authority has documented via an official Civil Service Performance Evaluation that the employee's performance merits such an adjustment.
- (c) Annually, the amount of the merit pay shall be a one-time payment of \$2,000 for a rating of "Exceeds Expectations".
- (d) In accordance with Rule XI Sections 1.2(c) and 1.3(c) and Evaluating Supervisor or Second Level Evaluating supervisor who fails to administer the performance evaluation system in accordance with these Rules shall not be eligible for a merit increase for that year.
- (e) Such merit payments shall be effective for the closest pay period after June 1 provided:
  - 1. that suitable documentation evidencing evaluation of the individual employee and detailing specific justification for the employee's entitlement to such a payment has been provided to Civil Service.
  - 2. the recipient is an active employee at the time of payment.
- (f) An employee's eligibility for merit payments shall not be interrupted by time served in the military service. All such payments shall be made upon the employee's return from military service.
- (g) Any adjustment or increase an employee receives under the provisions of other Rules, unless otherwise indicated, shall not affect such employee's eligibility to receive a merit payment authorized under this Rule.

(amended August 25, 2014, adopted by the Council December 11, 2014, amended February 9, 2015, adopted by the Council April 16, 2015, amended June 20, 2016, adopted by the City Council September 8, 2016, subsection (g) amended February 20, 2017, adopted by the City Council April 6, 2017 amended November 3, 2022, adopted by the Council January 19, 2023 to be effective January 23, 2023)

## 2.6 Pay above the minimum for recruitment/retention difficulties.

- (a) Hiring or paying above the minimum salary in order to address employment problems resulting from recruitment and/or retention difficulties may be authorized by the Personnel Director not to exceed the midpoint of the pay range, provided that:
  - 1. Appointing authority documents employment problems resulting from

recruitment and/or retention difficulties and maintains detailed objective analysis of rationale for hiring above the minimum.

2. Appointing authority receives appropriate approvals established by the Chief Administrative Officer, or other executive authority for participating agencies, in advance and reports the approval to the Department in such manner as prescribed.
- (b) Advances above the midpoint may be authorized by the Commission if the appointing authority can clearly document that the competitive market justifies the compensation.
- (c) When special recruitment rates or special retention rates are adjusted downward, the individual pay rates of employees occupying positions affected by the authorized rates shall not be changed.

(Section 2.6 adopted February 22, 1996, effective February 22, 1996, amended November 17, 2008, effective April 5, 2009, amended August 25, 2014, adopted by the Council December 11, 2014)

## 2.7 Extraordinary or Superior Qualifications, Experience, Credentials

Subject to the revocation of the Personnel Director, an appointing authority may pay an original, temporary, provisional or regular employee a pay rate of up to the midpoint of the pay range upon appointment, subject to the following conditions and limitations:

- (a) That the appointee possesses extraordinary or superior qualifications/credentials above and beyond the minimum qualifications, experience, and/or credentials required which have been verified and documented as job related, and that the amount of additional pay shall be justified based on an objective analysis of the additional financial advantage the increased hiring rate will provide to the city.
- (b) That the duties and responsibilities of a position require the employment of a person with qualifications/credentials that differ significantly from those normally required for other positions in the same class, and the persons who possess such qualifications are not readily available in the labor market at the minimum entrance rate in the pay grade;
- (c) That the pay rate is subject to review by the Civil Service Commission;
- (d) The salaries of all current probationary and permanent employees who occupy positions in the same job classification and who possess the same or equivalent qualifications, experience, and/or credentials shall be adjusted up to but not to exceed the rate granted to that employee provided that the qualifications, experience, and/or credentials are also verified and documented in the same manner as that employee. Such adjustments shall only be made on the same date that the higher pay rate is given to that employee;
- (e) The Commission shall have exclusive, final authority to validate the qualifications, experience, and/or credentials credited for purposes of this subsection;

- (f) The appointing authority must post all special rates given in a location that is accessible to all employees. The appointing authority must assure that the posting remains in place permanently or is replaced when appropriate.
- (g) If an employee with permanent status resigns and is then rehired into either the same position or into the same job title, or a lower level position in his/her job series, the employee shall not be eligible for an increase under this rule unless there has been a break in City service of at least 60 calendar days.

(Section 2.7 adopted November 17, 2008, effective April 5, 2009, amended August 25, 2014, adopted by the Council December 11, 2014, amended November 16, 2015 and adopted by the Council February 4, 2016)

## 2.8 Pay Equity Adjustment

- (a) An appointing authority may request a pay equity adjustment within an employee's current salary range, if the purpose is to eliminate pay inequity based on one of the following criteria:
  1. Internal salary inequity between employees in the same or comparable job classification performing comparable duties and responsibilities when as a result of a pay plan change or a rule application less senior employees make more than long-term employees in the same or comparable job classification provided the qualifications that the employees possess are the same or equivalent.
  2. Salary compression between supervisors and those whom they supervise. In cases where a salary increase results in salary compression between a supervisor and subordinate.
  3. To correct obvious errors in pay administration as determined by the Personnel Director.
- (b) The intent of pay equity adjustments is to provide consideration to critical and/or unusual pay administration problems and may include a change in pay grade, pay step, or effective date of pay increase. This also includes other changes if recommended by the Personnel Director and approved by the Commission. The appointing authority must present information to demonstrate that the inequity exists for reasons other than differences in pay due to longevity, merit pay application, retention pay based on an outside job offer, temporary pay or other permissible special rates of pay allowed by the pay plan. (amended April 11, 2022, adopted by the Council May 22, 2022)
- (c) A pay equity adjustment within the salary range requires the approval of the Personnel Director. The Director in making the determination will consider all relevant related factors in setting the appropriate pay adjustment. The effective date of any such pay adjustment shall be the date the inequity occurred subject to the provisions of Rule IV, Section 14.

- (d) All advances above five percent must be presented to the Civil Service Commission for approval. For those advances five percent or below, the Director shall issue a report of all authorized pay equity adjustments to the Civil Service Commission at its next regular monthly meeting. All pay equity adjustments shall be posted on the Civil Service website.
- (e) If an appointing authority (1) fails to request a pay equity adjustment for a requesting employee within 30 days of receiving notice from an employee of a potential pay equity issue or (2) denies the employee's request, that employee may seek approval directly from the Personnel Director for that adjustment. The appointing authority must present information to demonstrate that the inequity exists for reasons other than differences in pay due to longevity, merit pay application, temporary pay or other permissible special rates of pay allowed by the pay plan or provide information relative to why the inequity does not exist. The appointing authority may appeal a decision of the Personnel Director to the Civil Service Commission.

(Section 2.8 adopted November 18, 2019, adopted by the City Council June 4, 2020, effective June 7, 2020)

### Section 3. PAY REDUCTIONS

- 3.1 An appointing authority may for cause reduce the salary of an employee within the pay grade and in conformity with salary steps established for the class. Notice of intention to effect a reduction in pay and the reasons for such action shall be given to the employee prior to the effective date of the reduction, and the reduction shall be reported to the Director in the manner he may prescribe. (amended September 27, 1990)
- 3.2 Whenever an employee in the classified service voluntarily accepts demotion, the appointing authority, subject to the approval of the Personnel Director, may determine the employee's appropriate rate of pay in relation to the rates of pay of other employees in that class, but in no instance shall the salary exceed the maximum rate of pay for the lower classification, exclusive of longevity. Under no circumstance shall the existing salary be increased as a consequence of the demotion. (amended September 27, 1990)  
Whenever an employee is demoted in accordance with Rule IX, Section 1.1 (d), the accompanying reduction in pay shall not be below the minimum salary for the lower class and shall not exceed for the maximum rate of pay for the lower classification, exclusive of longevity. (adopted September 27, 1990, approved by the City Council October 18, 1990, amended November 17, 2008, approved by the City Council April 23, 2009, effective April 5, 2009)

### Section 4. PAY RATES OF CASUAL LABORERS AND TEMPORARY WORKERS

- 4.1 When rates of pay are established on an annual or monthly basis, but employment is on a casual, intermittent, or project basis not involving seasonal or continuing employment, and an application is made in advance of employment by the appointing authority, the Director may establish an alternative rate of pay equivalent to the prevailing rate of pay in private industry for temporary or project work. (approved by Council March 4, 1999, effective March 28, 1999)

### Section 5. PAY FOR PART-TIME SERVICE

- 5.1 When part-time service is rendered, it shall be the duty of the appointing authority to certify to the Director on each notice of appointment or change in status of the employee, the ratio of time rendered by such part-time employee to that rendered by full-time employees of the organization unit.
- 5.2 When an employee is employed for part of a pay period, compensation shall be allowed for the proportionate time he is employed. When part of a day or a short period of time is lost while the employee remains on the payroll, and no authorized leave with pay is allowed, deduction shall be made for the hours lost from the total hours constituting full time for the pay period. (amended June 12, 1957)

Section 6. USE OF CLASS TITLES

- 6.1 The title of each class shall be the official title of every position allocated to the class, for all purposes having to do with the position as such, and shall be used to the exclusion of all others on all payroll, budget estimates, and official records and reports pertaining to the position. However, any abbreviation or code symbol approved by the Director may be used to designate a position of a class, and any other title satisfactory to the appointing authority may be used in official correspondence and in any other connection not having to do with personnel processes covered by the Law and these Rules. No employee shall be appointed, employed, or paid under any title other than that of the class to which the position occupied by him/her is allocated.

Section 7. MAINTENANCE AND ALLOWANCE

- 7.1 In any case in which any allowance is provided in addition to cash salary, such as meals, lodging, living quarters, laundry, and the like, including maintenance provided for others on behalf of the employee, but not including reimbursement of actual and necessary expenses authorized and incurred as incidents to the employment, all such allowances shall be treated as compensation in kind, involving part payment of the amount payable under the rate prescribed and shall be deducted from the money amount payable to the extent of their cash value, as appraised by the Director.

Section 8. LONGEVITY PAY INCREASES (Amended December 13, 2001, approved by Council February 6, 2003, to be effective January 1, 2002)

- 8.1 Uniformed fire suppression, fire communications and fire prevention personnel who have had three (3) years of continuous service with the Fire Department shall receive an increase in salary of two (2) percent and shall thereafter receive an increase in salary of two (2) percent for each year of additional service up to and including twenty (20) years. Both the base pay and accrued longevity shall be used in computing such longevity pay. (Amended December 13, 2001, approved by Council February 6, 2003, to be effective January 1, 2002)
- 8.2 Increases in salaries above the normal rate of pay as provided for elsewhere in these Rules shall be granted to employees in accordance with the conditions listed below:
  - (a) All employees having more than one (1) but less than five (5) years of consecutive service under current employment shall receive two one and one quarter (1.25%)

increases over their normal rate of pay.

- (b) All employees having more than five (5) but less than ten (10) years of consecutive service under current employment shall receive two one and one quarter (1.25%) increases over their normal rate of pay.
- (c) All employees having more than ten (10) but less than fifteen (15) years of consecutive service under current employment shall receive two one and one quarter (1.25%) increases over their normal rate of pay.
- (d) All employees having more than fifteen (15) but less than twenty (20) years of consecutive service under current employment shall receive two one and one quarter (1.25%) increases over their normal rate of pay.
- (e) All employees having more than twenty (20) but less than twenty-five (25) years of consecutive service under current employment shall receive two one and one quarter (1.25%) increases over their normal rate of pay.
- (f) All employees having more than twenty-five (25) years of consecutive service under current employment shall receive two one and one quarter (1.25%) increases over their normal rate of pay.
- (g) After having completed the twenty-fifth (25) year of consecutive service under current employment, all employees shall receive two one and one quarter (1.25%) percent over their normal rate of pay and for each ensuing five (5) year segment of consecutive service thereafter. (Adopted December 21, 1989, ratified by the City Council December 28, 1989, effective January 7, 1990 by Council Motion —89-560; amended September 27, 1990, adopted by Council March 4, 1999, effective March 28, 1999)

For purposes of implementation, this formula shall be cumulative, but thereafter it shall operate with the completion of the specified periods of time.

(adopted September 11, 1980, effective March 29, 1981, amended December 21, 1989, April 20, 1995, approved by Council March 4, 1999, effective March 28, 1999)

- 8.3 Subject to the approval of the Director, former employees who are reinstated or reemployed pursuant to Rule VI, Section 4 shall have their longevity pay calculated on their cumulative service time, as defined in Rule I, if all of the following conditions are met:

- a. There is a written request from the appointing authority;
- b. The position is full time;
- c. The employee was separated for reasons other than fault or delinquency on his or her part; and
- d. The employee was separated for more than three months, but less than three years.

- 9.1 Pursuant to the provisions of the Fair Labor Standards Act, non-exempt employees shall be paid overtime at their appropriate rate of not less than one and one-half (1 ½) times their rate of pay for each hour worked in a work period in excess of the maximum hours allowable, which are applicable to the type of employment in which the employee is engaged. (amended April 19, 1983, October 23, 1985 effective April 13, 1986)
- 9.2 Pursuant to the specific provisions of 29 U.S.C., Section 207 (k):
- (a) any non-exempt employee engaged in law enforcement activities shall be paid overtime at the special hourly base rate for all hours worked in excess of eighty-five and a half (85.5) hours in a fourteen (14) day work period. (adopted by Commission December 16, 2002, approved by the Council June 5, 2003, effective July 13, 2003)
  - (b) any non-exempt employee engaged in fire protection activities shall be paid overtime at the special hourly base rate for all hours worked in excess of one hundred and six (106) hours in a fourteen (14) day work period. (amended October 23, 1985, ratified by the Council October 24, 1985, effective April 13, 1986. Amended January 20, 2023 and adopted by Council February 19, 2023 to be effective June 18, 2023)
  - (c) any non-exempt employee not covered by Section 9.2 (a) and (b), who receives state supplemental pay and/or city millage, shall be paid overtime worked in excess of forty (40) hours in a work period. (adopted April 19, 1990, approved by the City Council May 3, 1990, effective May 3, 1990)
- 9.3 Pursuant to the specific provisions of 29 U.S.C., Section 207 (a), any non-exempt employee shall be paid overtime at the regular hourly base rate for all hours worked in excess of forty (40) hours in a seven (7) consecutive day work period. (amended October 23, 1985, ratified by the Council October 24, 1985, effective April 13, 1986)
- 9.4 Annual leave, sick leave, civil leave, military leave, parently leave, as well as all other forms of leave, and official and unofficial city holidays will not be counted as hours worked toward the computation of overtime at the completion of the maximum allowable hours in the respective work period. (amended October 23, 1985, ratified by the Council October 24, 1985, effective April 13, 1986, amended April 17, 1986, ratified by the Council June 5, 1986, effective June 5, 1986, amended January 20, 2023 to be effective February 19, 2023)
- 9.5 If it becomes necessary for a non-exempt employee to work on an official city holiday as designated by the City Council, the appointing authority should adjust the employee's work schedule to allow another day off during that work period as a substitution for the holiday. If such a substitution is not possible, then for working on the holiday the employee shall be paid double time. Under no circumstances shall an employee receive pay less than an amount equal to straight time for all hours worked plus holiday pay as established in Rule X, section 1.2. However, on New Year's Day, Mardi Gras, Independence Day, Labor Day, Thanksgiving Day, Christmas Day or on their days of observance as officially designated by the City Council, employees who are required to work shall be paid double time and one-half. Under no circumstances shall an employee receive less than an amount equal to

time and one-half for all hours worked, plus holiday pay as established in Rule X, Section 1.2 (amended October 23, 1985, ratified by the Council October 24, 1985, effective April 13, 1986)

- 9.6 Non-exempt employees who are required to be "on call" are not eligible for additional monetary compensation, if such employees have the freedom to go from place to place to pursue their own interests by either leaving a telephone number where they can be reached or being able to be reached via radio, "beeper", etc. If the employee has been contacted and is required to report to work, reasonable travel time to and from the place of work is to be included as compensable hours of work. (amended October 23, 1985, ratified by the Council October 24, 1985, effective April 13, 1986)
- 9.7 (a) For public safety agencies and agencies substantially responsible for staffing annual special events, advance approval must be obtained from the Civil Service Department if an employee is expected to exceed 750 hours of overtime in a year, whether regularly scheduled or otherwise. These agencies are as follows: Aviation, Fire, Health Emergency Medical Services, French Market, Parks and Parkways, Police, Property Management, Public Works, Sanitation, Sewerage and Water Board, and Youth Study Center. For all other agencies, approval must be obtained from the Civil Service Department if an employee is expected to exceed 416 hours in a year, whether regularly scheduled or otherwise. (amended July 14, 1977 and effective February 26, 1979, amended June 20, 2016, adopted by the City Council September 8, 2016, amended March 19, 2018)
- (b) Approval shall not be required in emergency situations. An emergency situation is defined as an unexpected, unforeseen event endangering life or property, which demands immediate action or attention to remedy. (amended July 14, 1977 and effective February 26, 1979, amended June 20, 2016, effective July 1, 2016)
- (c) Each agency that exceeds or anticipates exceeding this threshold shall appear before the Commission to seek approval and shall submit annually to the Civil Service Department a projection of overtime by individual, an explanation of the activities requiring overtime, and a basis for relying on overtime. (adopted June 16, 2016, effective July 1, 2016)
- 9.8 (a) Employee in classifications of work whose duties are executive, administrative or professional in nature are not eligible for overtime compensation, subject to the provisions of 9.8 (b) of this rule. In the future, as new classes are established or existing classes are modified, the applicability of this section thereto shall be determined by the Director.
- (b) In the event of an emergency declaration by the Mayor of the City of New Orleans, exempt employees, who do not meet the FLSA definition of a highly compensated worked and who are assigned to disaster and/or emergency related activities, at the approval of their Appointing Authority, may be eligible for the following:
1. Those exempt employees engaged in law enforcement may be paid not less than one and one-half (1 ½) times the regular hourly base rate for all hours worked in excess of forty (40) hours in a seven (7) consecutive work day period.



2. Those exempt employees engaged in fire protection activities may be paid not less than one and one-half (1 ½) times the regular hourly base rate for all hours worked in excess of forty-six (46) hours in a seven (7) consecutive work day period.
3. All other exempt employees may be paid not less than one and one-half (1 ½) times the regular hourly base rate for all hours worked in excess of forty (40) hours in a seven (7) consecutive work day period.

In all cases this pay shall conclude when the Mayor announces that the State of Emergency has ended.

(Section 9.8 amended April 27, 1977, effective February 26, 1979, amended and effective July 19, 2010, amended April 28, 2014, adopted by the Council June 2014, effective April 28, 2014)

- 9.9 If a City department or agency has a highly unique work schedule which makes compliance with a section of this Rule unworkable, the appointing authority shall submit an alternate overtime proposal accompanied by a detailed justification for this variation to the Commission for its consideration. No variation to the standard overtime regulation shall be operative unless approved in advance by the Commission.

(adopted April 27, 1976, amended April 19, 1983, October 23, 1985, effective April 13, 1986; amended April 19, 1990)

## Section 10. MAXIMUM TOTAL COMPENSATION

- 10.1 At no time shall an employee's total compensation exceed that which is authorized under the provisions of Rule IV of the City Civil Service Commission Rules. (amended April 27, 1977, effective February 26, 1979.)

Section 11. EMERGENCY RATE OF PAY

11.1 If it becomes necessary for an employee (exempt and non-exempt) to work on any day when the Mayor of New Orleans has declared an official emergency and has requested that only essential employees report to work, the appointing authority should adjust the employee's work schedule to allow another day(s) off during that work period as a substitution. If such a substitution is not possible, then, for working at such time, the employees shall be paid the following:

- (a) All non-exempt employees shall be paid at a rate of one and one-half (1½) times their normal rate for all hours worked.
- (b) All exempt employees shall be paid at a rate of one and one-half (1½) times their normal rate of pay. Normal rate of pay for exempt employees is defined as the weekly salary.
- (c) In situations where the emergency lasts for less than a normal seven day work week, then exempt employees shall be paid at a rate of one and one-half (1½) times their normal hourly rate for all hours worked subject to the maximum allowed for a regular scheduled work day in keeping with Rule I, Number 40. Under no circumstances shall an exempt employee receive pay from this section that exceeds more than one and one-half times his normal weekly salary for an emergency event.

In all cases, this pay is to remain in effect until the Mayor announces the state of emergency has ended or an announcement is made that City offices are open for business and employees are to report to work, whichever comes first.

- (d) When the Mayor of New Orleans has declared an official emergency on a day in which city offices remain open for business, exempt and non-exempt essential employees (except for highly compensated employees as defined by the FLSA) who are assigned to perform emergency/disaster field operations duties may receive five (5) percent over their normal rate of pay while engaged in such duties during a declared state of emergency. In cases where the emergency declaration extends beyond four (4) weeks, a request for extension and reasons therefore must be submitted by the Chief Administrative Office or other executive authority to the Civil Service Commission for approval along with an anticipated end date and a list of the essential employees who will remain in the emergency assignment. (amended September 25, 2017, adopted by the Council October 26, 2017)

(Section 11.1 adopted March 28, 1996, ratified by the Council April 18, 1996, amended May 15, 2006, adopted by the Council May 25, 2006, effective June 1, 2006, amended April 28, 2014, adopted by the Council June 2014, effective April 28, 2014)

Section 12. INCENTIVE PAY

- 12.1 As an integral part of a pilot program in the Sewerage and Water Board to increase productivity and enhance work performance, special monetary compensation in the form of incentive pay shall be awarded to employees on a quarterly basis for meeting specified goals and objectives, which have been quantified and applied in a fair, objective and uniform fashion to all employees involved. (amended September 21, 2000, adopted by Council October 5, 2000)

Section 13. HOLIDAY PAY

- 13.1 There shall be a total of ten paid holidays, as established in Rule X, Section 1.2, for all employees except those who are compensated on a special hourly basis. Employee shall be paid for Holidays in accordance with Council Motion.
- 13.2 Employees on leave without pay before or after the Holiday are not eligible for Holiday Pay.
- 13.3 Part-time hourly employees receive holiday pay pro-rated based on their average daily work schedule. Part time employees shall not be eligible for Holiday Pay if their work Schedule is either intermittent or employee is assigned less than 17 hours per week.
- 13.4 For non-exempt employees who work on an official city holiday, the appointing authority should adjust the employee's work schedule to allow another day off during that work period as a substitution for the holiday. If such a substitution is not possible, then for working on the holiday the employee shall be paid double time. Under no circumstances shall an employee receive pay less than an amount equal to straight time for all hours worked plus holiday pay as established in Rule X, Section 1.2.

However, on New Year's Day, Mardi Gras, Independence Day, Labor Day, Thanksgiving Day, Christmas Day or on their days of observance as officially designated by the City Council, employees who are required to work shall be paid double time and one-half. Under no circumstances shall an employee receive less than an amount equal to time and one-half for hours worked, plus holiday pay as established in Rule X, Section 1.2

- 13.5 For exempt employees, when a holiday falls on a regularly scheduled day off or who work an official city holiday, the appointing authority must provide that employee a substitute day off within thirty days of the holiday. In no circumstances may holiday pay be used to supplement the normal weekly salary.

(Sections 13.1 - 13.5 adopted October 20, 2014, ratified by the Council February 5, 2015 to be effective November 1, 2014)

Section 14. RETENTION PAY BASED ON AN OUTSIDE JOB OFFER

- 14.1 In order to retain a regular employee who has received an outside job offer an appointing authority may, subject to the approval of the Personnel Director, authorize pay above the minimum of up to 15% not to exceed the third quartile (step 31) of the pay range provided that:

- (a) The employee has permanent status.
- (b) The employee has a verifiable job offer at a rate of pay higher than the employee's current rate of pay.
- (c) The job offer has been documented by the appointing authority in the manner prescribed by the Personnel Director.
- (d) The job offer is from an outside employer. Officers from another City department, or another City Board or Commission will not be accepted. Offers to City employees from Sewerage and Water Board or offers to Sewerage and Water Board employees from the City will be accepted provided all other provisions of this rule are met.
- (e) The appointing authority has documented in writing the basis for determining that the unusually high or unique qualifications of the employee or a special need of the employee's services makes it essential to retain the employee and that the employee would be likely to leave the department in the absence of a retention incentive.
- (f) Employees whose base pay, exclusive of longevity and merit pay, is at or above the maximum of the third quartile of the pay range are not eligible for retention-based pay.

(adopted April 11, 2022 and ratified by the Council May 22, 2022)

#### Section 15. PAY UPON PROMOTION

- 15.1 A promotion is defined as a change of an employee in the classified service from a position in one class to a position in another class for which a higher pay grade is provided in the pay plan. When an employee is promoted to a position in a higher grade, his/her Base Rate shall increase to the minimum pay rate of the new class, hiring rate established pursuant to Rule IV, §2.6, or by 5%, whichever is greater. (Adopted February 20, 2017, ratified by the City Council April 6, 2017)

#### Section 16. PRESCRIPTIVE PERIOD FOR BACK PAY CLAIMS

- 16.1 Any claim for back pay brought by an employee in the classified service based upon the application of the Pay Plan or the rules regarding classification and compensation must be submitted in writing, to the Personnel Director no later than three years from the date that the employee knew, or should have known, about the facts giving rise to the claim. Any award of back pay shall not extend beyond the three years immediately preceding the employee's written submission to the Personnel Director.

Nothing in this section shall modify or reduce back pay awards arising out of appeals filed pursuant to Civil Service Rule II or Article X, Section 8 of the Louisiana Constitution. Furthermore, nothing in this rule shall modify or otherwise impact the deadlines contained in Rule II for filing appeals.

## RULE V

### EXAMINATIONS

(amended March 15, 1956, June 13, 1956, April 3, 1972, July 6, 1972, January 30, 1974, June 13, 1974, July 22, 1975, February 28, 1979, November 13, 1980, October 8, 1981, October 26, 1982, May 12, 1983, August 25, 1983, November 10, 1983, February 13, 1986, January 21, 1988, January 24, 1989, August 24, 1989, December 21, 1989, December 31, 1992, January 20, 1994, March 17, 1994, approved February 16, 1995, effective March 1, 1995, amended June 2, 1997, November 20, 1997, February 25, 1999, April 29, 1999, September 17, 2001, December 18, 2006, February 28, 2007, December 14, 2009, February 18, 2013, amended August 25, 2014, effective September 1, 2014)

#### Section 1. APPOINTMENT OF EXAMINERS

- 1.1 The Director may select officers or employees in the city service to act as examiners in the preparation and rating of tests. An appointing authority shall excuse any employee in his division from his regular duties for the time required for his work as an examiner. Officers and employees shall not be entitled to extra pay for their service as examiners, but shall be entitled to reimbursement for necessary traveling and other expenses.
- 1.2 The Director may, for the purpose of assisting in the examination of candidates for positions of high responsibility and positions requiring unusual qualities or qualifications, retain the services of persons from within or without the state who, because of their experience or for other reasons, have special acquaintance with the qualities requisite for such positions.

#### Section 2. ADMISSION TO EXAMINATIONS

- 2.1 Applicants for all original entrance examinations must be "domiciled in Orleans Parish" unless this requirement is specifically waived on the announcement. (amended July 6, 1972, January 30, 1974, January 20, 1994)
- 2.2 Where tests are given in series and the higher tests include all parts of the lower tests, competitors who fail to qualify as eligibles for the class for which the tests were taken may be rated with reference to their eligibility for a lower class or classes in the series.
- 2.3 Unless a maximum age limit is specified on an examination announcement, there shall be no maximum age limit for the purpose of applying for Civil Service examinations. (amended June 13, 1974; February 28, 1979; January 21, 1988, effective February 1, 1988)

2.4 The Personnel Director shall fix minimum qualifications for training, residence, age, health, skill, education, or other qualifications for admission to examination for each class. Such qualifications must be possessed by any applicant by the final filing date for each examination unless otherwise specified on the official announcement. The Personnel Director shall seek appointing authority input into establishing the minimum qualifications and form of examination. No examination will open to applications until such time as the appropriate appointing authority has signed a draft of the official announcement stating the minimum qualifications and form of examination. If no agreement between the Personnel Director and appointing authority is reached on the position's minimum qualifications or form of examination, the issue may be brought before the Commission for a decision. (amended August 25, 2014, effective September 1, 2014)

2.5 The Director shall give public notice of each entrance examination at least two (2) weeks in advance of the test by posting a notice thereof in a means widely accessible to the public, such as on the Department's website or on the bulletin board maintained in or near the office of the Department, and by publishing a brief abstract of the notice in the official journal of the City and in such other manner as is considered appropriate.

The Director may also advertise examinations in newspapers, professional and trade publications, post notices thereof in schools and colleges, and employ any other methods of publicizing examinations which are considered appropriate. (amended February 18, 2013, effective March 1, 2013)

2.6 The Director shall reject any application filed after the time fixed for closing receipt of applications, or after a specified number of applications, announced in the public notice of the tests, has been received.

The Director, subject to the Rules, may reject the application of any person for admission to any test of fitness, or refuse to test any applicant, or may cancel the eligibility of any eligible on any employment list, who is found to lack any of the qualifications prescribed as requirements for admission to the tests for the class for which he has applied or because his character or reputation is deemed unfit for employment in that class, or who is addicted to the habitual use of drugs or intoxicating liquors to excess, or who has been adjudged guilty of a crime involving moral turpitude or infamous or notoriously disgraceful conduct, or who has been dismissed from the public service for delinquency or misconduct, or who has made a false statement of any material fact, or has practiced or attempted to practice deception or fraud in his application or his tests or otherwise in securing eligibility for appointment or attempting to do so. Any such facts shall also be considered cause for removal of any employee.

2.7 The time fixed for closing receipt of application shall be the close of business on the date announced in the public notice of examinations. Applications received in the office of the Department of City Civil Service after this time shall be rejected.

Section 3. CONTINUOUS EXAMINATIONS

- 3.1 The Director may, subject to these Rules, hold examinations for which no final filing date has been set, which will be given on more than one date, and from which the resulting employment list is an open list. In providing means by which continuous examinations for a class of positions shall be held, the Director may determine the length of time to be elapsed before a candidate may reapply for an examination for which he failed to qualify as an eligible.

Section 4. RESULTS OF EXAMINATIONS

- 4.1 Open lists. The order of names on an open list, and the period for which an eligible's name shall remain on an open list, shall be governed by the following: (1) the period of eligibility for each person on such lists shall be one year unless extended in accordance with Section 5.3 of this Rule; (2) eligibles shall be listed on the employment list in accordance with their highest rating or re-rating on the examination.
- 4.2 The Personnel Director shall keep the scored answer sheets and other documents of candidates for a period of at least thirty (30) days after the notification of test results. Candidates may inspect their answer sheets for written multiple choice examinations for thirty (30) days after notification of test results. The Director reserves the right to determine the nature, form and extent of the review based upon the characteristics of the particular exam and the likelihood that the exam or portions of the exam will be used again. Persons requesting an opportunity to review their results shall arrange for an appointment in the manner and on the forms prescribed by the Director. (amended May 24, 1990, effective May 24, 1990)
- 4.3 A manifest error in rating a test, or in the publication of an examination announcement, shall be corrected if called to the attention of the Director within one month after the establishment of the list, but such correction shall not invalidate any appointment previously made from such list. If the error is identified during the examination process, the Director shall halt further steps in the examination process until a determination is made regarding the effect of the error. Any errors identified on a list of eligibles shall be corrected whenever discovered during the life of the register without effect on any appointments previously made. (amended November 13, 1980)
- 4.4 In any instance where the number of candidates for a position far exceeds the number of existing vacancies in the classified service, the Director may set forth a predetermined number to be used in deciding on the number of candidates to be placed on an employment list.

(Section 4 amended October 26, 1982, May 24, 1990)

- Section 5. ESTABLISHMENT OF PROMOTION LISTS AND EMPLOYMENT LISTS (amended July 25, 2001)
- 5.1 On every competitive promotion list and employment list, the eligibles shall be ranked in the order of their ratings earned in the examination given for the purpose of establishing the list. The Director may determine that ratings earned in the examination shall be divided into bands. Bands shall be established based on psychometric properties of the test score distribution or on job analysis information. All scores falling within a given band shall be considered tied. (amended October 26, 1982, effective October 26, 1982, January 20, 1994)
- 5.2 The Personnel Director shall determine at the time any promotion list or employment list is established, the period during which the list shall remain in force, which shall not be less than three months nor more than three years at the discretion of the Personnel Director, in cooperation with the affected appointing authorities for departmental specific classifications and sub-headings. If no agreement between the Personnel Director and appointing authority is reached, the issue may be brought before the Commission for a decision. (amended January 24, 1989, effective January 24, 1989, March 17, 1994, amended August 25, 2014, effective September 1, 2014)
- 5.3 Any period during which any list may remain in force may be extended by the Director for a period no longer than three years from the date of the original establishment thereof. The Civil Service Commission may extend such lists for up to an additional two (2) years. (amended January 24, 1989, effective January 24, 1989)
- 5.4 Combining lists: When establishing a list for a class for which a list already exists, the following conditions shall apply: (amended July 25, 2001, amended December 14, 2009, effective January 1, 2010)
- (a) If the same test was used to create both lists, the names on the current and new lists shall be placed on one list arranged according to examination score. If the name of any individual appears on both the current and new lists, his standing on the combined list shall be determined by the highest score obtained on either of the examinations.
  - (b) If the tests used to create the lists being combined are not the same, names on the new list shall precede those on the current list.
  - (c) In any case that lists are combined, names from the current list shall be removed from the combined list at the time the current list is allowed to expire. In any case that banded lists are combined, the number of the band is considered the examination score.



- 5.5 Selective certification list: Upon the prior request of an appointing authority or on his own initiative, the Director may establish a list for a part of a class, if in his judgment it is advisable for the good of the service to certify to some positions in the class only eligibles who have qualifications of age, sex, residence, physical characteristics, physical condition, training, experience, specialized knowledge, specialized manual skill, facility in the use of a foreign language, possession of a license, possession of paraphernalia, equipment or facilities, or other qualifications, which are not required in all positions of the class.
- 5.6 Promotion lists: Such lists may be established on a service-wide, or a departmental-wide basis as determined by the Director in cooperation with the appointing authorities.

Section 6. POSTPONEMENT AND CANCELLATION OF TESTS

- 6.1 In the event that a sufficient number of qualified candidates have not made application for a test, the Director may postpone the final filing date and the date of tests or cancel the tests or any of the parts thereof, and shall, in each case, give suitable notice thereof to the applicants.
- 6.2 In the event that budgetary or other changes render the establishment of a list of eligibles unnecessary, the Director may cancel the examination at any stage of the process, provided notice thereof is made to all applicants. (adopted November 13, 1980)

Section 7. REMOVAL OF NAMES FROM LISTS

- 7.1 Names of eligibles shall be removed from an eligible list by operation of any of the following causes:
  - (a) Refusal of three offers of appointment under conditions previously listed by the eligible as acceptable.
  - (b) Appointment through certification from such list to fill a permanent position.
  - (c) Appointment through certification from the eligible list for another class at the same or higher compensation. In such case, at the request of the appointee, his name may be continued on, or restored to, any or all lists other than the one from which the appointment was made, for the remainder of the period of eligibility on such list.
  - (d) Filing of a statement by the eligible that he is not willing to accept appointment. Such statement of unwillingness may be restricted to a limited period of time, or to geographic locations, or positions involving other conditions of employment, as specified. The name of the eligible shall then be treated as not available and shall be passed over in certification to fill the vacancy under the conditions specified as though such name did not appear on the list. Any eligible may renew his eligibility at any time during the life of the eligible list by filing a new statement as to the time, place, or other conditions under which appointment will be accepted.

- (e) Failure to respond, within the time specified in the notice, to any inquiry of the Director or appointing authority if satisfactory evidence is not furnished justifying such failure to respond.
- (f) Failure to report for work after accepting appointment.
- (g) Expiration of the term of eligibility on an eligible list.
- (h) Notice by postal authorities of their inability to locate an eligible at his last known address.
- (i) Death of an eligible.
- (j) Loss of citizenship.
- (k) Review of eligibility of an eligible who is found to lack any of the qualifications prescribed as requirements for admission to the tests for the class for which he has applied, or who is physically unfit to perform effectively the duties of a position of the class, or who is addicted to the habitual use of drugs or intoxicating liquors to excess, or who has been adjudged guilty of a crime involving moral turpitude or infamous or notoriously disgraceful conduct or who has been dismissed from the public service for delinquency or misconduct, or who has made a false statement of any material fact or has practiced or attempted to practice deception or fraud in his application or in his tests or otherwise in securing eligibility for appointment or attempting to do so.

Section 8. NON-COMPETITIVE EXAMINATIONS (amended September 17, 2001)

- 8.1 In accordance with Article X, Section 7 of the Constitution, the Personnel Director, by and with the approval of the Civil Service Commission, may hold non-competitive entrance and promotional examinations in the following classes of work and under the following conditions when he deems it impractical to hold competitive examinations:
- (a) Entrance examinations for classes of work to be defined by the Personnel Director and published as a non-competitive minimal skills series, such classes to be limited to those having no administrative or supervisory responsibilities and requiring minimal verbal or clerical skills for proper performance of duties. (amended May 12, 1983, effective May 12, 1983, amended February 13, 1986, effective February 13, 1986)
  - (b) Entrance and promotional examinations where highly specialized professional or technical training is required, provided such training can be adequately demonstrated by possession of related certificates.
  - (c) Promotional examinations where the appointing authority requests a non-competitive examination for the reasons that experience in a particular division or section of the department is a necessity for competence in a position. Such requests must be made in writing and must receive the approval of the Personnel Director.

- (d) In the following specific classes of work until such time as the Commission withdraws permission or the Personnel Director recommends that competitive examinations are practicable: (amended July 18, 1991, February 14, 1997, September 17, 2001, December 18, 2006)

Accountant Trainee  
Administrative Support Supervisor  
Administrative Support Supervisor III  
Administrative Support Supervisor IV  
Administrative Support Manager I  
Administrative Support Manager II  
Automotive Mechanic I  
Automotive Mechanic II  
Automotive Mechanic III  
Equipment Operator I  
Firefighter I (Promotional)  
Firefighter II  
Food Services Worker  
Gardener  
Juvenile Detention Counselor I  
Law Clerk  
Lead Programmer - Analyst  
Licensed Practical Nurse I  
Licensed Practical Nurse II  
Licensed Practical Nurse III  
Office Support Specialist  
Plant Attendant  
Police Officer  
Senior Police Officer  
Police Recruit  
Principal Office Support Specialist  
Senior Office Support Specialist  
Traffic Signal Technician  
Tree Trimmer  
Water Meter Reader, Trainee  
Water Meter Reader

(Amended April 3, 1972, August 19, 1976, April 27, 1977, March 16, 1978, October 8, 1981, May 12, 1983, effective May 12, 1983, August 25, 1983, November 10, 1983, March 13, 1986, February 24, 1988, July 18, 1991, September 17, 2001, December 18, 2006, May 16, 2022)

Section 9. SUBSTANCE-ABUSE TESTING (adopted August 24, 1989, effective September 1, 1989, amended December 21, 1989, September 27, 1990, adopted December 17, 1992, effective December 31, 1992, approved February 16, 1995, effective March 1, 1995, amended June 2, 1997, effective June 2, 1997, amended February 25, 1999, effective March 1, 1999, amended February 28, 2007, effective February 28, 2007, amended November 19, 2018)

- 9.1 In order to protect the health, welfare and safety of the public, co-workers and the individual employee, heighten efficiency and effectiveness of service to the public, and insure the continued integrity of the merit system, a comprehensive program of substance-abuse testing of applicants and employees shall be undertaken in accordance with the provisions of this Rule.
- 9.2 All individuals who apply for original entrance examinations to fill positions in the classified service of the City shall voluntarily submit to the substance abuse screening procedure as a qualifying condition of eligibility for completing the examination process.
- 9.3 At the appropriate stage of the examination procedure, determined by the nature and degree of sensitivity of the position for which application has been made, the substance abuse testing procedure shall be conducted in the following manner:
- (a) Positions that require carrying a firearm and continuing certification in its proper use shall be termed security sensitive positions per se (Category I), and all applicants for such positions shall be required to successfully complete a pre-employment substance abuse screening, as well as post-employment substance abuse screening during the probationary (working test) period. (amended September 27, 1990)
  - (b) Positions where the safety of the public, co-workers and the individual employee are at risk, shall be termed safety sensitive positions (Category II), and all applicants for such positions shall be required to successfully complete a pre-employment substance abuse screening, as well as post-employment substance abuse screening during the probationary (working test) period. (amended September 27, 1990)
  - (c) Applicants for all other positions, who are currently not city employees, shall be required to successfully complete a pre-employment substance abuse screening. (amended June 2, 1997, effective June 2, 1997, amended November 19, 2018)
- 9.4 Refusal to participate in the substance abuse screening procedure, or failure to undergo the screening procedure at the time and place designated for testing, or tampering with or attempting to adulterate the sample, shall be considered to be presumptive evidence of the individual's inability to pass the substance abuse testing procedure.
- 9.5 Any individual who either does not pass the pre-employment substance abuse screening procedure, or who does not undergo the pre-employment screening procedure at the prescribed time and place designated for testing, or tampers with or attempts to adulterate the sample, shall be considered as having failed that portion of the examination procedure.

Any individual who either does not pass the post-employment substance abuse screening procedure, or who does not undergo the post-employment screening procedure at the prescribed time and place designated for testing, or tampers with or attempts to adulterate the sample, shall be considered as having failed to successfully complete the probationary (working test) period.

- 9.6 Any employee who has been terminated for failure to successfully complete the substance abuse screening procedure, may again seek employment with the City in accordance with the following procedure:
- (a) Persons having achieved permanent status in a classification may be reinstated with probationary status to any class where they successfully completed the working test period.
  - (b) Persons having previously attained permanent status in a classification, as well as those terminated during their probationary periods, may have their names restored to employment registers still in existence.
  - (c) In addition to the aforementioned groups, any individual may make application for employment with the City pursuant to the provisions of Rule V, Section 2., Admission to Examinations.

Persons seeking employment with the City under the provisions of this section of the Rules, must submit documentation of their successful completion of a certified treatment program and continuing participation in an aftercare program, and agree in writing to voluntarily submit to unannounced substance abuse testing for a period of 24 months, if ultimately employed by any agency of City government. (adopted December 17, 1992, effective December 31, 1992)

- 9.7 The Director shall determine the appropriate laboratory to perform the substance abuse testing, subject to their compliance with the following criteria:
- (a) The laboratory uses the best available technology for insuring the full reliability and accuracy of substance abuse testing procedures.
  - (b) The laboratory employs strict procedures governing the chain of custody of samples collected for substance abuse testing to insure the integrity of each screening sample by carefully tracking its handling from the point of collection to final disposition of the sample.
  - (c) The laboratory issues reports of positive test results only where an initial positive test resulting from enzyme multiplied immunoassay technique (EMIT) screening is confirmed by a separate procedure such as thin layer chromatography or gas chromatography/ mass spectrometry.
  - (d) The laboratory guarantees a minimum confidence level of 95%, by which is meant no false positive results and less than 5% false negative results.
  - (e) The laboratory maintains strict confidentiality of all sample results so that at no time will the laboratory release results from any substance abuse test to anyone except an authorized representative of the Civil Service Commission.
  - (f) The laboratory agrees in writing to hold the City of New Orleans harmless against any liability resulting from the laboratory's failure to comply with these or other governmental standards. (amended September 27, 1990)

- (g) The laboratory has obtained certification from the Substance Abuse and Mental Health Services Administration (SAMHSA) and operates in accordance with those standards (amended and effective February 28, 2007).
- 9.8 An appointing authority, after having submitted sufficient justification for its request, may petition the Commission to grant approval for substance-abuse testing as an integral part of the promotional examination. If the Commission's approval is obtained, then the provisions of Sections 9.3, 9.4 and 9.5 of this Rule shall likewise apply.
- 9.9 The Director, after consultation with representatives of appropriate health and human services groups, law enforcement officials, appointing authorities, and other interested parties, shall prepare and maintain a list of substances for which testing shall be employed, as well as specific detection levels that are compatible with governmental requirements and consistent with standards normally acceptable within the industry.
- 9.10 At the time of the collection of the sample, an employee, at his or her expense, may request that a portion of this sample be made available for a separate, confirmatory test at another laboratory, which is likewise certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). At all times during the process of sample transportation, testing and storage, a strict chain of custody of the sample must be maintained in accordance with acceptable industry standards, and approved by the City's Medical Review Officer. Results of this additional test shall be sent to the employee and the City's Medical Review Officer. (approved February 16, 1995, effective March 1, 1995, amended and effective February 28, 2007)
- 9.11 All employees who occupy positions that have been determined by the Civil Service Department to be either: a safety sensitive position (Category II); a security sensitive position per se (Category I); and appointing authorities who have such personnel in their employ, shall participate in a screening procedure for substance abuse in accordance with the following requirements:
  - (a) Based upon the level of funding allocated for substance abuse testing by the City Council and after consultation with the Chief Administrative Officer of the City, the Director shall determine the frequency of the testing to be instituted each year, for all employees in Category I and II positions, in accordance with the following preference: random, routine (annual), periodic, intermittent. (amended September 27, 1990)
  - (b) Times and dates of test shall not be announced in advance.
  - (c) Each appointing authority having personnel in Category I and/or Category II positions in their employ shall be responsible for the formulation of a reasonable plan for the selection and transportation of personnel to and from the collection and/or testing site.

- 9.12 An employee shall be required to participate in the substance abuse screening procedure if there exists reasonable suspicion (Category III) to believe that the employee's fitness for duty is questionable, based on the following criteria:
- (a) Any observable, work-related behavior or similar pattern of conduct that appears to be abnormal, erratic or otherwise not in conformance with acceptable City policy.
  - (b) Any observable, work-related behavior or similar pattern of conduct that indicates signs of impairment in normal sensory and/or motor body functions.
  - (c) Any articulable facts or evidence that indicate possible substance abuse on the job.
  - (d) Any information or evidence that warrants, or emanates from, an authorized investigation of possible drug-related activity by a specific individual or group.
  - (e) Any pattern of alcohol and/or drug-related behavior, conduct or activity that is violative of municipal, state or federal law.

9.13 All employees in safety sensitive and security sensitive positions, and all other employees who may be called upon to operate equipment in the ordinary scope of their employment shall be required to participate in the substance abuse screening procedure if the employee is involved in an on-the-job accident, sustains an on-the-job injury, or is associated with a "near-miss" on-the-job incident (all these examples are included in Category IV). For purposes of this Rule:

- (a) The term "accident" refers to any occurrence which requires treatment by qualified medical personnel, causes injury or fatality, produces damage to property or material, or interrupts and/or terminates scheduled work assignments.
- (b) The term "near-miss" refers to any incident which might have resulted in an "accident" (as defined above) but for the intervention of some special action, circumstance or event, and which was caused to any degree by violation of safety rules or procedures, by careless or negligent conduct or by the failure to use prescribed personal protective equipment.

Each appointing authority having personnel in their employ who are the subject of Category IV testing, shall be responsible for the transportation of personnel to and from the collection and/or testing site within a reasonable period of time after the accident, injury or incident occurs. Failure of the employee to participate in the substance abuse screening procedure in a timely manner may result in the forfeiture of coverage under the provisions of Rule VIII, Sections 2.9, 2.10, and/or 2.11. (amended February 25, 1999, effective March 1, 1999)

9.14 The identity of each employee participating in the substance abuse screening procedure shall be verified by picture identification. If circumstances make such identification too onerous, the employee's identity may be confirmed by the designated representative of the appointing authority who knows the employee's identity.

9.15 Upon receipt of written confirmation from the laboratory on a positive test result of an employee, the Director shall forward this information to the City's medical review officer for further consideration. The medical review officer shall certify in writing to the Director either the validation of the test results or the reasons that the test results should be discounted. Accordingly, the Director shall inform the employee and the appointing authority of this determination, including the positive test results when verified by the medical review officer, or the Director shall inform the employee and the appointing authority of all positive test results, or of the employee's conduct pursuant to the provisions of Section 9.4 of this Rule. Upon receipt of this information, the appointing authority shall take such action as in its discretion is deemed appropriate, after giving deference and consideration to such factors as:

- (a) The nature of the position occupied by the employee, (i.e., sensitive per se, sensitive, or non-sensitive).
- (b) The basis for which the substance abuse screening procedure was administered, (i.e., working test period, Category I, II, III, IV, V testing).
- (c) The employee's fitness for duty.
- (d) The nature and quality of the employee's performance on the job.
- (e) The employee's length of service with the City.
- (f) The severity of the employee's substance abuse problem.
- (g) The employee's acknowledgment of the substance abuse problem and willingness to seek assistance.
- (h) The existence of previous attempts at rehabilitation and their results.
- (i) The prospect of reasonable refusal by co-workers to work with the employee if the individual were allowed to remain in the City's employ.
- (j) The prospect of the employee being unable to effectively perform the job as a viable member of the organization because of loss of credibility due to substance abuse problems.
- (k) Other relevant facts or information that the appointing authority may obtain which have a bearing on continuing the individual's employment with the City.

(Section 9.15 amended September 27, 1990, amended November 20, 1997, effective December 1, 1997)



- 9.16 If, after thorough consideration, the appointing authority determines that rehabilitation rather than termination is the appropriate course of action, the employee's continued employment with the City will be conditioned on the following criteria:
- (a) Enrollment in and successful completion of a certified rehabilitation program.
  - (b) The rehabilitation program is in conformance with the standards normally acceptable within the health-care industry.
  - (c) The individual's rehabilitation program is comprised of one or more components such as treatment, counseling, recovery and after-care service, depending upon the nature and severity of the employee's substance abuse problem.
  - (d) The employee agrees in writing to remain alcohol and drug free and to undergo unannounced, post-treatment substance-abuse testing (Category V), for a period not to exceed 24 months from the date of re-entry into active work status with the City.

Failure of the employee to agree to and/or comply with these conditions shall constitute adequate grounds for the appointing authority to invoke the provisions of Rule IX, Section 1, Maintaining Standards of Service.

- 9.17 Unless otherwise specified, the provisions of Section 9.4 of this rule shall apply to all individuals and/or employees who are designated for substance abuse rehabilitation procedures pursuant to Section 9 of this Rule.

(Section 9.11 through 9.17 adopted December 21, 1989, effective January 1, 1990)

## Section 10. WORKPLACE DIVERSITY AND INCLUSION

- 10.1 The City shall make efforts to provide recruitment opportunities intended to attract qualified candidates who reflect the demographics of the city. (adopted August 25, 2014, effective September 1, 2014)

## **RULE VI**

### **VACANCIES, CERTIFICATION & APPOINTMENT**

(amended June 13, 1956, April 1, 1966, April 14, 1966, July 6, 1972, June 13, 1974, July 22, 1975, August 9, 1979, November 12, 1981, October 26, 1982, April 12, 1983, May 12, 1983, January 21, 1988, February 24, 1988, September 21, 1989, September 27, 1990, August 19, 1993, April 20, 1995, April 29, 1999, June 19, 2006, amended March 15, 2010, effective April 1, 2010, amended March 17, 2014, effective April 1, 2014, amended August 25, 2014, effective September 1, 2014, amended November 3, 2014, effective December 1, 2014, amended June 20, 2016, effective July 1, 2016)

The purpose of this Rule is to ensure the efficient screening and assessment of applicants for promotion and appointment under a general system based on merit, efficiency, fitness and length of service as ascertained by examination which, so far as practical, shall be competitive. Every personnel action must comply with Civil Service Rules and the uniform classification and pay plan adopted by the Commission. No employee shall gain any entitlement or property right to any position or pay found to have been awarded to him or her in violation of these Rules.

Through the adoption of amendments to this Rule, the Commission may delegate certain hiring authorities to individual appointing authorities. However, the Commission shall first adopt a pilot program that will provide for delegation only to the Sewerage & Water Board for the City of New Orleans. Once the Commission delegates authority under the pilot program, the Department shall prepare and present a report to the Commission regarding the status of the pilot program every six months.

The Commission may withdraw from an appointing authority any authority delegated under these Rules at any time.

#### **Section 1. FILLING OF VACANCIES**

- 1.1 Vacancies in positions in the classified service may be filled by demotion, transfer, reinstatement, reemployment, promotion, original appointment, or temporary appointment. A vacancy shall be considered filled under any of the methods specified, and employment hereunder effective, as of the date on which the employee enters into the duties of the position, in accordance with Article X of the Louisiana Constitution and the Rules. (amended August 25, 2014, effective September 1, 2014)
- 1.2 Transfer. An employee may transfer to another position in the same class. This may occur within the same organization unit or across organization units. Each transfer requires the approval of both the employee's prospective appointing authority and of the Personnel Director. (amended April 20, 1995)

It is important to note that a transfer differs from other personnel actions such as Lateral Classification Change, Promotion and Demotion. These actions are defined in Rule I. (amended September 27, 1990, April 20, 1995)

## Section 2. REQUEST FOR CERTIFICATION

- 2.1 Whenever an appointing authority proposes to fill a vacancy in the classified service, the appointing authority shall submit to the Department a statement showing the position to be filled, the duties thereof, the necessary and desirable qualifications of the person to be appointed thereto, and the proposed class, if known. The Department shall approve or deny the position allocation within seven (7) days for existing classifications and fifteen (15) days for new classifications, exclusive of Commission approval. The Department shall announce each vacancy within thirty (30) days of an approved allocation. The Department shall not withhold reasonable approval of the request unless it can demonstrate that the request violates the principles of the merit system. For the purposes of allocating positions to a class, the Department shall interpret the existing classes broadly and in accordance with Rule III Section 2.1, including, when appropriate, waiving supervisory requirements and allowing a department to leverage classes used by other departments for efficiency. If the appointing authority and the Director disagree on the position's minimum qualifications or the class allocation and are unable to resolve their disagreement, the issue may be brought before the Commission for a decision. (amended August 25, 2014, effective September 1, 2014)
- 2.2 Anticipation of need: Insofar as practicable, each vacancy shall be anticipated sufficiently in advance to permit the Director to determine who may be available for appointment, and, if necessary, to prepare a class specification, and to establish a list of eligibles.
- 2.3 Request for selective certification: When an appointing authority has specified special necessary or desirable qualifications of candidates, the Director shall certify from a list of eligibles having such qualifications, if the Director deems that the request has offered satisfactory evidence that the nature of the position to be filled warrants such certification. If it is necessary to hold a new examination to establish a list of a sufficient number of persons eligible for such selective certification, the Director may authorize provisional appointment, pending establishment of the eligible list, of any of the eligibles on an existing list for the class, or any person who demonstrates to the satisfaction of the Director that he or she possesses, in sufficient degree to have a good chance of passing the examination, the special qualifications on the basis of which the selective certification procedure is to be used. The Director shall consider each request for selective certification on the basis of the facts in that particular instance. The burden of proof shall be on the appointing authority to prove to the satisfaction of the Director that selective certification is warranted. The Director may consider the cost of giving a special examination as a factor in determining whether selective certification is warranted. (amended August 25, 2014, effective September 1, 2014)
- 2.4 Requests for Departmental and Promotional Certification: Appointing Authorities may make requests for departmental certification on any eligible list in order to broaden promotional opportunities for permanent employees. The Personnel Director shall certify from a list of eligibles, if the request has offered satisfactory evidence to support that the nature of the position and work performed warrants such certification. At the request of an appointing authority, the Personnel Director may certify only permanent employees of the department on any eligible list or all permanent employees on any eligible list. (amended August 25, 2014, effective September 1, 2014)

Section 3. CERTIFICATION OF ELIGIBLES

- 3.1 Upon a request from the appointing authority to fill a position other than by demotion, transfer, or reinstatement, the Department shall provide to the appointing authority the names of all candidates certified by the Department to meet the minimum qualifications, to have passed the examination, if any, and met any selective certification requirements requested by the appointing authority and approved by the Personnel Director. The number of names to be certified shall not be less than three. The Personnel Director may authorize an appointing authority to conduct examinations and may establish policies for appointing authority administered examinations. Such examinations shall be job-related and designed to assess applicants based on merit, efficiency, fitness, and length of service. (amended August 25, 2014, effective September 1, 2014, amended November 3, 2014, effective December 1, 2014, amended June 20, 2016, effective July 1, 2016)
- 3.2 Notwithstanding the provisions of section 3.1, the determination as to whether an applicant meets Minimum Qualifications may be done by the Department, or by an appointing authority under delegated authority granted by the Commission. Decisions made by the appointing authority may be reviewed by the Director and his/her decisions will be final. (amended June 20, 2016, effective July 1, 2016)
- 3.3 All vacancies for jobs in the classified service that are filled by probationary appointment, job appointment or promotion shall be posted on the Internet in accordance with the Director's policies and procedures. (amended June 20, 2016, effective July 1, 2016)
- 3.3 (a) Appointees must meet the Minimum Qualifications for the job. The Director may order the dismissal or demotion of any employee in the classified service who does not meet the Minimum Qualifications for his or her position. The failure of a regular employee to possess the minimum qualifications for the position to which he/she has been appointed is sufficient cause for that employee's dismissal or demotion. A regular employee subject to such a dismissal or demotion has the right to appeal to the Commission. However, his/her dismissal or demotion shall not constitute discipline under Rule IX. (amended June 20, 2016, effective July 1, 2016)
- (b) Each applicant shall be notified of the status of his or her application. When an applicant is notified that he or she does not meet Minimum Qualifications, the applicant may request that the Personnel Director review the decision. The request must be in writing and be postmarked or received within 10 days from the date of the disqualification letter. The Director shall render a decision within 20 days of receiving the request for review and such decision shall complete the review process by the Department of Civil Service. The applicant shall have no recourse to the Commission. (amended June 20, 2016, effective July 1, 2016)
- 3.4 For each vacancy in the classified service, with the exception of those filled through demotion, transfer, or reinstatement, the Director shall create, or the Commission may authorize an appointing authority to create, a certified list containing names of applicants who:

- (a) Meet the Minimum Qualifications.
- (b) Have attained any test scores required by Civil Service.
- (c) Have applied during the open period of the announcement.
- (d) Have met any other eligibility requirements established by the Director, by Civil Service rules or by law.
- (e) Have met any other job-related selective certification requirements requested by the appointing authority, approved by the Director and Appointing Authority and stated in the public vacancy announcement.

The certified list shall contain the names of not less than three eligibles.

When the applicant is eligible for veteran's preference points, these shall be noted on the certificate.

The Director shall establish policies and procedures the appointing authority must follow when creating certificates or review and approve the Appointing Authority's policies and procedures, including record keeping requirements.

An appointing authority is not obligated to fill an announced vacancy.

(amended June 20, 2016, effective July 1, 2016)

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- (a) The eligibles certified shall be the highest ranking eligibles willing to accept employment, ranked in the following order:
  - 1. All the eligibles on the appropriate preferred reemployment list, if any;
  - 2. All other eligibles.
- (b) All the names on any one of such lists shall be exhausted before any names are certified from another list, but the names certified may be taken from two or more lists if necessary to make a certification of at least three eligibles. Names shall be certified from each list in the order of their rank on that list.  
(amended August 25, 2014, effective September 1, 2014)
- (c) The certification of eligibles from promotional, reemployment and/or employment lists shall be presented in order of the examination score, when competitive, on the same register. (adopted June 23, 1988 effective July 1, 1988, amended October 1, 1989, amended August 25, 2014, effective September 1, 2014)
- (d) Within 45 days after such names are certified the appointing authority shall appoint one of those whose names are certified to each vacancy which is to be filled. Requisitions which are not returned within this 45 day period shall be canceled. To allow for the additional time required to complete background investigations, the 45 day period is extended to 90-days for vacancies in public safety agencies that

require a background investigation. For vacancies in public safety agencies that require a background investigation, the appointing authority shall appoint one of those whose names are certified to each vacancy which is to be filled within 90 days after such names are certified. Requisitions which are not returned within this 90-day period shall be cancelled. In each case of acceptance of an appointment, such appointment shall become effective as of the date on which the appointee enters upon duty in accordance with the Law and Rules. (amended May 12, 1983, effective June 1, 1983, May 24, 1990, amended October 18, 2022)

- (e) If the appropriate lists do not contain the names of a sufficient number of eligibles willing to accept appointment to make possible the certification of three eligible persons, the names of all persons on such lists who are willing to accept appointment shall be certified.
- 36 Where fewer than three names are certified to fill a vacancy, the appointing authority may make his appointment from the names certified. If he does not wish to make an appointment from the names certified, the Director may authorize him to make a provisional appointment.
- 37 If the appointing authority passes over the name of an eligible on a register in connection with three separate appointments he has made from the register, written request may be made of the Director that the name of such eligible be omitted from any subsequent certification to the same appointing authority from the same register. The name of such eligible shall thereafter not be certified to him from that register for future vacancies in that class of positions.
- 38 When a vacancy is to be filled in a position of a class for which there are no eligibles available for certification, the Director, whenever practicable, may certify for appointment eligibles from another appropriate eligible register. Such appointment shall be probationary and the vacancy shall be deemed to be filled in accordance with the provisions of the Law and Rules.
- 39 Whenever a vacancy exists in the classified service and there exists a promotion list and a reemployment list, both resulting from the identical examination, names shall be certified to fill this vacancy in the order of the grades on the original examination for this position.
- 3.10 Subject to the provisions of Rule V, Section 7, the names of persons who have been appointed from lists to fill temporary vacancies shall be continuously certified to all permanent vacancies in the class or classes of positions from which they are eligible until such time as:
- (a) they are appointed to fill permanent vacancies, or
  - (b) their eligibility on the register or registers expires, or
  - (c) the factors affecting the temporary nature of appointments are removed.

(Section 3.7 amended February 24, 1988, effective March 1, 1988)

- 3.11 Any employee receiving a conditional appointment from a list of eligibles may upon

request have his or her name returned to that list at any time during the life of said list.  
(adopted February 24, 1988, effective March 1, 1988)

#### Section 4. REINSTATEMENT AND REEMPLOYMENT

- 4.1 Persons who were separated from their positions for reasons other than fault or delinquency on their part, except as provided in Rule IX, and who, at the time of their separations, had attained permanent status in that class of positions in accordance with the Law and Rules may be included on employment lists as reemployment candidates. Reemployment candidates are required to take the most recent examination that was used to certify candidates for that register. The appointing authority shall take length of service into consideration when making appointment or promotion from an employment list. IN accordance with Rule VI, Section 4.3, preferred reemployment candidates eligible for veterans preferences as outlined in Article X of the Louisiana Constitution and Rules (*sic*), shall precede general employment lists in certification and shall be accorded any preference to which they are entitled under Article X, Section 10 of the Louisiana Constitution. In accordance with Rule VI, Section 3.2 (a) the names of eligibles on the preferred reemployment list shall be exhausted first. Except as allowed in Rule XII, Section 6.1, a person who has voluntarily retired may be reinstated, with the approval of the Personnel Director, only to the position the person last held, and in the event of reinstatement, said employee waives all pension rights while so employed. (amended April 1, 1966, June 13, 1974, January 21, 1988, effective February 1, 1988, amended December 12, 2005, effective December 12, 2005, amended August 25, 2014, effective September 1, 2014, amended November 3, 2014, effective December 1, 2014)
- 4.2 The name of a regular employee who has been laid off shall be placed automatically on the appropriate preferred reemployment list for the class of positions which he occupied. His name shall remain on this list for a period of two years from the date of separation unless removed earlier by any of the provisions of the Law or Rule V, Section 7.1. Until his reinstatement or reemployment is effected within the department or organization unit from which he was separated, or until his period of eligibility has lapsed, his name shall be certified on a service-wide basis to vacancies in that class of positions.
- 4.3 Preferred reemployment lists shall precede general employment lists in certification, provided that persons on such lists meet the requirements and qualifications, to be determined by the Director, to perform the duties of the position involved. (amended August 25, 2014, effective September 1, 2014)
- 4.4 A regular employee who has resigned from his position shall, upon his written request made within one year from the date of resignation, have his name placed on the appropriate reemployment list. Such name shall remain on that list for three years from the employee's resignation date unless removed sooner under any of the provisions of the Law or Rule V, Section 7.1. If appointed from a reemployment list, the employee returns with probationary status and must successfully complete a new working test period.
- 4.5 The name of a regular employee returning from military leave who is placed on a reemployment register in accordance with Rule VIII, Section 8.3 shall remain thereon for a period of two years unless removed sooner under any of the provisions of the Law or Rule V, Section 7.1.

46 A permanent employee who is terminated for inefficiency, delinquency, or misconduct may, within one year from separation, be reinstated with probationary status to a position for which he is qualified having the same or lower pay grade as the current pay grade for the class of position in which he had permanent status, if recommended by the appointing authority and approved by the Director. (adopted June 13, 1956, amended April 12, 1983, effective April 12, 1983; January 21, 1988, effective February 1, 1988; amended September 27, 1990)

47 Whenever a regular employee has been promoted to a higher classification, the employee shall be granted a promotional leave of absence from the position the employee formerly occupied until the individual acquires full Civil Service status in the higher class. Until the employee acquires permanent status in the higher classification, an appointing authority may fill the vacant position only through a conditional appointment. (amended November 12, 1981, effective December 1, 1981)

Should the employee be removed by the appointing authority during the probationary period from the position to which the employee had been promoted, the employee shall be reinstated to the former position, unless the removal is for disciplinary reasons of a nature to justify dismissal of a regular employee. When reinstated as herein authorized, the employee shall not be required to serve a new working test period.

48 (a) Any regular or probationary employee who has resigned from a position or has been terminated for reasons other than inefficiency, delinquency, or misconduct and has requested reinstatement to the same department and to any classification previously occupied, may, upon the request of the appointing authority and with the prior approval of the Personnel Director, based upon the record of the employee for satisfactory service, be reinstated to that position or any position where permanent status was previously held, within a period of three (3) years from the date of separation if a vacancy exists therein and upon the completion of a satisfactory medical examination if the separation was for medical reasons. (amended April 12, 1983, effective April 12, 1983, January 21, 1988, effective February 1, 1988, amended May 19, 1988, effective June 1, 1988, amended April 29, 1999)

1. Pursuant to Louisiana Revised Statute 33:2406, if a former employee is reinstated or reemployed under this section, his pay shall be fixed at the same base rate as his last rate in his former position or the minimum salary of the position which he is reinstated or reemployed, whichever is higher.

(b) However, if more than three years have elapsed, a former regular employee may apply for reinstatement only to the same department in the same classification as previously occupied, and subject to the following conditions:

1. The employee returns with probationary status and must successfully complete a new working test period.

2. The minimum qualifications and job requirements for the classification have remained essentially the same. However, if the minimum qualifications and job requirements have been revised, then the former employee must meet the current criteria.



3. In the event the former employee's personnel files are no longer in existence, it shall be the individual's responsibility to provide documentation to the Personnel Director, that he or she successfully completed the examination process and attained permanent status in the classification in question, and subsequently left the city service under honorable conditions.

49 For a period of three (3) years, a former employee who was separated as a result of layoff, who subsequently is reinstated or reemployed under the provisions of this section, shall be considered as having had no break in service for longevity pay increases or leave accrual purposes. (adopted May 19, 1988, effective June 1, 1988, amended September 21, 1989, effective October 1, 1989, amended August 19, 1993, amended and effective June 19, 2006, amended March 15, 2010, effective April 1, 2010)

4.10 Any regular employee who has resigned from the classified service to enter public service in another jurisdiction may, upon the request of the appointing authority and with the prior approval of the Personnel Director, based upon the record of the employee for satisfactory service, be reinstated to the position from which the employee was separated, if a vacancy exists therein. Such reinstatement must be made within ninety (90) days of the individual's separation from the original position in the new jurisdiction which the individual entered after leaving the classified service. (amended November 12, 1981, effective December 1, 1981)

## Section 5. CONDITIONAL AND TEMPORARY APPOINTMENT

5.1 When a position is temporarily vacated because the incumbent is on authorized leave of absence without pay for more than three (3) months, and the appointing authority desires to fill the position for the duration of the leave, he must do so by making a conditional appointment. Such appointment shall be in accordance with the provisions of Section 3 of this Rule. If an employee has been appointed to fill the position of a classified employee on leave of absence, he shall vacate the position when the employee on leave of absence returns. If the employee was appointed on a conditional basis by demotion or transfer, he shall be reinstated in his former position when the employee on leave of absence returns. If the employee was appointed on a conditional basis through certification from an employment list, he shall retain all rights he may have acquired by virtue of his service under the conditional appointment including, if he has completed his working test period, the right to have his name placed on a reemployment list, or if he has not completed his working test period, the right to have his name returned to the employment list from which his name was certified for conditional appointment, if the list still exists. He shall also be subject to all other provisions of these Rules not inconsistent with this paragraph.

### 5.2 LIMITED-TERM APPOINTMENTS:

Whenever the services of an extra employee are needed in any position in the classified service for a limited period of time, the appointing authority, with the prior approval of the Director, may make a conditional limited term appointment, subject to the following:

- (a) Appointing authorities requesting limited term appointments must be able to document that the position is temporary due to grant funding, seasonal work or a special project with limited funding. Conditional appointments are only granted in

cases in which permanent appointments would likely cause a layoff upon conclusion of the temporary staffing need.

- (b) The names of eligibles on the appropriate employment list (s) who are willing to accept appointment may be certified.
- (c) In each case of acceptance of appointment, such appointment shall become effective as of the approved date and the vacancy shall be considered filled. Employees must serve a probationary period in accordance with Rule VII, Section I.
- (d) Conditional limited term appointments shall not exceed three years under any circumstances. The appointment shall end on the date identified on the announcement for the position or in the limited-term employment letter.
- (e) Individuals who accept limited term appointments may remain on the appropriate original entrance employment list while serving in a limited term appointment in accordance with Rule V, Section 7. Employees serving in limited term appointments are not eligible to be placed on promotional registers.
- (f) An individual shall not serve more than one 3 year limited term appointment from any one employment list.
- (g) Employees in limited term appointments who obtain permanent status are not subject to the layoff provisions in Rule XII, Section II.
- (h) Appointing authorities may terminate a limited term appointment before the term expires for cause expressed in writing. Terminations for cause are subject to appeals under Rule II, Section I. Terminations of individuals based upon the lack of funding are not appealable and the associated positions are considered eliminated.
- (i) Current permanent employees may be considered for limited-term positions and may be reinstated to their former positions at the conclusion of the limited term appointment with prior approval from their former appointing authority. These appointments are not subject to Rule VI, Section 4.7 related to promotional leave of absence.
- (j) Compensation for Limited Term positions shall be the minimum of the job classification. Exceptions due to recruitment or retention problems may be subject to special entrance rates approved by the Commission.

(Section 5.2 amended March 17, 2014, effective April 1, 2014)

5.3 Temporary appointments to positions in the classified service may be made for short periods without compliance with the provisions of this part requiring certification, as follows:

- (a) Provisional appointments. When a vacancy is to be filled in a position of a class for which there are no eligibles available for certification, the appointing authority,

with the prior approval of the Director, may make a provisional appointment. Appointment of such provisional shall be made only after submission of the name and qualifications of the intended appointee to the Director and such individual is approved for appointment. Such provisional appointment shall terminate upon the regular filling of the vacancy in any manner authorized under these Rules and, in any event, within fifteen working days after a certification from which appointment can be required. A provisional appointment shall never continue for a period in excess of one year unless it is extended by the Commission upon the Director's certification that eligibles are not available and that it is not possible or practicable to provide such eligibles.

- (b) Transient appointments. Whenever the services of an extra or substitute employee are needed in any position in the classified service for a period of less than three months, the appointing authority, with the prior approval of the Director, may make a transient appointment of any person he deems qualified to serve for the period required.

This appointment, with the prior approval of the Director, may be extended for a further period if required, but no person shall serve under a transient appointment from the same or different appointing authority for an aggregate period of more than three months in any continuous twelve month period.

- (c) Emergency appointments. Where an emergency exists requiring that a position be filled before appointment can be made under any other provision of these Rules, an emergency appointment may be made for any available person to serve until the position involved can otherwise be filled under the provisions of these Rules. No emergency appointment shall continue for more than ten days in any case, or be renewed for any further period beyond that limit. The authority for any emergency appointment is conditioned on a prompt report thereof to the Director, at the time the appointment is made.

## Section 6. INVESTIGATIONS OF APPOINTMENTS AND PROMOTIONS

### 6.1 Procedure for Petition for Investigation

A candidate or employee, whose name appears on an employment list, may request an investigation of any appointment or promotion made from that employment list pursuant to Article X, Section 10(8) of the Louisiana Constitution of 1974 provided that:

- (a) The candidate or employee submits a written petition to the Department of Civil Service within 90 days following the appointment(s) or promotion(s) at issue;
- (b) The Petitioner(s) allege that the appointment(s) or promotion (s) were made for a non-merit-based reason(s);

The Director will decide whether to grant or deny a petition to investigate submitted pursuant to this subsection. The Director's decision to grant or deny a petition to investigate based on the criteria (a) and (b) above shall not be subject to appeal.

## Procedure for Director's Investigation

If the petition to investigate is granted, the Director or any person designated by the Director will investigate the appointment or promotion at issue. Petitions regarding the same appointment or promotion may be consolidated. The appointing authority who made the appointment or promotion at issue and the appointed or promoted employee ("incumbent") shall be notified and given an opportunity to submit written memoranda and evidence. In order to facilitate collection of information, the Director may issue subpoenas and/or secure sworn testimony. Any failure on the part of an employee or appointing authority to comply with subpoenas issued by the Director in the course and scope of an investigation under this section shall be considered in contempt of the Commission and may be the subject of contempt proceedings as established in Rule 11, Section 8.1 and incorporated herein by reference.

The Director shall complete his/her investigation relative to the challenged appointment or promotion within ninety (90) days of receiving the petition to investigate, absent exceptional circumstances justifying additional time, as approved by the Chairperson of the Commission. When the Director completes the investigation, he/she shall make a decision and issue a report. The Director's report and all evidence collected during the course and scope of the investigation shall be made available to any employee or appointing authority impacted by the Director's decision.

## Procedure for Appeal to Commission

Following an investigation pursuant to this subsection, the Petitioner(s), the incumbent(s) or the appointing authority that made the appointment or promotion may appeal the Director's decision to the Commission within thirty (30) days from the date they receive notice of the Director's decision. The Commission shall render a written decision on any appeal under this subsection within sixty (60) days, absent exceptional circumstances justifying additional time, as approved by the Chairperson of the Commission. The Commission may affirm, reverse, or remand for additional investigation.

## Remedies

If an investigation pursuant to this subsection results in a determination that the appointment or promotion at issue was made for non-merit-based reasons in violation of these Rules or Article X, Part I of the Louisiana Constitution of 1974, the appointment or promotion at issue shall be declared void, and the incumbent(s) shall be removed from the position and returned to their previous position in the classified City Service, if any. The Director or the Commission may also order one or more of the following remedies:

- (a) The appointment or promotion of Petitioner(s), effective on the date of the original promotion decision with back pay;
- (b) The prospective appointment or promotion of any candidate whose name appears on the eligible list, and whom the Director or the Commission determines should have been promoted or appointed.
- (c) If the Director or the Commission finds that the appointment or promotion at issue constitutes a bad faith violation of these Rules or Article X, Part I of the Louisiana

Constitution of 1974, the Commission may also order the appointing authority to pay the attorney's fees and costs reasonably incurred by the Petitioner(s).

All remedies ordered pursuant to this section shall take effect when the Commission's decision becomes final, pursuant to Rule II, section 4.18. In cases where the Director's decision is not timely appealed to the Commission, said decision shall be deemed to be adopted by the Commission and issued on the day after the time to appeal the Director's decision has run.

(Section 6.1 adopted August 25, 2014, effective September 1, 2014; amended July 28, 2021)

## **RULE VII**

### **WORKING TESTS**

(as amended January 12, 1955, August 15, 1957, July 22, 1975, March 12, 1981, February 13, 1986, January 21, 1988, September 21, 1989, January 20, 1994, April 25, 1996, amended August 25, 2014, effective September 1, 2014)

#### **Section 1. EMPLOYEES TO SERVE**

- 1.1 Every person appointed to a position in the classified service after certification of his name from an original entrance employment list or a promotion list, shall be tested by a working test while occupying the position. At any time during his working test period, after the first two months thereof, the appointing authority may remove an employee if, in the opinion of the appointing authority, the working test indicates that (1) the employee is unable or unwilling to perform his duties satisfactorily or (2) his habits and dependability do not merit his continuance in the service; provided not more than three (3) employees shall be removed successively from the same position. Upon the removal, the appointing authority shall forthwith report to the Director and to the employee removed his action and the reason therefore. The appointing authority may remove an employee within the first two months of this working test period only with the approval of the Director. The Director may remove an employee during his working test period if he finds, after giving him notice and an opportunity to be heard, that the employee was appointed as a result of fraud or error. (as amended January 12, 1955)
- 1.2 If the duration of the working test period is not stated at the time of the announcement of the test for a position, the working test period shall be six (6) months in duration. No extension shall be allowed which would make the total working test period longer than one (1) year in the same position under the same appointing authority. Supervisors of probationary employees who are still employed after three (3) months shall be required to perform an employee performance assessment at three (3) months so the employees understand how they are performing and whether and how they need to improve under a performance improvement plan. (amended August 25, 2014, effective September 1, 2014)
- 1.3 Extension of time. The Personnel Director may, upon the written request of an appointing authority, with a copy to the employee, made not later than ten (10) days before the expiration of a working test period, extend the duration of such working test. No extension shall be allowed which would make the total working test period longer than one year in the same position under the same Appointing Authority. (amended January 21, 1988, effective February 21, 1988)
- 1.4 Failure by an appointing authority to give the ten (10) days prior written notice to the Personnel Director and a copy thereof to the employee shall have the same force and effect as a satisfactory report. Probationary appointments that begin or are extended on or after February 1, 1994, and were completed without the probationary appointment being terminated by the appointing authority, shall become permanent effective April 25, 1996. (amended April 25, 1996)
- 1.5 If an employee is removed from his position during or at the end of his working test period,

and the Director determines that he is suitable for appointment to another position, his name may be restored to the list from which it was certified. If the employee was a regular employee in another position in the classified service immediately prior to his appointment, his name may be placed on the reemployment list for the class of positions in which he was a regular employee.

## Section 2. INTERRUPTION OF WORKING TEST

- 2.1 If an employee is laid off during a working test period and subsequently reappointed by the same appointing authority from the same eligible list, he shall be given credit for the portion of the working test period completed before he was laid off.
- 2.2 If an employee is transferred during his working test period from a position under one appointing authority to a position under another appointing authority, the second appointing authority may in his discretion permit the granting of credit for the portion of the working test period previously completed.
- 2.3 If an employee is placed on military leave without pay while serving his working test period, he shall be given credit for the portion of the working test period completed before he was placed on military leave.
- 2.4 If an employee is appointed to a higher position in a like classification of work, or to a higher position in the unclassified service which position embraces essentially similar duties, responsibilities and consequent qualification requirements, before the completion of his working test period in a lower position, he shall be given credit for the uncompleted portion of the working test period if he remains in a higher position during a period equivalent to the unfinished portion. (amended August 15, 1957)
- 2.5 If an employee resigns while serving in his working test period, he may be reinstated, within a period of three years from the date of his separation, to a position in the same class from which he was separated. (amended September 21, 1989, effective October 1, 1989)
- 2.6 If reinstatement is not effected as herein provided, the person, with the prior approval of the Director, may be returned to the employment list from which he was certified.
- 2.7 The appointing authority may, in his discretion, permit the granting of credit for the portion of the working test period previously served under him or another appointing authority.
- 2.8 When a working test period, for employees who are probationary with no other permanent status, is interrupted for more than twelve weeks due to the employee's inability to perform the essential function(s) of a position as a result of a medical condition, injury, or light duty assignment shall be completed upon the employee's return to duty. The employee's inability to perform the essential functions of a position must be certified by a physician. In such cases, the appointing authority shall request a temporary appointment in keeping with Rule VI, Section 5.3 as an interim measure until the employee is able to resume their regular duties and serve the remaining portion of the probationary period. (amended September 25, 2017)
- 2.9 When the Director grants a petition to investigate an appointment or promotion pursuant to Rule VI, Section 6.1, the working test period for the employee(s) whose appointment or

promotion is under investigation (“incumbent”) shall be interrupted during the period of time covered by the investigation and any related appeal or judicial review thereof. If the appointment or promotion is found to be merit-based, the incumbent shall receive credit for any period of interruption. (amended July 28, 2021)



## RULE VIII

### ANNUAL AND OTHER FORMS OF LEAVE

(amended September 14, 1955, September 12, 1963, September 11, 1969, April 15, 1970, August 13, 1970, April 3, 1972, July 6, 1972, July 22, 1975, March 16, 1978, September 18, 1978, December 28, 1978, February 19, 1979, August 9, 1979 July 10, 1980, February 13, 1981, November 12, 1981, November 10, 1983, December 11, 1986, January 21, 1988, February 23, 1989, December 21, 1989, September 27, 1990, April 25, 1991, November 19, 1991, July 15, 1993, March 16, 1995 April 20, 1995, May 17, 1995, October 24, 1996, March 24, 1997, November 20, 1997, October 27, 2000, December 13, 2001, effective January 1, 2002, amended December 13, 2004, effective January 1, 2005, amended November 20, 2006, effective November 20, 2006, amended January 12, 2009, effective January 12, 2009, amended January 25, 2010, effective February 1, 2010, amended June 21, 2010, effective July 1, 2010, amended March 21, 2011, effective April 1, 2011, amended February 18, 2018, effective March 1, 2013, amended October 21, 2013, effective November 1, 2013, amended February 17, 2014, effective March 1, 2014, amended August 25, 2014, effective September 1, 2014, amended December 15, 2014, approved by the Council to be effective January 1, 2015, amended July 20, 2015, effective August 1, 2015)

Section 1. ANNUAL LEAVE (amended December 13, 2004, effective January 1, 2005, amended February 17, 2014, effective March 1, 2014)

1.1 Receipt:

Annual leave with pay shall be earned on a bi-weekly basis by all employees, except for: Transient and Emergency employees (see paragraph “j” below), other employees paid at special rates of pay in accordance with Rule IV, Section 4.1, and uniformed fire suppression, fire communication, and fire prevention personnel (see paragraph “k” below).

Each reference to days of leave in this Rule shall refer to “leave days” as defined in Rule I. (amended December 13, 2001, effective January 1, 2002, amended December 13, 2004, effective January 1, 2005)

- (a) The accrual rate for all eligible employees appointed subsequent to December 31, 1978 shall be 0.5 of a leave day for each bi-weekly accrual period (13 leave days a year).
- (b) The accrual rate for all eligible employees, except for uniformed police personnel, on the payroll as of December 31, 1978 shall be 0.6923 of a leave day for each bi-weekly accrual period (18 leave days a year).
- (c) The accrual rate for uniformed police personnel on the payroll as of December 31, 1978 shall be 0.8077 of a leave day for each bi-weekly accrual period (21 leave days a year).

- (d) An employee whose appointment, reemployment or reinstatement is effective on the first workday of the bi-weekly accrual period shall be eligible to earn annual leave commencing with that bi-weekly period.
- (e) No annual leave shall accrue to an employee during any bi-weekly period, or part thereof, in which an employee is on leave without pay or on suspension.
- (f) When an employee's services are terminated before the end of the bi-weekly accrual period, no annual leave shall accrue for that period.
- (g) Employees paid on a daily or hourly basis, or who work a regular or recurring part-time work schedule, shall earn annual leave at the same rate as eligible full-time personnel, but in proportion to the time worked.
- (h) In the event an employee's work schedule is adjusted from either full-time to part-time or part-time to full-time, a corresponding adjustment in the amount of accumulated annual leave shall be made in proportion to the hours to be worked.
- (i) Upon reinstatement from active duty, and subject to the provisions of Rule VIII, Section 8, an employee on military leave without pay shall be eligible to accrue annual leave at the rate formerly earned.
- (j) Persons holding Transient or Emergency appointments as defined in Rule VI, Section 5.3 (b) and (c) shall not be entitled to earn annual leave. The provisions of this section shall not apply to regular employees temporarily on a Transient or Emergency appointment in another classification. (amended September 27, 1990)
- (k) Uniformed fire suppression, fire communication, and fire prevention personnel, after having served one year on the Fire Department, shall receive eighteen (18) days of annual leave on their anniversary date each year. This allotment shall be increased by one (1) day for each year of service over ten (10) years, up to a maximum of thirty (30) days.(amended December 13, 2001, effective January 1, 2002)
- (l) When an employee changes from one type of leave day to another (for example from a seven (7) hour leave day to an eight (8) hour leave day), his or her annual leave balance and accrual rate shall change in the same manner.

## 1.2 Bonus Annual Leave Days

- (a) Except for uniformed fire suppression, fire communication, and fire prevention personnel, each eligible employee appointed subsequent to December 31, 1978 shall be granted, on January 1 of each year, bonus annual leave days as follows: (amended December 13, 2001, effective January 1, 2002)
  1. Three (3) bonus annual leave days per year for employees with five through nine calendar years of continuous service.

2. Six (6) bonus annual leave days per year for employees with ten through fourteen calendar years of continuous service.
  3. Nine (9) bonus annual leave days per year for employees with fifteen through nineteen calendar years of continuous service.
  4. Twelve (12) bonus annual leave days per year for employees with twenty or more calendar years of continuous service.
  5. Except for police personnel accruing annual leave at the rate of .8077 of a leave day, each full-time eligible employee on the payroll as of December 31, 1978 shall be granted on January 1st of each year three (3) bonus annual leave days. (amended April 20, 1995)
  6. Any employee who is appointed on or before the fifteenth day of January shall be eligible to earn the bonus leave for that year. (March 21, 1991)
  7. Eligible part time employees accrue bonus leave days in proportion to time worked.
  8. Any employee who uses thirty (30) days or more of leave without pay in any calendar year shall not be eligible to accrue bonus annual leave days for that year.
- (b) An active employee who presents documentation verifying that they have received a full schedule of any COVID-19 vaccine approved under full or emergency use authorization by the U.S. Food and Drug Administration on or prior to September 30, 2021 shall receive one (1) bonus annual leave day. To receive this bonus annual leave, verification documentation must be submitted no later than October 15, 2021 and accepted by the appointing authority. (amended June 10, 2021, effective June 17, 2021)

1.3 **Bonus Annual Leave Days (Reinstatement/Reemployment):** Subject to the approval of the Director, former employees who are reinstated or reemployed pursuant to Rule VI, Section 4 shall have their bonus annual leave days calculated based on their cumulative service time, as defined in Rule I, if all of the following conditions are met:

- (a) There is a written request from the appointing authority;
- (b) The position is full time;
- (c) The employee was separated for reasons other than fault or delinquency on his or her part; and
- (d) The employee was separated for more than three months, but less than three years.

1.4 **Leave Carried Forward:**

- (a) On December 31 of each year the accumulated annual leave of all employees hired before January 1, 1979 shall be carried forward to the succeeding year, provided that accumulated annual leave carried forward shall not exceed ninety (90) leave

days. However, effective January 12, 2009, leave in excess of ninety (90) days shall be converted to sick leave credits (amended April 20, 1995, amended November 20, 2006, amended January 12, 2009).

- (b) On December 31 of each year the accumulated annual leave of all employees hired after December 31, 1978 shall be carried forward to the succeeding year, provided that accumulated annual leave carried forward shall not exceed forty-five (45) leave days. However, effective January 12, 2009, leave in excess of forty-five (45) days shall be converted to sick leave credits (amended April 20, 1995, amended November 20, 2006, amended January 12, 2009).

1.5 Use:

- (a) The minimum charge against annual leave shall be fifteen (15) minutes (one-quarter of an hour) for non-exempt employees only. (amended February 17, 2014)
- (b) In computing annual leave taken by an employee, each deduction shall be made from accrued annual leave for only that time which the employee is absent but is scheduled to work. (amended April 20, 1995)
- (c) Accumulated annual leave may be used only after completion of twenty-six consecutive weeks of service. Employees who are reinstated following a break in service must also complete twenty-six consecutive weeks following such reinstatement before being eligible to use annual leave. Annual leave is not paid to employees who are terminated before twenty-six consecutive weeks of service. Employees who are laid off before the completion of the twenty-sixth week of service shall be paid for earned and accumulated annual leave.
- (d) Accumulated annual leave may be taken at the time or times requested by the employee and approved by the appointing authority. If the work load of the employee's organization unit makes the granting of annual leave undesirable for the time requested, the appointing authority shall notify the employee.
- (e) Each employee shall be entitled to use a minimum of one year's accumulation of annual leave during any calendar year. When an employee entitled to annual leave makes a written request for leave, the appointing authority shall, within five (5) days after the date of the employee's request, either approve or disapprove the request in writing. If the request is denied, the appointing authority shall grant, in writing, permission for use of the annual leave requested during an equivalent period within the six-month period following the employee's request. This written permission shall be given to the employee within ten (10) working days after the request.
- (f) Employees who use annual leave to appeal disciplinary actions before a hearing examiner or the Civil Service Commission, shall have such leave restored if the appeal, when final, has been sustained either by the Commission or the appellate courts of the State and the appellant has been completely exonerated of culpability. (adopted February 23, 1989, effective February 23, 1989)

1.6 Annual Leave at Separation: Upon an employee's death, termination of employment or entry into active duty with the Armed Forces of the United States, after completion of

twenty-six (26) consecutive weeks of service under current employment with the City, all accrued annual leave shall be paid to the employee except that:

- (a) Upon separation from the service of the City, all accumulated annual leave which was earned under the provisions of the Rule shall be paid to all eligible employees in accordance with the provisions of Section 3.1 of this Rule.
- (b) The payment of accumulated annual leave shall be withheld if an employee is dismissed for fraud, theft, or misappropriation of City funds or property. The payment of accumulated annual leave shall be withheld if an employee, while under administrative or criminal investigation for fraud, theft, or misappropriation of City funds or property, attempts to terminate employment before the conclusion of the respective investigation and/or disposition of any administrative hearing convened by the appointing authority. Any unauthorized absenteeism during the aforementioned time periods shall be an unexcused absence subject to the corrective action specified in Rule IX of the Commission's Rules. If, upon conclusion of the respective investigation and/or administrative hearing, the employee has been exonerated, payment for all accumulated annual leave shall be made. (amended December 21, 1989, effective January 1, 1990)
- (c) An employee entering active duty with the Armed Forces may request, in writing, that all or part of his or her accrued annual leave be paid. Otherwise, this leave balance will be retained on file until the employee returns to work.
- (d) At the time of separation from the service, employees shall have the option to convert unused annual leave, accumulated under the provisions of Rule VIII, Sections 1.1 and 1.2, to cash or substitute unused annual leave for retirement credits, subject to the provisions of applicable sections of this Rule, as well as the laws and regulations of the employee's retirement system.

1.7 Annual Leave in Changes of Organization Unit: When an employee changes organization units without a break in consecutive service, all accumulated annual leave remaining to the employee's credit shall be transferred when the employee commences service in the new position.

Section 2 SICK LEAVE (amended December 13, 2004, effective January 1, 2005, amended July 20, 2015, effective August 1, 2015)

2.1 Receipt: Sick leave with pay shall be earned on a bi-weekly basis by all employees, except for Emergency, Transient or other employees paid at special rates of pay in accordance with Rule IV, Section 4.1 (amended December 13, 2001, effective January 1, 2002)

- (a) The accrual rate for all eligible employees appointed subsequent to December 31, 1978 shall be 0.5 of a leave day for each bi-weekly accrual period (13 leave days a year).
- (b) The accrual rate for all eligible employees on the payroll as of December 31, 1978 shall be 0.923 of a leave day for each bi-weekly accrual period (24 leave days a year).

- (c) An employee whose appointment, re-employment or reinstatement is effective on the first workday of the bi-weekly accrual period shall be eligible to accumulate sick leave commencing with that bi-weekly period.
- (d) No sick leave shall accrue to an employee during any bi-weekly period or part thereof, in which an employee is on leave without pay or on suspension.
- (e) When an employee's services are terminated before the end of the bi-weekly accrual period, no sick leave shall accrue for that period.
- (f) Employees paid on a daily or hourly basis, or who work a regular or recurring part-time work schedule, shall earn sick leave at the same rate as eligible, full-time employees, but in proportion to the time worked.
- (g) In the event an employee's work schedule is adjusted from either full-time to part-time or part-time to full-time, a corresponding adjustment in the amount of accumulated sick leave shall be made in proportion to the hours to be worked.
- (h) Upon reinstatement from active duty, and subject to the provisions of Rule VIII, Section 8, an employee on military leave without pay shall be eligible to accrue sick leave at the rate formerly earned.
- (i) Persons holding Transient or Emergency appointments as defined in Rule VI, Section 5.3 (b) and (c) shall not be entitled to earn sick leave. The provisions of this section shall not apply to regular employees temporarily on a Transient or Emergency appointment in another classification.
- (j) When an employee changes from one type of leave day to another (for example from a seven (7) hour leave day to an eight (8) hour leave day), his or her sick leave balance and accrual rate shall change in the same manner.

2.2 Bonus Sick Leave Days: Each January 1, employees appointed subsequent to December 31, 1978, except for Emergency, Transient or other employees paid at special rates of pay in accordance with Rule IV, Section 4.1, shall be granted bonus sick days as follows: (amended April 20, 1995)

- (a) Two (2) bonus sick days per year for employees with six (6) through fifteen (15) calendar years of continuous service.
- (b) Seven (7) bonus sick days per year for employees with sixteen (16) or more calendar years of continuous service.
- (c) Any employee who is appointed on or before the fifteenth day of January shall be eligible to earn the bonus leave for that year.
- (d) Any employee who uses thirty (30) days or more of leave without pay in any calendar year shall not be able to accrue the bonus sick days for that year.
- (e) Eligible part time employees accrue bonus leave days in proportion to time worked.

- 2.3 Bonus Sick Leave Days (Reinstatement/Reemployment): Subject to the approval of the Director, former employees who are reinstated or reemployed pursuant to Rule VI, Section 4 shall have their bonus sick leave days calculated based on their cumulative service time, as defined in Rule I, if all of the following conditions are met:
- (a) There is a written request from the appointing authority;
  - (b) The position is full time;
  - (c) The employee was separated for reasons other than fault or delinquency on his or her part; and
  - (d) The employee was separated for more than three months, but less than three years.
- 2.4 Leave Carried Forward: The sick leave accumulated by all employees in accordance with these Rules shall be carried forward to the succeeding year.
- 2.5 Use: An employee who has taken sick leave shall file with his or her appointing authority a letter stating the cause of the absence from work, provided that:
- (a) If the amount of sick leave taken exceeds six (6) consecutive working days, a registered physician must certify to the nature of the illness or injury and the necessity for absence after the sixth consecutive working day.
  - (b) If there is a reasonable doubt of the validity of the employee's claim for consecutive sick leave of six (6) working days or less, the appointing authority may require a statement from a registered physician or some other acceptable proof that the employee was ill, provided that the employee has been previously notified of the policies and conditions under which a physician's certificate will be required for absence of less than six (6) consecutive working days.
  - (c) When an appointing authority has determined that an employee has charged an absence against sick leave although no actual illness or injury as defined in Rule I occurred, the appointing authority must deduct the value of the absent time from the employee's accrued annual leave or pay and may also take disciplinary action as deemed appropriate under the circumstances.
  - (d) When computing sick leave taken, deduction shall be made from accrued sick leave only for those days upon which an employee is scheduled to work.
  - (e) When there is a death in the immediate family of the employee, as defined in Rule I, the employee shall be allowed to use a maximum of three (3) leave days of sick leave. If travel time is deemed necessary, the appointing authority may grant an extra two (2) leave days of sick leave; but in no case shall the sick leave granted under this section aggregate more than five (5) leave days. (amended April 20, 1995)
- 2.6 Sick Leave at Separation: At the time of separation from the service, employees shall have the option to convert unused sick leave, accumulated under the provisions of these Rules to

cash or substitute unused sick leave for retirement credits, subject to the provisions of applicable sections of this Rule, as well as the laws and regulations of the employee's retirement system.

If an employee either does not elect to convert unused sick leave for retirement, or elects to have only a portion of that leave credited for retirement purposes, any residue of the unused sick leave shall be converted to cash, subject to the following provisions:

- (a) Upon termination of service the conversion of unused sick leave to cash shall be determined as follows:
  - 1. For the 1st through 100th leave day, twenty percent (20%) of the accrued leave shall be converted to pay. (amended April 20, 1995)
  - 2. For the 101st through 200th leave day, twenty-five percent (25%) of the accrued leave shall be converted to pay. (amended April 20, 1995)
  - 3. For the 201st through 300th leave day, thirty-three percent (33%) of the accrued leave shall be converted to pay. (amended April 20, 1995)
  - 4. For the 301st through 400th leave day, fifty percent (50%) of the accrued leave shall be converted to pay. (amended April 20, 1995)
  - 5. One hundred percent (100%) of the accrued leave in excess of 400 leave days of sick leave shall be converted to pay. (amended April 20, 1995)
- (b) The conversion of accumulated sick leave to cash shall be withheld if an employee is dismissed for fraud or theft of City funds or property. The conversion of accumulated sick leave to cash shall be withheld if an employee, while under administrative or criminal investigation for fraud, theft or misappropriation of City funds or property, attempts to terminate employment before the conclusion of the respective investigation and/or disposition of any administrative hearing convened by the appointing authority. Any unauthorized absenteeism during the aforementioned time periods shall be an unexcused absence subject to the corrective action specified in Rule IX of the Commission's Rules. If, upon conclusion of the respective investigation and/or administrative hearing, the employee has been exonerated, payment of sick leave converted in accordance with the applicable provisions of these Rules shall be made. (amended December 21, 1989, effective January 1, 1990.)
- (c) If an employee dies, either as the result of an on-the-job accident or from injuries which can be unequivocally traced or connected to an on-the-job accident, one hundred percent (100%) of all unused sick leave shall be converted to cash. (amended April 20, 1995)

2.7 Sick Leave in Changes of Organization Unit: When an employee changes organization units without a break in consecutive service, all accumulated sick leave remaining to the employee's credit shall be transferred when the employee commences service in the new position. (amended April 20, 1995)



- 2.8 Sick Leave While on Military Leave: When an employee is placed on authorized military leave without pay, all unused sick leave which was accumulated prior to the employee's placement on military leave shall remain to the employee's credit until the time of reinstatement or forfeiture of all rights under Section 8 of this Rule. See Section 1.5 of this Rule for provisions for annual leave while on active duty with the Armed Forces.
- 2.9 Sick leave with partial or full compensation in excess of the amount of leave normally earned may be granted by the Director, on the recommendation of the appointing authority and with the approval of the Commission, where the sickness or injury was caused by conditions of employment or in other special cases. The Commission, at its discretion, may require that the employee receiving this leave return any and all leave advanced.
- 2.10 (a) When any commissioned police personnel sustains accidental bodily injury while actively engaged in enforcing vehicle and traffic laws, investigating a traffic incident, police training, responding to an emergency call, or in the process of pursuing, apprehending, arresting, transporting or booking a suspect, such employee may be granted sick leave with pay which will not diminish his or her ordinary sick leave accumulation, simultaneously with the benefit provisions of the State of Louisiana Worker's Compensation statutes, provided such leave is recommended by the Superintendent of Police and is requested of and approved by the Director of Personnel of the Department of Civil Service.

When any Police Recruit (Academy) sustains any disabling injury while actively engaged in training activities related to law enforcement (to include self defense, simulation, defensive driving, and weapons training) and subject to the limitations of this section of the Rules, such employee may be granted up to 60 days sick leave with pay which will not diminish his or her ordinary sick leave accumulation, simultaneously with the benefit provisions of the State of Louisiana Worker's Compensation statutes, provided such leave is recommended by the Superintendent of Police and is requested of, and approved by, the Director of Personnel of the Department of Civil Service. (amended August 9, 1979, October 27, 2000, January 25, 2010, June 21, 2010, July 20, 2015, effective August 1, 2015)

- (b) It is the specific intention of this subsection to provide additional benefits to law enforcement officers who have exposed themselves to danger unique to law enforcement. However, in no instance shall an employee receive combined monetary benefits under this section which are greater than the employee's normal rate of pay. The total benefits under this subsection for an occurrence resulting in accidental bodily injury and for any medically certified recurrence or recurrences of symptoms thereof shall not exceed 52 weeks (365 calendar days). (amended August 9, 1979)
- (c) An initial report of the injury directed to the Director of Personnel of the Department of Civil Service must be received by the Civil Service Department within thirty (30) calendar days of the injury in order to be considered for benefits pursuant to this subsection.(amended October 27, 2000)
- (d) Any report of a recurrence of injury symptoms must be directed to the Director of

Personnel and received by the Civil Service Department within thirty (30) calendar days of the date of such recurrence in order to be considered for benefits. Any request for leave resulting from a recurrence of injury symptoms must be directed to the Director of Personnel and received by the Civil Service Department within sixty (60) calendar days of such recurrence; otherwise, benefits under this subsection shall be prescribed (amended October 27, 2000)

- 2.11 (a) Special monetary compensation for a limited period of time may be authorized by the Director, subject to the approval of the Civil Service Commission, for non-exempt police personnel who sustain any disabling injury while attempting to intervene in the perpetration of a crime, provided there is an immediate manifestation of the injury which is objectively discernable to the parties at the scene of the injury. (adopted August 9, 1979)
- (b) Prior to consideration by the Commission, the Police Department must submit thorough documentation outlining the circumstances surrounding the injury, together with a detailed medical statement from the attending physician specifying the probable length of disability. (adopted August 9, 1979)
- (c) When there has been a sufficient recovery from the injury enabling the employee to return to work, the special compensation under this provision of the Rules shall be discontinued. If the employee's condition is determined to be permanently disabling, and prevents the employee from ever returning to work, the appointing authority must recommend that the employee be placed on disability retirement. (adopted August 9, 1979).
- 2.12 (a) Special monetary compensation for a limited period of time may be authorized by the Director, subject to the approval of the Civil Service Commission, for non-exempt Fire Suppression personnel who sustain any disabling injury while:
1. actively engaged in fire training exercises or drills.
  2. responding to an alarm or an emergency call.
  3. actively engaged in fighting a fire, provided that there is an immediate manifestation of the injury which is objectively discernable to the parties at the scene of the injury. Coverage under the provisions of this section shall be extended to include latent or non-apparent injuries which can be unequivocally traced or connected to the fire scene. (adopted August 9, 1979, amended February 13, 1981)
- (b) When either a Fire Recruit or probationary Firefighter sustains any disabling injury while actively engaged in an activity listed in, and subject to, the conditions of Rule VIII, Section 2.1 (f) (1), such employee may be granted up to 60 days sick leave with pay which will not diminish his or her ordinary sick leave accumulation, simultaneously with the benefit provisions of the State of Louisiana Worker's Compensation statutes, provided such leave is recommended by the Superintendent of Fire and is request of and approved by the Director of Personnel of the Department of Civil Service. (adopted February 13, 1981)

- (c) Prior to consideration by the Commission, the Fire Department must submit thorough documentation outlining the circumstances surrounding the injury, together with a detailed medical statement from the attending physician specifying the probable length of disability. (adopted August 9, 1979)
- (d) When there has been sufficient recovery from the injury to enable the employee to return to work, the special compensation under this provision of the Rules shall be discontinued. If the employee's condition is determined to be permanently disabling and prevents the employee from ever returning to work, the appointing authority must recommend that the employee be placed on disability retirement. (adopted August 9, 1979)

2.13 Sick or Annual Leave Donation: Subject to the prior approval of the Director of Personnel, an appointing authority may allow an employee to donate sick or annual leave with pay to another employee, subject to the following conditions: (adopted April 25, 1991)

- (a) The recipient must have been employed with the City for a period of not less than six months. (adopted March 16, 1995, effective April 1, 1995)
- (b) Donated annual leave shall be converted to sick leave and added to the recipient's sick leave balance, except as noted in paragraph "g" below.
- (c) The donor relinquishes all future claims to the donated leave, regardless of the medical condition of either the donor or the recipient.
- (d) The donation must be strictly voluntary, without coercion, implied or otherwise, and must be certified as such in writing by the donor in advance of the actual transfer of sick leave from the donor to the recipient.
- (e) In cases where an employee is donating sick leave with pay to an employee in another organization unit, the approval of both appointing authorities will be required.
- (f) Following approval, the appointing authority/authorities must submit all the necessary leave adjustment forms to the Finance Department with appropriate documentation.
- (g) Donated annual leave may be added to the recipient's annual leave balance in instances where an employee must care for an immediate family member due to a serious health condition. To qualify for such donations, the following conditions must be met:
  - 1. The recipient shall submit appropriate medical documentation supporting the serious health condition of the immediate family member.
  - 2. The recipient's annual leave must be exhausted prior to receipt of the donated leave.

3. The recipient is limited to 12 weeks of such leave donations within a period of 12 consecutive months. However, additional days may be authorized by the Civil Service Commission. (adopted March 21, 2011, effective April 1, 2011)

## 2.14 EMERGENCY PAID SICK LEAVE

(a) As provided in the Emergency Paid Sick Leave Act of the Families First Coronavirus Response Act, an employee who is unable to work or telework for the following reasons is entitled to emergency paid sick leave: (adopted April 20, 2020)

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. The employee is caring for someone who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
5. The employee is caring for a child of the employee if the school or place of care of the child has been closed or if the child-care provider of the child is unavailable due to COVID-19 concerns.
6. The employee is experiencing any other substantially similar condition that may arise, as specified by the United States Secretary of Health & Human Services.

(b) The duration of the leave for the reasons described in this subsection is:

1. 80 hours for full-time employees and the average number of hours a part-time employee works over two weeks.

(c) The rate of compensation for the reasons described in subsection (a) is:

1. For subsections (a)(1)-(3) above, the employee receives full pay up to \$511/day (with a maximum of \$5,110). Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. For subsections (a)(4)-(6) above, the employee receives at least two-thirds of regular pay, up to at least \$200/day.

(d) An employee may receive only the duration of leave described in subsection (b)(1) above, even if the employee experiences more than one qualifying event set forth in subsection (a).

- (e) An appointing authority shall not require an employee to exhaust sick leave or annual leave in order to qualify for leave under this section.
- (f) This section shall expire on December 31, 2020.
- (g) The provisions of this section do not expand, reduce, or change the benefits provided by any portion of Public Law No. 116-127, which is also known as the Families First Coronavirus Response Act or "FFRCA." This section is intended only to make the requirements of sections 5102 and 5110 of the FFCRA part of these Rules.

Section 3. TERMINAL LEAVE (amended December 13, 2004, effective January 1, 2005)

3.1 Terminal Leave: Subject to the provisions of Sections 1.1, 1.5, 2.1 and 2.5 of this Rule, when the service of an employee is terminated, terminal leave is to be paid. Terminal leave shall consist of terminal annual leave and terminal sick leave converted according to Section 2.5 of this Rule, and shall be computed as follows:

- (a) Fire suppression personnel working a "24 hour on 48 hour off" schedule shall have the payment for accrued terminal leave calculated by dividing the employee's base annual rate of pay, including longevity, by 243, and then multiplying this amount by the employee's number of accrued terminal leave days.
- (b) Employees in the classes of Fire District Chief and Deputy Fire Chief working a 46 hour week shall have the payment for accrued terminal leave calculated by dividing the employee's base annual rate of pay, including longevity, by 200, and then multiplying this amount by the number of accrued terminal leave days.
- (c) For all other employees, payment for accrued terminal leave shall be calculated by dividing the employee's base annual rate of pay, including longevity, by 250, and then multiplying this amount by the employee's number of accrued terminal leave days. This is done to account for ten annual holidays. (amended April 20, 1995, October 24, 1996)

3.2 An employee who is dismissed for reasons other than fraud, theft, or misappropriation of City funds or property, and who appeals this action has two options under this section of the Rules. These are: (1) to receive terminal leave pay in accordance with other sections of this Rule; or (2) to request in writing to the Director that leave balances be maintained on the City's payroll system until the appeal and any subsequent actions by appellate courts of the State are completed. Should an exonerated employee choose payment, he may later re-purchase the total sick and/or annual leave at the gross total rate paid by the employer.

Section 4. CIVIL LEAVE

4.1 An employee shall be given time off without loss of pay:

- (a) When performing jury duty;
- (b) When subpoenaed to appear before a court, public body or Commission. However,

in cases where the employee has a direct interest in the matter, Civil Leave shall not be authorized, but rather the appointing authority shall grant annual leave, or, in its absence, leave without pay;

- (c) When performing emergency civilian duty in connection with national defense;
- (d) When ordered to appear for a medical or other examination by the Selective Service System or by a branch of the Armed Forces of the State or the United States;
- (e) When taking or participating in a New Orleans City Civil Service examination;
- (f) When taking an examination for a license or certificate from a City or State agency, provided the appointing authority certifies in writing to the Civil Service Department that the city service will benefit by the employee's acquisition of the certificate or license.
- (g) When attending meetings of the Civil Service Commission as the employee-elected member of the Commission during the employee-member's regular work day. (adopted January 21, 1988, effective February 1, 1988)
- (h) When an appointing authority reduces, suspends or closes its operations due to concerns about the health and safety of the public or its employees, it may direct employees not to report to work. In advance of such reduction, suspension or closure, the appointing authority shall send written notice to the Personnel Director. To the extent practicable, the appointing authority should adjust the work schedules of those employees affected by the reduction, suspension or closure in order to allow the employee to make up the hours he or she was not able to work during that work period. However, if such rescheduling is not practicable, the appointing authority shall allow the employees time off without loss of pay. Such allowance will be subject to the review of the Personnel Director. (Amended April 18, 2016 and ratified by the Council March 23, 2017)
- (i) When impacted by a disaster as declared by the Mayor or the Governor. City employees who wish to use Civil Leave with pay pursuant to this section will make a request to their appointing authority. Upon verification by the appointing authority that the employee was directly affected by the disaster and that the use of Civil Leave is warranted, the employee may take up to twenty (20) working days of paid leave within twelve (12) months of the date of the disaster. Any use of Civil Leave under this provision must be verified and approved by the appointing authority. Civil Leave shall be available to the employee as of the date of the emergency declaration. (Amended February 20, 2017, ratified by the Council March 23, 2017, effective February 7, 2017)

(Section 4.1 (a)-(b) amended November 12, 1981, effective December 1, 1981)

- 4.2 When an employee is authorized or assigned to attend a conference, convention, training program directly related to the employee's work or the work of the employee's department, or training program that is part of an authorized employee growth or development program, no leave shall be reported and the employee shall be considered as working. All regular employees shall be allowed to take at least one course per month of available authorized training, subject to supervisor approval, which shall not be unreasonably withheld. In any case, appointing authorities shall approve at least four (4) training opportunities for employees each year. Employees elected or appointed as trustees as defined by LA R.S. 9:1781 et seq, on any public employee retirement system's governing board, shall be given time off, subject to the approval of the appointing authority, without loss of pay when engaged in administrative or educational activities required to fulfill their statutory responsibilities as fiduciaries. (adopted November 19, 1991, effective January 1, 1992, amended March 24, 1997, amended August 25, 2014, effective September 1, 2014)

## Section 5. LEAVE OF ABSENCE WITHOUT PAY

- 5.1 (a) An appointing authority may grant an employee leave without pay for a period not to exceed one (1) year, whenever such leave is considered to be in the best interests of the service. Leave without pay for an additional period of time may be granted only with the approval of the Civil Service Commission.
- (b) Appropriate personnel forms must be submitted by the appointing authority during the initial days of the period for which leave without pay was authorized in accordance with the provisions of this Section of these Rules. Personnel forms need not be submitted for periods of leave without pay which constitute less than a total workday.
- (c) At the discretion of the Appointing Authority, any employee who is absent from work without prior authorization may be carried on leave without pay for that time period on all payroll records. Such action shall not be termed as disciplinary and hence shall not warrant an appeal to the Commission.
- (d) Nothing in Section 5.1 (c) shall be intended to preclude the appointing authority from initiating appropriated disciplinary action, in accordance with the provisions of Rule IX of the Commission's Rules, where the employee's conduct merits corrective action. Further, if an employee is physically present, willing, and able to work but is barred from working by the appointing authority, such action shall be considered disciplinary.

(Section 5.1 (a)-(d) amended November 12, 1981, effective December 1, 1981; Section 5.1 (c) amended November 10, 1983, effective November 10, 1983, amended January 21, 1988, effective February 1, 1988; Section 5.1 (d) amended January 21, 1988, effective February 1, 1988, amended October 21, 2013, effective November 1, 2013.)

- 5.2 Employees with probationary or permanent status may be allowed sick leave without pay for a period not to exceed one (1) year, provided any sick leave without pay for a period

exceeding ninety (90) days is recommended by a physician acceptable to the City Civil Service Commission; and further, that the employee shall also be examined by an acceptable physician during the seventh month while on sick leave without pay. Sick leave without pay may be granted under this Rule only by the Director, subject to the approval of the City Civil Service Commission.

Section 6. SPECIAL LEAVE OF ABSENCE WITHOUT PAY

- 6.1 An appointing authority may grant a regular employee special leave of absence without pay whenever such leave is for the purpose of enabling such employee to accept an unclassified position in the city service, except an elective office. Any such leave heretofore granted by an appointing authority for the purpose herein expressed may be extended by such appointing authority from the date such leave was originally granted; provided, however, that the leave without pay herein authorized shall automatically end whenever an employee resigns from his unclassified position or his employment therein is otherwise terminated.

Section 7. SPECIAL LEAVE OF ABSENCE WITH PAY

- 7.1 An appointing authority may grant a regular employee special leave of absence with pay for a period not to exceed one (1) year whenever such leave is for the purpose of enabling the employee to obtain educational training necessary for the betterment of the service rendered by the department to the public. To obtain special of leave of absence with pay, it must be clearly demonstrated that the course of study is related directly to the work of the department. No special leave of absence with pay can be granted until the approval of the City Civil Service Commission is obtained. (amended September 12, 1963.)

Section 8. MILITARY LEAVE WITHOUT PAY

- 8.1 Any employee who shall have entered into active military or naval duty with the Armed Forces of the United States or the State of Louisiana shall be placed on military leave without pay, such military leave to extend through a date ninety (90) days after being relieved from service, or from hospitalization continuing after discharge for a period of not more than one year. The employee shall be entitled to be restored to the position which he vacated, provided application is made in writing to the appointing authority of the agency wherein he was formerly employed within ninety (90) days from the date of honorable discharge or discharge under honorable conditions, or from hospitalization continuing after discharge for a period of not more than one year, if the person is physically and mentally capable of performing the work of the position to the satisfaction of the appointing authority. (amended February 21, 1991)

- (a) In the case of an employee who was placed on military leave while serving a working test period, such an employee, upon returning to his position, shall be required to serve the remaining portion of the working test period before gaining permanent status in the class of positions. (effective February 21, 1991)
- (b) An employee who was placed on military leave while in provisional status shall be restored to the former position on a provisional basis unless the position has already been filled by appointment from a list of eligibles. If there is a list of eligibles, but no appointment has been made, the employee returning from military leave shall be



allowed to take the examination and then the position shall be filled by appointment from such list, subject to the provisions of Rule VI, Section 3. (adopted February 21, 1991)

(c) An employee who was placed on military leave while in transient status shall be eligible to resume and complete the remainder of the three months term specified in Rule VI, Section 5,3 (b). (adopted February 21, 1991)

8.2 In the event the position vacated by a permanent or probationary employee entering the armed services no longer exists at the time he or she qualifies to return to work, such person shall be entitled to be reemployed in any position of the same classification within that agency wherein the person was employed, provided such reemployment does not necessitate the laying off of any employee who was appointed at a earlier date than the person returning from military leave. (effective February 21, 1991)

8.3 In the event a position vacated by a permanent or probationary employee entering the armed services no longer exists at the time he or she qualifies to return to work, and there is no other position in the agency to which the employee is entitled to reemployment, the name of such person shall be placed upon an appropriate reemployment list or lists by the Director, and the Director shall take all steps consistent with the provisions of the Civil Service Law to effect the reemployment of such person at the earliest date possible. Names of persons placed on the reemployment lists under the provisions of this Section shall be given preference in certification.

8.4 Any position vacated by a person going on authorized military leave without pay may be filled only by a conditional appointment in accordance with Section 5 of Rule VI. A regular employee temporarily occupying a position vacated by a person entering the armed services shall be entitled to all benefits of the Civil Service Law and Rules that the employee might otherwise have, except as herein provided. If and when such regular employee is required to vacate a position as a result of the reemployment of a person who has returned from military leave, the employee shall be entitled to be demoted or transferred to his or her former position, provided such demotion or transfer does not necessitate the laying off of any person who was appointed at an earlier date than such person being demoted or transferred; otherwise the employee shall be eligible for placement on an appropriate eligible list. (amended February 21, 1991)

8.5 A person on authorized military leave of absence shall be permitted to take any promotional examination missed because of being on leave, provided such examination is taken during the life of the appropriate eligible list and prior to that announcement of the next examination for the same class of positions. (amended February 21, 1991)

Section 9. LEAVE FOR PARENTAL REASONS (amended December 15, 2014, approved by the Council to be effective January 1, 2015, amended May 31, 2019, amended January 20, 2023 adopted by the Council to be effective February 19, 2023)

Any full-time classified employee with at least twelve months of service shall be eligible to receive up to twelve weeks of paid parental leave that may be used in substitution for unpaid Family and Medical Leave Act (FMLA) leave following the birth or placement (adoption or foster care) of a child provided that:

- (a) The employee must be eligible for and elect to take FMLA leave in connection with a birth, adoption, or placement of a child that meets the requirements of a qualifying event under the Family and Medical Leave Act (FMLA). Employees are required to provide the appointing authority with documentation to demonstrate eligibility.
- (b) The employee must have a parental role as defined in Rule I #83 with respect to the child whose birth or placement triggered the leave entitlement. Therefore, a parent who does not maintain a continuing parental role with respect to a newly born or placed child would not be eligible for paid parental leave once the parental role has ended.
- (c) The employee has provided the appointing authority with written notice of intent to take Parental Leave at least thirty (30) days in advance of the qualifying event unless the employee is unable to do so due to medical or other circumstances beyond the employee's control.
- (d) The employee agrees in writing, before commencement of the leave, to subsequently work for the appointing authority for a least 12 weeks following the employee's return to work from Parental Leave. This 12-week work obligation begins on the employee's first scheduled workday after such paid parental leave concludes. The work obligation may be waived based on a serious health condition of the employee, or the newly born/placed child, but, in the case of the employee's serious health condition, only if the condition is related to the applicable birth or placement. It may also be waived for circumstances beyond the employee's control.

Paid parental leave is limited to 12 work weeks and may be used only during the 12-month period beginning on the date of the birth or placement involved.

Each covered employee has a separate entitlement to Parental Leave. If two covered employees are parents of the same newly born or placed child, then each employee has a separate leave entitlement based on the birth/placement event.

If an employee fails to return to work following the use of parental leave, the appointing authority may recover an amount equal to the total amount of employer contributions on behalf of the employee for healthcare during the duration of the Parental Leave.

- 9.1 Parental Leave shall be recorded as leave granted in addition to the employee's accumulated sick and annual leave for the approved durations provided herein.

Parental Leave may not be used by an employee more than once in any twelve (12) month period.

The provisions of the Family and Medical Leave Act (FMLA) apply to Parental Leave. An employee on approved Parental Leave shall be reinstated to his or her former position, or a comparable position in supervisory and duty responsibilities at the same pay, upon return to work within the twelve (12) weeks provided by FMLA.

(Amended December 15, 2014, approved by the Council to be effective January 1, 2015, amended May 31, 2019, amended January 20, 2023 adopted by the Council to be effective February 19, 2023)

Section 10. FAMILY MEDICAL LEAVE (amended December 13, 2001, amended December 13, 2004, effective January 1, 2005, amended February 18, 2013, effective March 1, 2013)

10.1 Family and Medical Leave is offered to employees pursuant to Federal law (FMLA). Federal law defines and describes the eligibility of the employee; eligibility of the event for which leave is taken; eligibility of the person for whom leave is taken; length of leave available to the employee; and timeframe in which leave is allowed.

- (a) In all cases the applicable time for leave usage shall be measured forward from the date FMLA leave is granted.
- (b) The appointing authority shall require completion of a Family Medical Leave Request Form signed by a licensed physician or other health care provider, or other appropriate documentation to substantiate the reasons for which this leave is requested.
- (c) Leave for these purposes shall be recorded as leave without pay; however, the appointing authority may require that the employee use accrued annual leave or, in cases of the employee's own illness, sick leave.
- (d) An additional benefit under this Section of the Rules is available as follows: Employees may be granted up to a total of twelve (12) weeks leave in a single twelve (12) month period to care for an ill domestic partner who is registered with the Clerk of Council pursuant to Chapter 87, Section 87-5 of the City Code.

(Section 10.1 adopted July 15, 1993, effective August 1, 1993, amended November 20, 1997, effective December 1, 1997, amended December 13, 2001, effective January 1, 2002, amended February 18, 2013, effective March 1, 2013)

10.2 EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

- (a) As provided in the Emergency Family and Medical Leave Expansion Act of the Families First Coronavirus Response Act, an employee who is unable to work or telework because the employee is caring for a child described in subsection (5) above of the Emergency Paid Sick Leave Rule, Rule VII, section 2.14 is entitled to paid leave for 10 weeks of the twelve weeks of leave.

- (b) The duration of the leave is twelve weeks. This provision does not expand the total amount of leave available under the Family and Medical Leave Act (FMLA), 29 U.S.C. Section 2601, and Rule VIII, section 10.1.
- (c) The first 10 days of leave under this section will be unpaid, although an appointing authority may allow an employee to substitute leave under Rule VIII, section 2.14 or leave under another provision of this Rule for the first 10 days.
- (d) An employee shall have completed 30 days of service in order to qualify for leave under this section.
- (e) Employees who qualify for leave under this section shall receive at least two-thirds of their regular rate of pay for the number of hours the employee would normally be scheduled to work, up to at least \$200/day.
- (f) This section shall expire on December 31, 2020.
- (g) The provisions of this section do not expand, reduce, or change the benefits provided by any portion of Public Law No. 116-127, which is also known as the Families First Coronavirus Response Act or "FFCRA." This section is intended only to make the requirements of sections 3105 of the FFCRA part of these Rules.

## Section 11. OFFICIAL EMERGENCY LEAVE

- 11.1 When the Mayor of New Orleans declares an official emergency and orders that only "essential" employees report to work and that all "non-essential" employees remain away from work, such non-essential employees will be granted official emergency leave. Essential employees working under these circumstances may be eligible for special compensation as provided in Rule IV, Section 11.

(Section 11.1 adopted May 17, 1995)

## RULE IX

### DISCIPLINARY ACTIONS

(amended February 9, 1955, July 22, 1975, August 9, 1979, June 10, 1982, January 21, 1988, September 27, 1990, December 14, 2000, adopted November 13, 2002, amended February 17, 2014, effective March 1, 2014)

#### Section 1. MAINTAINING STANDARDS OF SERVICE

1.1 When an employee in the classified service is unable or unwilling to perform the duties of his/her position in a satisfactory manner, or has committed any act to the prejudice of the service, or has omitted to perform any act it was his/her duty to perform, or otherwise has become subject to corrective action, the appointing authority shall take action warranted by the circumstances to maintain the standards of effective service. The action may include one or more of the following:

- (a) termination from the service. (amended January 21, 1988, effective February 1, 1988)
- (b) involuntary retirement. (adopted June 10, 1982)
- (c) reduction in pay within the pay grade for the employee's classification, subject to the provisions of Rule IV, Section 3. A reduction in pay includes involuntary time away from work without pay, no matter how brief (e.g., involuntary leave without pay). (amended September 27, 1990, amended February 17, 2014)
- (d) demotion to any position of a lower classification that the employee is deemed by the Appointing Authority and the Director to be competent to fill, accompanied by a reduction in pay which is within the pay grade range for the lower classification, subject to the provisions of Rule IV, Section 3. (amended September 27, 1990)
- (e) suspension without pay not exceeding one hundred twenty (120) calendar days.
- (f) fine.
- (g) letters of reprimand as defined in Rule I. (amended February 17, 2014)

(Section 1.1. (a)-(f) and amended June 10, 1982, effective June 10, 1982, Section 1.1 (c) and (g) , amended February 17, 2014, effective March 1, 2014)

1.2 In every case of termination of employment of a regular employee, the appointing authority shall conduct a pre-termination hearing as required by law and shall notify the employee of the disciplinary action being recommended prior to taking the action. (adopted January 21,

1988, effective February 1, 1988)

- 1.3 In every case of termination, suspension, reduction in pay, letter of reprimand, or fine of any employee in the classified service or of involuntary retirement or demotion of the employee, within five (5) working days of the effective date of the action, the appointing authority shall furnish the employee and the Personnel Director a statement in writing of the reasons therefore. The notification also must advise the employee of the possible right of appeal, which must be exercised within thirty (30) calendar days of the date of the disciplinary letter. (amended January 21, 1988, effective February 1, 1988, amended February 17, 2014, effective March 1, 2014)
  
- 1.4 In the event that any investigation conducted of any classified employee subject to L.R.S. 40:2531 is anticipated to exceed 75 days (inclusive of Saturdays, Sundays, and legal holidays), the appointing authority shall, not later than 30 days after commencement of the investigation, advise the Director of the need for an extension of the time within which to complete the investigation pursuant to L.R.S. 40:2531(7). The Director shall assign the matter for the taking of testimony before a hearing officer and notify the appointing authority and the employee their rights to attend the hearing and to present evidence and arguments for or against the extension. The hearing officer shall, upon conclusion of the hearing, either grant or deny the requested extension. The hearing officer's action shall be ratified by the Commission at its next regular meeting. (adopted November 13, 2002, effective December 1, 2002, amended July 19, 2021)

## RULE X

### RECORDS

- Section 1. PERSONNEL, PAYROLL AND ATTENDANCE RECORDS (amended December 13, 2004, effective January 1, 2005, amended August 25, 2015, effective September 1, 2015)
- 1.1 It shall be the duty of each appointing authority to comply with the personnel, payroll and attendance record keeping system established by the Director. It shall be the duty of the Director to advise and assist in these procedures. (amended April 20, 1995, amended December 13, 2004, effective January 1, 2005, amended July 20, 2015, effective August 1, 2015)
- 1.2 The appointing authority shall certify on the appropriate personnel or payroll record:
- (a) the continuing authorized employment of a person in a position approved by the Civil Service Department.
  - (b) the actual rendering of service in that position.
  - (c) the actual number of hours worked in the applicable work period or absence from work on the appropriate authorized leave, or another approved method of describing the time worked in the payroll period.

For purposes of crediting an employee properly for a holiday, annual leave, sick leave, and other forms of leave the appropriate payroll records shall note that pay for such time is equal to the employee's leave day as defined in Rule I. (amended April 20, 1995)

(Section 1.2 (a) - (c) amended October 23, 1985, effective April 13, 1986, amended April 20, 1995.)

- 1.3 (a) No payment for personal services shall be made by any department or fiscal officer thereof to any employee in the classified service of the City until after certification by the Director that such payment is authorized and is in conformity with these Rules. The Director's approval of records relating to personnel transactions shall constitute certification within the meaning of this Rule.
- (b) The Personnel Director and designee shall conduct periodic audits of personnel transactions that do not require prior approval of the Personnel Director. If the Personnel Director determines that those personnel transactions require correction or are not in compliance with the Civil Service Rules, the Personnel Director shall take immediate action to stop and further payments not in compliance with the Civil Service Rules. The appointing authority may appeal any steps taken by the Personnel Director to the Commission.

- (c) At the recommendation of the Personnel Director, the Commission may take the following actions:
1. Revoke the authority granted to an appointing authority to grant pay increases without prior approval of the Personnel Director upon three or more instances of personnel transactions requiring correction and/or non-compliance with the Civil Service Rules.
  2. Retroactively reduce an employee's pay when it is determined that the employee has benefitted from increased pay as a result of either a violation of these Rules or an abuse of the discretion granted in these Rules.

(Sections 1.3 (a) - (c) amended July 20, 2015, effective August 1, 2015)

- 1.4 If the Director in any case determines that any person has been employed in any position in violation of any provisions of the Law or these Rules, he shall notify the appropriate parties of the violation, and shall order that no compensation be paid until the matter is corrected to comply with the Law or Rules.

(Sections 1.1 - 1.4 amended April 7, 1982, effective April 7, 1982)

- 1.5 The Director shall prescribe personnel records on which appointing authorities shall certify the fact of lawful creation of a position and the fact of lawful appointment of a person to the position. The Director shall also indicate on these personnel records the proper allocation of the position. Only personnel records approved by the Director shall constitute authorization for initial placement of the name of a person on a payroll or for any change in the status of an employee already on the payroll. No person shall then be removed from a payroll, except in accordance with the Law and Rules. (amended April 7, 1982, effective April 7, 1982, amended April 20, 1995)

- 1.6 The Department shall provide the necessary employment statistics regarding recruitment, hiring, promotions, and pay increases to the City annually, if available. The City shall analyze this information and develop an Inclusion Index, which shall measure the City's employment opportunities and advances by race, ethnicity, sex, and age. This report shall be in addition to any other reporting mandated by other federal, state, and local laws. (Section 1.6 adopted August 25, 2014, effective September 1, 2014)

Section 2. AVAILABILITY OF RECORDS (amended December 13, 2004, effective January 1, 2005)

- 2.1 The Department of Civil Service is the official custodian of personnel and payroll records. As such, any and all such records shall be made available to the Director at his or her request. In addition, all analyses and permutations of these data shall be available at the time and in the format requested; any such request shall be made in a manner prescribed by the Director.
- 2.2 If a particular request or analysis of data cannot be made in a timely manner, a written explanation shall be forwarded to the Director within one (1) week.



Section 3. EXAMINATION OF PERSONNEL RECORDS

- 3.1 The Director shall, on a continuing basis, examine departmental payrolls and related records to determine whether or not the persons on such payrolls have been appointed, transferred, reinstated, continued or otherwise employed in violation of any provision of the Law and Rules or are being paid at a rate other than the duly authorized rate. (amended April 7, 1982, effective April 7, 1982)

Section 4. RECORDS OF THE DEPARTMENT OF CITY CIVIL SERVICE (amended December 13, 2004, effective January 1, 2005)

- 4.1 Except as specifically provided in this Rule, the records of the Department of City Civil Service shall be public records and shall be open to public inspection during office hours of the Department. For reasons of public policy, the following records shall be held confidential, except as provided by law:
- (a) Examinations, examination materials, tests and the results of tests, except as provided in Rule V, Section 4.2.
  - (b) Confidential records and investigations on the character, personality and history of employees or candidates for positions in the classified service.
  - (c) Medical reports.
  - (d) Job Counseling & Evaluation Reports (service ratings).
  - (e) Social Security Numbers. (amended April 7, 1982, effective April 7, 1982)

## **RULE XI**

### **PERFORMANCE EVALUATION SYSTEM**

(as adopted December 9, 1953, amended May 19, 1954, April 10, 1975, July 22, 1975, May 11, 1978, February 28, 1979, June 9, 1983, and May 19, 1988, August 24, 1989, November 29, 1990, amended August 25, 2014, effective September 1, 2014, amended June 20, 2016, amended January 28, 2019)

#### **Section 1. ADMINISTRATION**

1.1 The Performance Evaluation System is a tool used to measure individual performance and to develop employees into high-performing individuals. This Performance Evaluation System is effective January 1, 2017 and applies to all classified employees. The performance evaluation year shall be January 1 through December 31 of each year. For the purposes of this Rule, the term “acknowledge” shall mean an employee was provided with an opportunity to review the evaluation. The term “acknowledge” shall not necessarily indicate that the employee agrees with the content of the evaluation.

(a) The Performance Evaluation System shall consist of at least the following components:

1. A standard planning and evaluation form approved by the Personnel Director.
2. A performance plan that lists the performance goals, work tasks, and competencies on which the employee’s overall performance will be evaluated.
3. The goals, work tasks, and competencies which must be within the control of the employee or the team of employees.
4. A planning session at which the evaluating supervisor and the employee discuss the performance plan.
5. The standard planning and evaluation form will have three (3) possible evaluation categories, “Does Not Meet Expectations,” “Meets Expectations,” and “Exceeds Expectations.”
6. A planning and evaluation instruction manual that is accessible to all employees on the Civil Service website.

- (b) An appointing authority or the Chief Administrative Officer may make variations to the performance planning and evaluation form or instructions with prior written approval from the Personnel Director.
- (c) The Chief Administrative Officer may set policy associated with the Performance Evaluation System relative to goal-setting for each employee, appropriate performance measures, work strategies or assignments for which results can be measured through objective performance data, and work performance feedback as long as those policies are not in conflict with the Rules.

12 Evaluating Supervisor (amended August 25, 2014, effective September 1, 2014, amended January 28, 2019)

- (a) The appointing authority shall designate an Evaluating Supervisor for each employee. Generally, the Evaluating Supervisor should be the person who, in the appointing authority's judgment, is in the best position to observe and document the employee's performance.
- (b) The Evaluating Supervisor shall be responsible for administering the performance evaluation system for the designated employees in accordance with these Rules and any applicable departmental policies.
- (c) An Evaluating Supervisor who fails to administer the performance evaluation system in accordance with these Rules shall not be eligible for a merit increase for that year.

13 Second Level Evaluator (amended August 25, 2014, effective September 1, 2014, amended January 28, 2019)

- (a) The Appointing Authority shall designate a Second Level Evaluator for each employee. Generally, the Second Level Evaluator is the Evaluating Supervisor's supervisor. The Second Level Evaluator must approve the performance plan and the performance evaluation prepared by the Evaluating Supervisor after they are discussed with and given to the employee for signature.
- (b) The Second Level Evaluator shall be responsible for administering the performance evaluation system in accordance with these Rules and any applicable departmental policies.
- (c) A Second Level Evaluator who fails to administer the performance evaluation system in accordance with these Rules shall not be eligible for a merit increase for that year.

- 14 Performance Evaluations (amended August 25, 2014, effective September 1, 2014, amended January 28, 2019)
- (a) Each employee shall be evaluated on the employee’s overall performance based on goals, work tasks, and competencies determined by the evaluating supervisor to be requirements of the employee’s job.
  - (b) Additionally, each supervisory employee shall be evaluated on the supervisory employee’s administration of the performance evaluation system as required by these Rules. All supervisory employees shall have “successful administration of the performance evaluation system” as one of the performance goals.
- 15 Performance Plan and Performance Planning Session (amended June 20, 2016, effective July 1, 2016, amended January 28, 2019)
- (a) Planning sessions for the upcoming year shall be conducted during the annual planning period from October 1st to January 31st. During this period, an evaluating supervisor shall prepare a performance plan for the upcoming year in cooperation with the employee, or the team of employees if the work is performed in teams. The performance plan shall list goals, related work tasks, and competencies on which the employee’s overall performance should be evaluated. The plan may also provide for professional development for each employee, appropriate performance measures, and work strategies or assignments for which results can be measured through objective performance data. The goals, work tasks, and competencies shall be recorded on the planning and evaluation form. Failing to establish a performance plan will result in the employee receiving a “Not Evaluated” designation. (amended September 29, 2021)
  - (b) Additional planning sessions should be conducted during the first three (3) calendar months following either the appointment of a new employee or the permanent movement of an employee into a position with significantly different duties. An Evaluating Supervisor should establish a three-month assessment plan for a new employee soon after his or her appointment.
  - (c) During the planning session, the Evaluating Supervisor shall present the performance planning and evaluation form to the employee and discuss the performance goals, work tasks, and competencies on which the employee will be evaluated and the performance that will be expected during the coming performance year.
  - (d) The Evaluating Supervisor and the employee shall sign and date the performance planning and evaluation form to document the planning session. The employee shall be given access to a copy of the form. Should the employee decline to acknowledge the performance planning and evaluation form, the Evaluating Supervisor shall note

this on the form and record the date that the planning session occurred. An employee cannot prevent the planning session from becoming official by refusing to acknowledge the form.

- (e) If an employee disagrees with the work tasks, goals, and behavior standards as stated on the performance planning and evaluation form, the employee may use the appointing authority's grievance process to challenge the form during the annual planning period of October 1 to January 31. (amended September 29, 2021)
- (f) The Evaluating Supervisor shall obtain the Second Level Evaluator's approval of the performance plan after presenting it to the employee for his or her acknowledgment.
- (g) Before obtaining the Second Level Evaluator's signature approval of the performance plan, the Evaluating Supervisor will have conducted a performance planning session with the employee.
- (h) Failing to establish a performance plan for one's employee(s) will result in the supervisor(s) receiving an overall "Does Not Meet Expectations" designation.
- (i) A performance planning session may be conducted when:
  - 1. The employee is assigned a new Evaluating Supervisor.
  - 2. Performance expectations change.
  - 3. The Evaluating Supervisor deems a performance planning session is appropriate.

1.6 Overall Performance Designation (amended August 25, 2014, effective September 1, 2014, amended January 29, 2019)

- (a) At the end of the performance period, the Evaluating Supervisor shall assign one of the three evaluation categories listed below to the employee's overall performance based upon the established performance plan, goals, work tasks, and competencies.
  - 1. Exceeds Expectations: Employee's performance consistently exceeded the performance criteria.
  - 2. Meets Expectations: Employee's performance met the performance criteria.
  - 3. Does Not Meet Expectations: Employee's performance did not meet the performance criteria.

- (b) An Evaluating Supervisor shall assign the overall evaluation category (i.e. Does Not Meet Expectations, Meets Expectations, and Exceeds Expectations) based on seven predefined criteria of performance:
1. Performance Goal
  2. Work Task/Behavior Expectations
  3. Competencies
  4. Quality and Completeness of Work
  5. Supervision and Guidance Requirements
  6. Person-Role Fit
  7. Overall Placement
- (c) A new employee with less than one year of continuous service in the position as of December 31 of the performance year shall be evaluated based on his or her progress toward predefined criteria established via three-month assessment. However, this employee shall receive an overall designation of “Not Evaluated” for that specific performance year.
- (d) An employee with over 12 months of service as of December 31 of the performance year may receive an overall designation of “Not Evaluated”. Such overall designation shall have the same effect “Meets Expectations” only when:
1. The employee is active as of December 31, the end of the performance year;
  2. The existing employee has worked less than three (3) months from the date of his or her transfer to the evaluating department within the performance year; and,
  3. The appointing authority determines that not enough time has elapsed to create an evaluation for the employee.
  4. The supervisor has failed to establish a performance plan for the employee for that performance year.
- (e) Employees evaluated as “Exceeds Expectations” are eligible for merit increases in keeping with Rule IV, Section 2.5(b) of these Rules. (amended November 3, 2022)

- 1.7 Official Performance Evaluations (amended August 25, 2014, effective September 1, 2014, amended January 28, 2019)
- (a) Official performance evaluations are required for all classified employees who have at least 12 months of continuous service as of December 31 of the performance year.
  - (b) The Evaluating Supervisor shall base the official evaluation of the employee's performance on the goals, work tasks, and competencies as stated on the performance planning and evaluation form.
  - (c) Official evaluations shall be made after the performance year has ended and must be rendered between January 1 and April 1 of the following year. Evaluations become official on the date they are rendered. Evaluations rendered after April 1 will not be accepted. And, the concerned employee(s) will receive an overall "Not Evaluated" designation.
  - (d) To render an official evaluation, the Evaluating Supervisor shall:
    - 1. Complete a performance evaluation form after January 1 of the following year.
    - 2. Provide documentation to support the overall evaluation.
    - 3. Provide the employee access to a copy of the evaluation form with the employee's official overall evaluation noted along with the supporting documentation.
    - 4. Discuss the evaluation with the employee and present the evaluation form to the employee to be acknowledged and dated.
    - 5. Obtain the Second Level Evaluator's approval of the evaluation form after the discussion with the employee.
  - (e) When an employee is not available for a performance evaluation session, the provisions of this Rule shall be satisfied when notification to the employee is made by mail. If the employee is notified by mail, the notification shall be deemed timely if it was mailed to the employee's most recent address on or before April 1, as evidenced by official proof of mailing. The appointing authority must maintain documentation that the employee was notified on or before April 1. If an appointing authority fails to notify an employee, the employee shall receive a designation of "Not Evaluated".

- 18 Effect of the Absence of an Official Evaluation (adopted August 25, 2014, effective September 1, 2014, amended January 28, 2019)

An employee who is not evaluated in accordance with the provisions of these Rules shall have an overall designation of “Not Evaluated” with an effective date of April 1.

- 19 Effect of the “Does Not Meet Expectations” Evaluation (amended June 20, 2016, effective July 1, 2016, amended January 28, 2019)

- (a) An evaluation of “Does Not Meet Expectations” is not a disciplinary action. Regular employees shall have a right to request a review in accordance with the provisions of Sections 1.12 and 1.13 of this Rule. The performance improvement plan shall be held in abeyance pending the outcome of the review.
- (b) Any employee whose official overall evaluation is “Does Not Meet Expectations” shall be ineligible for: a merit increase, a promotion, or a permanent status. The provisions of Rule VII shall still govern the duration of an employee’s working test period. If an employee has requested review of the rating, the performance improvement plan shall be held in abeyance pending the outcome of the review.
- (c) If the designation of “Does Not Meet Expectations” does not become final, the appointing authority shall establish a performance improvement plan within 30 calendar days of submission. The Evaluating Supervisor must establish a performance improvement plan for the employee and shall monitor the employee’s work performance for a period of 90 calendar days.
- (d) At the conclusion of the 90 calendar day period, the Evaluating Supervisor must state in writing to the employee and the Personnel Director whether or not the employee’s work performance has improved. If, upon review, the work performance has not improved, the appointing authority shall discipline the employee in accordance with the provisions of Rule IX.

- 1.10 Appointing Authority Review (adopted August 25, 2014, effective September 1, 2014, amended January 28, 2019)

- (a) A regular employee who receives an overall performance evaluation of “Does Not Meet Expectations” may request an official review of that evaluation by a Review Panel.
- (b) The appointing authority shall notify an employee, in writing, of an overall evaluation of “Does Not Meet Expectations.” This notice shall also inform the employee of his or her right to have a panel review of the evaluation. Within 5 calendar days of issuing such designation, the appointing authority shall provide an



employee all of the supporting documentation. Failing to provide documentation will render the evaluation “Not Evaluated” designation.

- (c) Within 30 calendar days after receiving the official notice of the “Does Not Meet Expectations” evaluation, a request for review, if desired, must be made in writing by the employee to the appointing authority, specifying what the evaluation should be and the reasons therefore.
- (d) The appointing authority shall designate a three-member Review Panel. If the request for review is timely, the Review Panel must review the employee’s request, the evaluation given and any supporting documentation provided. The members of the Review Panel shall be neither the Evaluating Supervisor nor the Second-Level Evaluator who approved the evaluation being approved. The official overall evaluation may only be changed by the Review Panel. The Review Panel shall be comprised of unbiased members who do not have previous exposure to an employee’s performance and any relationship with the supervisor.
- (e) The employee requesting the review shall have the option of addressing the Review Panel and the Review Panel shall seek input from the employee’s evaluating supervisor. The Review Panel should make an audio recording of any proceedings before it and prepare a written record of such proceedings before rendering a written decision either sustaining or modifying the rating.
- (f) The Review Panel shall give the employee, the Evaluating Supervisor, and the organizational unit’s human resource officer a written notice of the results of their review. This notification shall be provided no later than 30 calendar days after receipt of the employee’s request for review. Any change in evaluation shall be retroactive to April 1.
- (g) The performance planning and evaluation form, the employee’s request for review, the Review Panel decision, the supporting documentation attached to the overall evaluation, as well as any documents requested from the employee or supervisor during the review, any audio recording of the panel’s proceedings, and the written record of the proceedings shall be maintained in the employee’s departmental personnel file and a true copy submitted to the Personnel Director.

1.11 Request for Review by Personnel Director (adopted August 25, 2014, effective September 1, 2014, January 28, 2019)

- (a) A regular employee who receives an overall evaluation of “Does Not Meet Expectations” following a review by a Review Panel may request to have his or her performance file reviewed by the Personnel Director or designee.

- (b) A request for review under this Rule must be postmarked or received by the Personnel Director no later than 20 calendar days following the date the employee received the Review Panel decision. In the request, the employee must explain why he or she is contesting the decision of the Review Panel. If the request for review is timely, the Personnel Director or designee shall obtain and review the employee's performance file.
- (c) The Personnel Director may investigate the accuracy of reports of evaluation under the system adopted and may either affirm the overall evaluation or change it to "Not Evaluated" to confirm the facts as ascertained. The Personnel Director shall provide a written decision to the employee, the Evaluating Supervisor, and the human resources officer no later than 30 calendar days following the date the request for review was received.

1.12 Record Keeping and Reporting Requirements (adopted August 25, 2014, effective September 1, 2014, amended January 28, 2019)

- (a) The appointing authority or Chief Administrative Officer shall submit an official list of the employees who were rated to the Civil Service Department not later than April 1 of each year.
- (b) The Department shall annually report to the Civil Service Commission and the Chief Administrative Office information about evaluations given for the previous year.
- (c) If an appointing authority fails to submit all evaluations by the deadline, they may be called to testify before the Commission.

(Sections 1.1 - 1.8 amended June 9, 1983, effective June 9, 1983)

(Sections 1.5 - 1.7 amended May 19, 1988, effective June 1, 1988)

(Sections 1.1 - 1.13 amended August 25, 2014, effective September 1, 2014, amended June 20, 2016, effective July 1, 2016, amended January 28, 2019)

## **RULE XII**

### **LAYOFFS**

(adopted December 9, 1953, amended May 19, 1954, June 9, 1954, May 8, 1958, July 22, 1975, November 8, 1979, September 11, 1980, November 12, 1981, October 26, 1982, March 13, 1986, May 22, 1986, May 19, 1988, September 27, 1990, March 18, 1993, April 20, 1995, April 29, 1999, amended December 12, 2005 effective December 12, 2005, amended November 30, 2009, effective December 1, 2009, amended March 15, 2010, effective April 1, 2010, amended January 28, 2019)

#### Section 1. ADMINISTRATION

- 1.1 All personnel actions implemented during the course of a layoff, including but not limited to, demotions, terminations, reinstatements, transfers and resignations shall not be considered disciplinary and thus, shall not afford any employee a right of appeal to the Commission. (adopted May 19, 1988, effective June 1, 1988, amended April 29, 1999)
- 1.2 If it becomes necessary to reduce the work force in the classified service because of fiscal constraints or some other cause such as an emergency (see Rule XII, Section 5.1 and Rule II, Section 2.3), the appointing authority of the organization unit affected or the Chief Administrative Officer must notify the Personnel Director in writing before a layoff of employees can be initiated.

This notification must:

- (a) be provided at least forty-five (45) days prior to the effective date of a proposed reduction in the work force; and
  - (b) designate the class(es) of work and number of positions to be reduced; and
  - (c) include the reasons why the layoff is being proposed, the proposed effective date of the layoff, and a list of the organization units to be affected. If the layoff is due to fiscal constraints, then an explanation of the budgetary shortfall including the amount of the shortfall must be provided in the notice.
- 1.3 Upon receipt of this information, the following steps shall occur:
- (a) all personnel transactions throughout the service shall be reviewed for their effect on the forthcoming layoff and may be held in abeyance until the layoff process has been completed.
  - (b) all classified employees in the designated class(es) in every organization unit (as defined in Rule I) shall be ranked as a group, in accordance with the provisions of Section 3 of this Rule. Upon completion of the ranking of all classified employees in the designated class(es) throughout the classified service, a service-wide reduction of personnel in the designated class(es) shall commence.

- 1.4 All affected employees shall be notified in writing by their appointing authority of their scheduled layoff, transfer, or restoration to another class at least ten (10) calendar days prior to the effective date of the layoff.

(Section 1 amended March 13, 1986, effective March 13, 1986; May 19, 1988, effective June 1, 1988, amended March 15, 2010, effective April 1, 2010)

## Section 2. UTILIZATION OF VACANT POSITIONS IN LAYOFFS

- 2.1 When a position held by a permanent employee is abolished, either as the result of a reduction in operating funds or from the termination of a particular program, the employee shall be reinstated to any vacant position in the same class throughout the classified service, provided the employee possesses the requisite qualifications and experience to perform the job.
- 2.2 The provisions of Section 6.3 of this Rule shall govern the filling of vacant positions, once the layoff of personnel has been initiated. (amended March 13, 1986, amended March 15, 2010, effective April 1, 2010)

## Section 3. SUCCESSION OF LAYOFFS

- 3.1 The service-wide reduction of personnel shall proceed in accordance with the layoff steps specified in this Rule until the number of employees laid off equals the reduction in the funding level for those abolished positions in the various designated organization units throughout the classified service.
- 3.2 Temporary employees shall be removed from affected organization units first, in the order listed below, without regard to designation of specific classifications.
  - (a) All employees in Emergency appointments in the organization unit affected, who do not have permanent status in another class, shall be removed in inverse order of length of consecutive service. If additional reduction is needed, then
  - (b) All employees in Transient appointments in the organization unit affected, who do not have permanent status in another class, shall be removed next, in inverse order of length of consecutive service. If additional reduction is needed, then
  - (c) All employees in Provisional appointments in the organization unit affected, who do not have permanent status in another class, shall be removed next, in inverse order of length of consecutive service.
- 3.3 If additional reduction is needed, then employees in the affected classes are impacted.
  - (a) Those receiving “Does Not Meet Expectations” performance ratings, as described in Section 5 of this Rule, shall be ranked in inverse order of length of consecutive service and removed in that order. If additional reduction is needed, then

- (b) Employees in the designated class(es) in original entrance Probationary appointments, who do not have permanent status in another class, shall be ranked in inverse order of length of consecutive service and removed in that order. If additional reduction is needed, then
- (c) Employees in the designated classes(es) who have completed their probationary period and have attained permanent status but who were not eligible to receive a performance rating, shall be ranked in inverse order of length of consecutive service and removed in that order. If additional reduction is needed, then,
- (d) Those receiving “Meets Expectations” performance ratings, as described in section 5 of this Rule, shall be ranked in inverse order of length of consecutive service and removed or affected as provided for in Section 6 of this Rule. If additional reduction is needed, then
- (e) Those receiving “Exceeds Expectations” performance ratings, as described in Section 5 of this Rule, shall be ranked in inverse order of length of consecutive service and removed or affected as provided for in Section 6 of this Rule. If additional reduction is needed, then

(Section 3.3. amended January 28, 2019)

3.4 If two or more individuals in a class designated for layoff are in the same performance rating category and have the same consecutive service date in the classified service, the following tie-breaking steps shall be employed only to rank the individuals tied:

- (a) An employee who has been restored to a class having a lower pay grade shall be given preference in the breaking of a tie. If the employees are still tied, then (amended September 27, 1990)
- (b) An employee who is entitled to veteran's preference shall be laid off after the employee who does not have a qualified veteran's preference in accordance with the provisions of Rule XIII. If the employees are still tied, then
- (c) An employee who has retired from a classified position and is eligible for a pension from that system is laid off ahead of the other(s). If the employees are still tied, then
- (d) An employee's prior service with the City shall then be considered, giving preference to the employee with prior service; or, if both employees have prior service, then the employee with the longest prior service with the City receives preference. If the employees are still tied, then
- (e) An employee who is a resident of Orleans Parish shall be given preference over a non-resident. If the employees are still tied, then
- (f) If the employees are still tied after completing the previous tie-breaking steps, then

the tie shall be broken through the drawing of lots in a manner deemed most practicable by the Personnel Director.

(amended March 13, 1986, effective March 13, 1986, amended May 22, 1986, effective May 22, 1986, amended March 15, 2010, effective April 1, 2010, amended January 28, 2019)

Section 4. ESSENTIAL EMPLOYEE EXEMPTION

- 4.1 If an appointing authority feels that a certain employee is absolutely essential to the efficient and effective operation of the organization unit because of special skills or abilities, and the appointing authority wishes to retain the employee despite his or her ranking on the layoff list, a written request must be submitted to the Personnel Director requesting permission to do so. This request must set forth, in detail, the specific skills and abilities possessed by the individual and the reasons that this particular employee be retained despite his or her ranking on the layoff list.

Section 5. USE OF SERVICE RATINGS IN LAYOFFS

- 5.1 Layoffs are determined by the employee's ranking in one of the three categories, with "Does Not Meet Expectations" being the first category affected, followed by "Meets Expectations", and "Exceeds Expectations". However, when performance ratings are not available or when emergency circumstances (as described in Rule II, Section 2.3) otherwise make it impracticable to rank employees using performance ratings, the layoff shall be accomplished by such means as the Director deems most effective, as provided for in Rule II, Section 2.3. (adopted May 22, 1986, effective May 22, 1986, amended March 15, 2010, effective April 1, 2010, amended January 28, 2019)

In order to determine the ranking of regular employees for an anticipated layoff, each employee's performance rating for no more than the past three years of consecutive service are averaged; however, if a layoff is invoked prior to April 1, all available ratings from the prior three years will be averaged. The resultant scores are ranked in ascending order and grouped as follows: (amended March 18, 1993, amended January 28, 2019)

- (a) "Does Not Meet Expectations" rating scores are the lowest average performance rating.
  - (b) "Meets Expectations" are the next ranking group.
  - (c) "Exceeds Expectations" performance rating scores are the next ranking group.
- 5.2 The following points govern special cases in using service ratings during layoffs.
- (a) Any regular employee who, in accordance with the provisions of Rule VIII, Section 6.1 has been granted a leave of absence to accept a position in the unclassified service of the city, shall be given an annual performance rating by the appropriate appointing authority in the unclassified service, pursuant to the requirements of Rule XI, Section 1.2 and shall be ranked for the purpose of layoff.
  - (b) Performance ratings received for rating periods which occurred prior to any break

in consecutive service shall not be included in the computations of the employee's average rating. (amended March 13, 1986, effective March 13, 1986, amended March 15, 2010, effective April 1, 2010)

## Section 6. RESTORATION AND TRANSFERS

- 6.1 After the sequence of layoff steps has been completed and an ordered list of employees in the designated class has been compiled, any regular employee scheduled for layoff, who has permanent status in a class having an equal or lower pay grade regardless of the organization unit, shall be restored to that class. All employees in that class shall then be ranked in accordance with the provisions of this Rule if the need for further reduction exists. (amended May 22, 1986, effective May 22, 1986, amended September 27, 1990)
- 6.2 When a regular employee is restored to a lower class pursuant to this Rule, the employee's base rate shall be either thirty-five (35) percent above the minimum for the lower class or the base rate the employee would be receiving had he or she remained in the lower class, whichever is higher. However, in no case shall the employee's rate of pay be increased as a result of the restoration to the lower class. (adopted by the Civil Service Commission March 21, 1991, approved by the City Council April 4, 1991)
- 6.3 Upon completion of the mechanics of the layoff steps, transfers shall be effected for those eligible employees whose present positions have been abolished, but who have a higher rank on the service-wide layoff list than other employees in organization units throughout the classified service.

The opportunity for selecting positions scheduled to become available when the layoff of personnel is actually implemented, shall be given to individuals according to their rank on the layoff list in the manner deemed most practicable by the Personnel Director. However, no appointing authority shall be required under the provisions of this Rule to accept any employee previously dismissed from that agency. (amended March 13, 1986)

## Section 7. PAYMENT OF TERMINAL LEAVE

- 7.1 Those employees who are scheduled to be laid off must be paid for all terminal leave upon separation from service.

## Section 8. PREFERRED REEMPLOYMENT BENEFITS

- 8.1 The name of regular or probationary employees who are laid off shall be placed on a preferred reemployment register for the class that the employee occupied at the time of separation, except as provided for by Rule XII, Section 8.3 (b). Persons whose choice of retirement is due to a layoff, shall be placed on appropriate preferred reemployment registers (see also Rule VI, Section 4). If during a layoff employees are also reduced from a higher classification and restored to a lower classification in accordance with the provisions of this Rule, their name shall also be placed on the preferred reemployment register for each classification from which they were thus removed.
- 8.2 Preferred reemployment registers shall be established, for a period not to exceed two (2) years from the date of the layoff.

- 8.3 (a) Preferred reemployment registers will be composed of bands that are compiled in the following order:
1. Band 1 will consist of persons laid off from the classification and who have a performance rating average of “Exceeds Expectations”, as defined in Rule XII, Section 5.1.
  2. Band 2 will consist of persons laid off from the classification with a performance rating average of “Meets Expectations”, as defined in Rule XII, Section 5.1.
  3. Band 3 will consist of names of persons laid off from the classification who have completed their probationary status and have attained permanent status but who have not received a performance rating.
  4. Band 4 will consist of names of persons laid off from the classification who have probationary status and do not have permanent status in a lower classification.
- (b) Persons laid off with a performance rating average of “Does Not Meet Expectations” as defined in Rule XII, Section 5.1 are not eligible for preferred reemployment.
- 8.4 An organization unit may not make an appointment from a lower band if there remains an eligible in a higher band who was laid off from the organization unit, except when such eligible fails to respond to offers of employment as outlined in Section 8.7 of this Rule.
- 8.5 All employees who have been placed on a preferred reemployment register for a class shall be considered for reemployment in any vacant position in that class or in any other class for which the Director has deemed the register to be appropriate. Once a preferred reemployment register has been established, and until the expiration of that register, said register pre-empts all other methods of filling vacancies in that classification and in any other classification for which the Director has deemed that register to be appropriate. However, the following exceptions to the preeminence of this register are provided:
- (a) promotions in an established career series (for which experience at the next lowest level is the principal qualification)
  - (b) transfers from one organization unit to another
  - (c) transient or emergency appointments as described in Rule VI, Section 5.

(amended March 13, 1986, amended December 12, 2005, effective December 12, 2005, amended March 15, 2010, effective April 1, 2010)

- 8.6 A former employee on a preferred reemployment list resulting from a layoff, who accepts an offer of reemployment within two (2) years from the date of layoff, shall be considered as having had no break in consecutive service for longevity pay increases or leave accrual



purposes. Additional benefits may be provided under Rule VI, Sections 4.8 (b) or 4.9.

- 8.7 A former employee on a preferred reemployment list resulting from a layoff, who declines or fails to respond to a total of three (3) offers of reemployment, shall be removed from the preferred reemployment list for that classification and all lower classifications in the same job series and will have no further preferred reemployment rights for those classes. In addition, said former employee forfeits the benefits provided by Section 8.6 of this Rule.

(amended March 13, 1986, effective March 13, 1986; May 19, 1988, effective June 1, 1988; amended April 20, 1995, effective May 1, 1995, amended March 15, 2010, effective April 1, 2010)

## Section 9. FURLOUGH TO AVOID LAYOFF

- 9.1 When the Mayor determines that it is necessary to furlough employees within an organization unit(s) in order to avoid a layoff, the furlough may proceed, subject to the following provisions:
- (a) The Mayor shall submit for approval to the Personnel Director, no later than thirty (30) calendar days prior to the effective date, a written request which must include the reasons for the reduction, the number of work hours or days reduced for each employee, the proposed effective dates and periods of time involved, and the organization unit(s). It shall also include the names and titles of employees to be exempted, if any, and the reasons for the exemption.
  - (b) The number of work hours reduced for an employee shall not exceed the equivalent of twelve (12) leave days in any consecutive 12-month period without approval of the Civil Service Commission and only after a declaration from the Mayor that extraordinary circumstances exist.
  - (c) Employees will not be subject to Rule VIII, Section 1.1(e) or Section 2.1(d) for the affected period of time.
  - (d) This action shall not be considered disciplinary and shall not afford any employee a right to appeal to the Commission except as provided in Rule II, Section 4.5 of these Rules.
  - (e) Employees will not be allowed to substitute paid leave for mandatory furlough time.
  - (f) The appointing authority shall furnish to the employee involved a written statement of the reasons for the furlough at least (10) days prior to the effective date.

(Section 9.1 adopted November 30, 2009, effective December 1, 2009)

- 9.2 When the Mayor or other Executive Authority who requested a furlough to avoid layoffs subsequently determines that the circumstances warranting the furlough have changed, the Mayor or Appointing Authority may take any of the following actions, subject to the availability of funds:
- (a) The furlough period may be terminated prior to the proposed end date established when the furlough period was requested and initially approved by the Commission.

- (b) Upon approval of the Civil Service Commission, all classified employees financially impacted by the furlough may be compensated in equal proportions, up to one hundred percent (100%) of the amount equal to the employee's normal hourly rate of pay times the total reduction in the employee's number of regular work hours as a result of the furlough.
- (c) No employee shall receive any monetary compensation that exceeds their normal rate of pay at the time of the furlough; nor shall any employee receive more compensation than they would have received had the furlough not occurred. An employee's normal rate of pay shall not include overtime compensation.

(Section 9.2 adopted and effective December 21, 2020)

## **RULE XIII**

### **VETERANS PREFERENCE**

(as adopted February 10, 1945, effective March 1, 1945, amended January 30, 1975, July 22, 1975 and October 9, 1975, amended December 13, 2004, effective January 1, 2005, amended February 18, 2013, effective March 1, 2013)

- Section 1. **VETERANS PREFERENCES AND PERSONS ELIGIBLE FOR PREFERENCES**  
(amended December 13, 2004, effective January 1, 2005, amended February 18, 2013, effective March 1, 2013)
- 1.1 The preferences herein enumerated shall be accorded to all those eligible according to either Article X of the State Constitution or R.S. 29. This is persons who service honorably in the armed forces of the United States during a war declared by the United States Congress; or who served in a peacetime campaign or expedition for which campaign badges are authorized; or for at least ninety days after September 11, 2001 for reasons other than training; or during war period dates or dates of armed conflicts as provided by state law enacted by two-thirds of the elected members of each house of the legislature.
- 1.2 In the case of entrance tests or examinations, all persons eligible under this rule who have attained marks on the test or examination which meet at least the minimum requirements imposed for each test, and who have received at least the minimum rating required for eligibility, shall have added to their earned grading an additional five (5.00) points.
- 1.3 Ten (10.00) point preferences in original appointments shall be accorded to:
- (a) honorably discharged veterans who served either in peace or in war and who have one or more disabilities recognized by the Veterans Administration as service-connected;
  - (b) spouses of veterans who are in such poor physical condition as to preclude their appointment to Civil Service jobs in their usual line of work;
  - (c) unremarried surviving spouses of deceased veterans who served in a war period as defined in this Rule or in peacetime campaigns or expeditions;
  - (d) the unremarried, widowed parent of persons who died in active wartime or peacetime service or who suffered total and permanent disabilities in active wartime or peacetime service;

- (e) divorced or separated parents of persons who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service.

Only one ten (10.00) point preference shall be allowed at any one time to the persons enumerated above, provided further that if the ten (10.00) point preference is not being utilized by the veteran, either because of the veteran's physical or mental capacity which precludes his or her appointment to a Civil Service job in his or her usual line of work or because of his or her death, such preference shall be available to the spouse, unremarried surviving spouse, or eligible parent as defined above, in the order specified, provided that any such preferences may be given only to persons who have attained marks on the tests which meet at least the minimum requirements imposed for each test and who have received at least the minimum rating required for eligibility.

- 1.4 All persons described in this Rule who become eligible for certification shall be placed on the eligible lists and be eligible for appointment in the order and on the basis of the percentage attained by them in examinations or tests, after such credit of five (5.00) or ten (10.00) points, as the case may be, has been added.
- 1.5 Proof of eligibility for the preferences provided for herein shall be furnished to the Commission or the proper representative of the Commission, by submission of the person claiming preference of the separation papers showing inclusive dates of active duty granted to the veteran by or through whom preference is claimed, or a properly certified copy of such separation papers, or whatever other necessary proofs are required and, in the case of a disabled veteran, additionally of a current certificate from the Veterans Administration of the United States showing service-connected disability to exist.

## **RULE XIV**

### **POLITICAL ACTIVITY**

(adopted May 18, 1983, effective May 18, 1983)

#### **Section 1. PROHIBITIONS**

- 1.1 No member of the Civil Service Commission and no employee in the classified service shall:
- (a) be a candidate for nomination or election to public office.
  - (b) be a member of any national, state or local committee of a political party or faction.
  - (c) make or solicit contributions for any political party, faction or candidate.
  - (d) take active part in the management of the affairs of a political party, faction, candidate or any political campaign.
  - (e) directly or indirectly pay, or promise to pay, any assessment, subscription, or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription or contribution.
- 1.2 No person shall:
- (a) solicit any such assessment, subscription or contribution of any employee in the classified service.
  - (b) be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of his political or religious opinions or affiliations.
  - (c) seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.
  - (d) use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.
- 1.3 No person elected to public office shall, during the term for which he was elected, be appointed to any position in the classified service.

- 1.4 No person shall use, imply or attempt to use his position, whether elective or appointive, in the Federal, State or City services to punish, coerce, intimidate or otherwise influence the conduct of classified employees for political purposes.

## Section 2. POLITICAL ACTIVITY

- 2.1 Political activity means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election.
- 2.2 Conduct prohibited to classified employees and Commissioners by this Rule includes any public political statement, whether verbal or written, any public political overture or demonstration or any connection with public representation or reproduction having political significance including, but not limited to, badges, emblems, posters, stickers, etc., which may or may not feature insignia, logos or the like having political characteristics easily discernible or identifiable with political parties, factions, candidates or office holders.
- 2.3 Conduct and activities prohibited by this Rule extend to classified employees irrespective of whether the individual is:
  - (a) on the job or away from it.
  - (b) on any type of paid leave status.
  - (c) on any type of unpaid leave status.
  - (d) on suspension from the job.

## Section 3. PERMISSIBLE ACTIVITY

- 3.1 Members of the Civil Service Commission and classified employees may:
  - (a) exercise the right of any citizen to express political views or opinions privately
  - (b) serve as a commissioner or official watcher at the polls
  - (c) support issues involving bonded indebtedness, tax referenda, or amendments to the Constitution
  - (d) vote.

## Section 4. PENALTIES

- 4.1 The Civil Service Commission or any appointing authority may take appropriate disciplinary action as enumerated in Rule IX of the Commission's Rules, or Article X, Section 11 of the Constitution of Louisiana for any violation of this Rule.