



CITY OF BERKELEY

**PERSONNEL RULES and
REGULATIONS**

This document includes rules which govern the personnel system for the City of Berkeley. They are intended to set forth general provisions which apply to all City of Berkeley employees. However, for employees whose classifications are represented by a bargaining unit which has a Memorandum Agreement with the City, any specialized terms which modify or are in conflict with these rules shall prevail.

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TABLE CONTENTS

1.00	DEFINITION OF TERMS.....	1
1.01	ADMINISTRATIVE LEAVE:	1
1.02	ALLOCATION:.....	1
1.03	APPOINTING AUTHORITY:	1
1.04	APPOINTMENT:	1
1.05	BENEFITTED:	1
1.06	BOARD:	1
1.07	CAREER:.....	1
1.08	CLASS:.....	1
1.09	DEMOTION:	2
1.10	ELIGIBLE:	2
1.11	EMPLOYEE:	2
	(.01) ACTING EMPLOYEE:	2
	(.02) AT-WILL EMPLOYEE:	2
	(.03) EMERGENCY EMPLOYEE:	2
	(.04) FLSA EXEMPT EMPLOYEE:	2
	(.05) FLSA NON-EXEMPT EMPLOYEE:	2
	(.06) FULL TIME EMPLOYEE:	2
	(.07) INTERMITTENT EMPLOYEE:.....	2
	(.08) UNREPRESENTED EMPLOYEE:.....	2
	(.09) PART TIME EMPLOYEE:	3
	(.10) PERMANENT EMPLOYEE:.....	3
	(.11) PROVISIONAL EMPLOYEE:	3
	(.12) REGULAR AT-WILL EMPLOYEE:.....	3
	(.13) SEASONAL EMPLOYEE:	3
	(.14) TEMPORARY EMPLOYEE:	3
1.12	ELIGIBLE LIST:	3
1.13	EXAMINATION:	3
	(.01) CONTINUOUS EXAMINATION:.....	3
	(.02) OPEN-COMPETITIVE EXAMINATION:.....	3
	(.03) PROMOTIONAL EXAMINATION:.....	3
1.14	LAYOFF:.....	4
1.15	MEMORANDUM AGREEMENT:.....	4
1.16	PERSONNEL ORDINANCE:.....	4
1.17	POSITION:	4
1.18	PROBATIONARY PERIOD:.....	4
1.19	PROMOTION:.....	4

1.20	PROMOTIONAL ELIGIBLE LIST:	4
1.21	RECLASSIFICATION:	4
1.22	REDUCTION:	4
1.23	REEMPLOYMENT LIST:	4
1.24	REINSTATEMENT:	5
1.25	RULES:.....	5
1.26	SALARY OR WAGE:.....	5
1.27	SUSPENSION:	5
1.28	TERMINATION:.....	5
1.29	TRANSFER:.....	5
2.00	GENERAL PROVISIONS.....	6
2.01	FAIR EMPLOYMENT.....	6
2.02	VIOLATION OF RULES.....	6
2.03	AMENDMENT OF RULES.....	6
2.04	MEMORANDUM AGREEMENT EXCEPTION TO RULES	6
2.05	RESIDENCY REQUIREMENT	6
2.06	OUTSIDE EMPLOYMENT.....	6
3.00	CLASSIFICATION.....	7
3.01	PREPARATION OF PLAN	7
3.02	ESTABLISHMENT AND REVISION OF CLASSES	7
3.03	TITLES OF POSITION.....	7
3.04	RECLASSIFICATION OF POSITIONS	7
3.05	NEW POSITIONS.....	7
4.00	COMPENSATION.....	8
4.01	PREPARATION OF COMPENSATION PLAN.....	8
4.02	ADOPTION OF PLAN.....	8
4.03	APPLICATION OF ESTABLISHED SALARY RANGES	8
4.04	STEP INCREASES - LEAVE OF ABSENCE WITHOUT PAY	8
4.05	SALARY REDUCTIONS	8
4.06	Y-RATE.....	9
4.07	TEMPORARY ASSIGNMENT TO HIGHER CLASSIFICATION	9
5.00	APPLICATIONS AND APPLICANTS.....	10
5.01	ANNOUNCEMENT.....	10
5.02	APPLICATION FORMS.....	10
5.03	REJECTION OF APPLICATIONS.....	10
5.04	NOTIFICATION	10

6.00	EXAMINATIONS.....	11
6.01	EXAMINATION PROCESS.....	11
6.02	CONDUCT OF EXAMINATIONS	11
6.03	PROMOTIONAL EXAMINATIONS.....	11
6.04	NOTIFICATION OF RESULTS AND REVIEW OF PAPERS.....	11
6.05	MEDICAL/PSYCHIATRIC EXAMINATIONS	12
7.00	ELIGIBLE LISTS.....	13
7.01	ELIGIBLE LISTS.....	13
7.02	EFFECTIVE DATES OF LISTS.....	13
7.03	DURATION OF ELIGIBLE LISTS.....	13
7.04	REMOVAL OF NAMES FROM LISTS.....	13
7.05	CONTINUOUS ELIGIBILITY FOR CAREER EMPLOYEES.....	13
7.06	CONTINUOUS ELIGIBILITY FOR TEMPORARY EMPLOYEES	13
8.00	VETERAN'S PREFERENCE RIGHTS.....	14
8.01	VETERAN'S PREFERENCE.....	14
8.02	VETERAN DEFINED.....	14
8.03	PREFERENCES GRANTED	14
8.04	LIMITATIONS OF PREFERENCES	14
	(.01) ELIGIBILITY.....	14
	(.02) TIME RESTRICTION.....	14
	(.03) PROMOTIONAL EXAMINATIONS.....	14
	(.04) USE LIMITATION	14
8.05	PROMOTIONAL LISTS FOR MILITARY LEAVE OF ABSENCE.....	14
9.00	METHOD OF FILLING VACANCIES.....	16
9.01	GENERAL PROVISIONS	16
9.02	PROMOTION.....	16
9.03	PROMOTION THROUGH A NON-COMPETITIVE PERSONNEL ACTION	16
9.04	CERTIFICATION OF ELIGIBLES.....	17
9.05	APPOINTMENT	17
9.06	PROVISIONAL APPOINTMENTS	17
9.07	TEMPORARY APPOINTMENTS	17
9.08	ACTING DEPARTMENT OR ASSISTANT DEPARTMENT HEAD	18
9.09	EMERGENCY APPOINTMENTS	18
9.10	TEMPORARY SUPERVISORY ASSIGNMENT.....	18
10.00	PROBATIONARY PERIOD.....	19
10.01	LENGTH OF PROBATIONARY PERIOD.....	19
10.02	OBJECTIVES OF PROBATIONARY PERIOD.....	19

10.03	REJECTION OF PROBATIONERS	19
10.04	REJECTION DURING PROBATIONARY PROMOTION.....	19
11.00	EMPLOYMENT TRANSACTIONS	20
11.01	TRANSFER	20
11.02	TRANSFERS BETWEEN THE CITY AND THE LIBRARY	20
11.03	TRANSFERS BETWEEN THE CITY AND THE RENT BOARD.....	20
11.04	DEMOTION	20
11.05	SUSPENSION	20
11.06	REINSTATEMENT	20
(.01)	FOLLOWING RESIGNATION.....	20
(.02)	REINSTATEMENT FOLLOWING TERMINATION FOR CAUSE.....	21
(.03)	SENIORITY RIGHTS AND BENEFITS.....	21
11.07	DISCHARGE.....	21
11.08	RESIGNATION.....	21
12.00	EMPLOYEE RECORDS.....	22
12.01	OFFICIAL PERSONNEL FILE.....	22
13.00	EMPLOYEE OATH.....	23
13.01	OATH	23

1.00 DEFINITION OF TERMS

1.01 ADMINISTRATIVE LEAVE:

The temporary assignment of an employee, approved by the City Manager, in writing, to a status of leave with pay. The City Manager provides for paid administrative leave to eligible employees as set forth in the Appendix to the Unrepresented Employee Manual. Administrative leave is not charged against accrued vacation or sick leave balances.

1.02 ALLOCATION:

The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

1.03 APPOINTING AUTHORITY:

The City Manager is the appointing authority for City of Berkeley employees. The Rent Stabilization Board is the appointing authority for Rent Stabilization Program employees. The Library Board of Trustees is the appointing authority for Library employees.

1.04 APPOINTMENT:

The offer to and acceptance by a person of a position in accordance with the provisions of these Rules.

1.05 BENEFITTED:

All career and regular at-will employees who work on either a full time basis or a part time basis of at least twenty hours per week who receive all of the leave, insurance and retirement benefits as provided in these Rules.

1.06 BOARD:

The City of Berkeley Personnel Board.

1.07 CAREER:

All positions of employment in the career service of the City except those excluded by BMC Section 4.04.120 of the Personnel Ordinance. Employees in the career service are appointed to their positions through a competitive examination process and are required to serve a probationary period. Once career employees successfully pass their probationary periods, they can be discharged only for cause or in accordance with the provisions of the City's Layoff Policy.

1.08 CLASS:

All positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.

1.09 DEMOTION:

The movement of an employee from one class to another class having a lower maximum rate of pay.

1.10 ELIGIBLE:

A person whose name is on an eligible list.

1.11 EMPLOYEE:

(.01) ACTING EMPLOYEE:

An employee who has been appointed to fill a vacancy in any department head or assistant department head position in compliance with these Rules.

(.02) AT-WILL EMPLOYEE:

An employee who is excluded from the career service by BMC Section 4.04.120 of the Personnel Ordinance and serves at the will of the appointing authority. At-will employees can be dismissed at any time without cause.

(.03) EMERGENCY EMPLOYEE:

An employee appointed to meet the requirements of an emergency condition. Such appointment may be made without regard to the regulations as to appointments in these rules.

(.04) FLSA EXEMPT EMPLOYEE:

An employee who is exempt from the overtime pay requirements of the Fair Labor Standards Act ("FLSA") and does not receive overtime pay or compensatory leave.

(.05) FLSA NON-EXEMPT EMPLOYEE:

An employee who is covered by the overtime provisions of the Fair Labor Standards Act ("FLSA") and receives overtime pay or compensatory leave.

(.06) FULL TIME EMPLOYEE:

An employee who is appointed to a position that works the normal number of working hours as defined by the City.

(.07) INTERMITTENT EMPLOYEE:

An at-will employee who works on an hourly basis on call at irregular intervals or without a set pattern on an intermittent basis.

(.08) UNREPRESENTED EMPLOYEE:

An employee who is not a member of a designated representation unit that is represented by an employee organization formally certified by the City.

(.09) PART TIME EMPLOYEE:

An employee who is appointed to a position that works less than the normal number of working hours, as defined by the City Manager.

(.10) PERMANENT EMPLOYEE:

An employee in the career service who has successfully completed the probationary period and has been retained as provided in the Personnel Ordinance and these Rules.

(.11) PROVISIONAL EMPLOYEE:

An employee in the career service who has been assigned, with the prior written approval of the City Manager, to serve temporarily in a higher level for which the employee possesses the minimum qualifications established for the class.

(.12) REGULAR AT-WILL EMPLOYEE:

An employee who is excluded from the career service by BMC Section 4.04.120 of the Personnel Ordinance and is employed in a position of twenty or more hours per week that is listed in BMC Section 4.04.120 (A), (B) and (C) of the Personnel Ordinance which entitles that position to receive fringe benefits. Regular at-will employees serve at the will of the appointing authority and can be dismissed at any time without cause.

(.13) SEASONAL EMPLOYEE:

An at-will employee who is appointed to a non-permanent annually recurring position at a recreational establishment.

(.14) TEMPORARY EMPLOYEE:

An at-will employee who is appointed to a position for a limited period of time.

1.12 ELIGIBLE LIST:

A list of names of persons who have taken either an open competitive or a promotional examination for a class in the career service and have qualified.

1.13 EXAMINATION:

(.01) CONTINUOUS EXAMINATION:

An examination process in which applications are accepted on a continuous basis, subject to a periodic closing date.

(.02) OPEN-COMPETITIVE EXAMINATION:

An examination for a particular class which is open to all persons meeting the qualifications for the class.

(.03) PROMOTIONAL EXAMINATION:

An examination for a particular class which is open only to permanent employees meeting the qualifications for the class.

1.14 LAYOFF:

A reduction in force of City of Berkeley employees.

1.15 MEMORANDUM AGREEMENT:

A collectively bargained agreement between the City and a certified employee organization to represent a designated representation unit(s). The agreement becomes effective upon approval by the City Council and ratification of the bargaining unit.

1.16 PERSONNEL ORDINANCE:

Ordinance (Berkeley Municipal Code Chapter 4.04) which creates a personnel system for the City.

1.17 POSITION:

Any office or employment in the career service whether occupied or vacant

1.18 PROBATIONARY PERIOD:

A period which is an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position. During this probationary period, the employee may be rejected at any time, without advance notice or cause, and without right of appeal or hearing in any manner.

1.19 PROMOTION:

The movement of an employee from one class to another class having a higher maximum rate of pay.

1.20 PROMOTIONAL ELIGIBLE LIST:

A list of names of persons who have taken a promotional examination for a class in the career service and have qualified.

1.21 RECLASSIFICATION:

Reallocation of a position from one class to another class based upon consideration of the kind and level of assigned duties and responsibilities.

1.22 REDUCTION:

A salary decrease of one or more steps within the limits of the pay range established for a class.

1.23 REEMPLOYMENT LIST:

A list of names of persons who, under the provisions of the layoff policy, have mandatory placement rights to a class or classes in the career service.

1.24 REINSTATEMENT:

The restoration without examination of a former permanent employee or probationary employee to a class from which the employee was separated from service as a permanent or probationary employee.

1.25 RULES:

The Personnel Rules and Regulations of the City of Berkeley contained in this document and which are provided for by the Charter and the Personnel Ordinance.

1.26 SALARY OR WAGE:

The amount of money or credit received as compensation for service rendered exclusive of mileage, traveling allowances and other sums received for actual and necessary expenses incurred in the performance of the City's business.

1.27 SUSPENSION:

The temporary separation from service of an employee without pay for disciplinary purposes.

1.28 TERMINATION:

The permanent separation from service of an employee and includes both voluntary and involuntary separation.

1.29 TRANSFER:

The movement of an employee from one position to another position within the same class in another department or the movement of an employee from one class to another class having a comparable level of duties and responsibilities and the same maximum rate of pay.

2.00 GENERAL PROVISIONS

2.01 FAIR EMPLOYMENT

The City of Berkeley does not unlawfully discriminate on the basis of race, color, religion, sex, national origin, ancestry, age, political affiliation, medical condition, disability, veteran status, marital status or sexual orientation. The City makes reasonable accommodations for disabled employees. The City prohibits the harassment of any individual on any of the bases listed above. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, and transfer.

2.02 VIOLATION OF RULES

Violation of the provisions of these Rules shall be grounds for discharge, suspension or other disciplinary action.

2.03 AMENDMENT OF RULES

These Rules may be amended by the City Council in the manner prescribed for the amendment of other resolutions.

2.04 MEMORANDUM AGREEMENT EXCEPTION TO RULES

These Rules apply to all employees of the City of Berkeley with the following exception: if any provision in a Memorandum Agreement is different from or in conflict with an analogous provision in these Rules, the provision in the Memorandum Agreement shall supersede the Rules and shall apply to the employees within the representation unit covered by the Memorandum Agreement.

2.05 RESIDENCY REQUIREMENT

City of Berkeley employees may be required to live within a reasonable distance from the City's boundaries to the extent that such a requirement would be lawful.

2.06 OUTSIDE EMPLOYMENT

Employees may not carry on concurrently with their public service any private business or undertaking, attention to which affects the time or quality of their work or which casts discredit upon or creates embarrassment for the City government. Written authorization to engage in any outside employment or gainful occupation must be approved, in advance, by the department head, Director of Human Resources and the City Manager, based on the written request of the employee. Employees who engage in outside employment in violation of this section may be disciplined up to and including termination.

3.00 CLASSIFICATION

3.01 PREPARATION OF PLAN

The City Manager shall ascertain the duties and responsibilities of all positions in the career service and shall recommend a classification plan to the City Council for such positions.

3.02 ESTABLISHMENT AND REVISION OF CLASSES

The classification plan shall be adopted by the City Council, upon recommendation from the City Manager and review by the Personnel Board, and may be amended from time to time in accordance with the Personnel Ordinance and these Rules. The classification plan shall consist of classes of positions in the career service defined by class specifications, including the title.

3.03 TITLES OF POSITION

Each employee holding a position in the career service shall take the title of the class to which his or her position has been allocated in accordance with the Personnel Ordinance and these Rules.

3.04 RECLASSIFICATION OF POSITIONS

Department directors are required to make assignments within the authorized budgeted classifications. The City Manager shall determine which classifications shall be utilized. When the City Manager reclassifies a position from a lower level class to a higher level class, the incumbent employee occupying that position shall be reclassified without competitive examination provided that he or she meets the minimum qualifications, has performed the duties of the new class for 12 months and has not received an unsatisfactory evaluation during that period. All other employees shall pass an examination for the higher class and shall serve the normal probationary period. If found to be working in a higher classification, as the result of a position review, the employee shall be entitled to appropriate compensation, retroactive to the date upon which the employee had submitted the position questionnaire to his/her supervisor.

3.05 NEW POSITIONS

Positions hereafter established shall be classified in the appropriate class by the City Manager. No vacant position shall be filled by a permanent or probationary appointment until such position has been classified under the classification plan and an appropriate eligible list established.

4.00 COMPENSATION

4.01 PREPARATION OF COMPENSATION PLAN

A compensation plan for all positions in the career service shall be prepared. The plan shall establish a salary range or rate of pay for every class in the career service. In arriving at such salary rates, considerations shall be given to the City's financial condition and policies, to internal alignment, to current costs of living, to prevailing rates of pay for comparable work in other public and in private employment, and to other relevant factors such as recruitment and retention difficulties.

4.02 ADOPTION OF PLAN

The City Council shall adopt, or amend and adopt, the compensation plan in accordance with the Personnel Ordinance and these Rules, and thereafter no position shall be assigned a salary higher than the maximum or lower than the minimum salary provided for that class unless the salary schedule for the class is amended in the same manner as provided herein for its adoption.

4.03 APPLICATION OF ESTABLISHED SALARY RANGES

The City Manager may appoint any person to a position in a class established by the Classification/Salary Resolution, to designate the definite salary rate or salary step at which such person is appointed, and the salary so designated is hereby fixed as the salary of such employee for such position; provided, further, that the City Manager may from time to time increase or decrease the salaries of persons so appointed in accordance with the salary rates, salary ranges and salary steps set forth in the salary resolution, provided that the salary so fixed is within the range established for that class. Employees reinstated or reemployed after layoff shall receive a rate within the range established for the class. Transfers within the same class shall not affect an employee's salary rate. No salary increase shall be made so as to exceed the maximum rate established in the compensation plan for the class to which the employee's position is allocated.

4.04 STEP INCREASES - LEAVE OF ABSENCE WITHOUT PAY

An employee's pay increase shall not be affected by any leave of absence without pay, if the employee is off the payroll for less than one hundred sixty (160) consecutive hours. If the employee is off the payroll for one hundred sixty (160) consecutive hours or more, the total amount of time off shall be made up before the employee shall be entitled to such pay increase.

4.05 SALARY REDUCTIONS

Salary reductions may be made as a result of an employee's diminished service value, as a part of a general plan to reduce salaries and wages as an economy measure, or as part of a general curtailment program. No reduction shall be made below the minimum rate established in the compensation plan for the class into which the reduced employee has been placed. Notice of the reduction shall be given to the employee not later than two weeks prior to the effective date of the reduction. Any employee whose salary has been reduced shall receive a written statement of the reasons for such action. Disciplinary action shall not be a basis for exercise of the rights set forth in this section.

Salary reductions which are part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program shall not be subject to the Y-rate and layoff policies provided in these Rules.

4.06 Y-RATE

Any employee occupying a position which is reclassified to a class, the maximum salary for which is less than the incumbent's present salary, or occupying a position in a class the salary rate or range for which is reduced, shall continue to receive his or her present salary and shall continue until the maximum salary of the new class meets the Y-rated salary. Such salary shall be designated as a "Y-rate." When an employee on a Y-rate vacates his or her position, subsequent appointments to that position shall be made in accordance with Section 4.03 of these Rules.

4.07 TEMPORARY ASSIGNMENT TO HIGHER CLASSIFICATION

In order for an employee to be paid for temporary assignment to a higher classification, the following requirements must be observed. Prior to the starting date of the assignment, the employee must be specifically assigned in writing by the Department Head or his or her authorized representative with the prior, written approval of the City Manager to temporarily serve in a higher classification. The employee must work a minimum of one day, meet the minimum qualifications, and perform the duties of the higher classification. Employees meeting these requirements shall be paid at the lowest step of the higher classification which provides a five per cent (5%) differential. Excluded from this section are all employees whose job classifications regularly include assuming administrative and/or supervisory responsibilities in the absence of another; i.e. Assistant Department Heads.

5.00 APPLICATIONS AND APPLICANTS

5.01 ANNOUNCEMENT

All examinations for classes in the career service shall be publicized by posting at the Human Resources Department and by methods determined by the City Manager and the Director of Human Resources. The announcements shall specify the title and pay of the class for which the examination is announced, the nature of the work to be performed, the minimum qualifications required, the manner of making application, and other pertinent information.

5.02 APPLICATION FORMS

Applications shall be made on forms provided by the Director of Human Resources. Application forms shall require information covering training, experience, and other pertinent information. All applications must be signed by the person applying.

5.03 REJECTION OF APPLICATIONS

The Director of Human Resources shall reject any application if it is not written on the prescribed form, filed within the period specified in the public notice of the examination, or fails to show that the applicant possesses the minimum qualifications required for the position. The Director of Human Resources also shall reject any application if it contains any false statement or omission of any material fact, or if it is discovered that the applicant has practiced or attempted to practice any deception or fraud in the application.

5.04 NOTIFICATION

All applicants will be notified of the outcome of the review of their application by mail to their last known address. Defective applications may be returned to the applicant with notice to amend the same, and the application may be amended and re-filed, providing the time limit for receiving applications has not expired.

6.00 EXAMINATIONS

6.01 EXAMINATION PROCESS

Examinations may consist of any method of evaluation to measure the capacities of the persons examined to execute the duties and responsibilities of the career class to which they seek to be appointed. The probationary period shall be considered as a portion of the examination process.

6.02 CONDUCT OF EXAMINATIONS

All examinations shall be conducted by or arranged for by the Director of Human Resources, under the direction of the City Manager.

6.03 PROMOTIONAL EXAMINATIONS

Promotional examinations may be conducted whenever the needs of the service require. Promotional examinations may include any of the selection techniques as deemed appropriate by the Director of Human Resources. Only permanent employees in the career service or on active mandatory layoff reemployment lists who meet the requirements set forth in the class specifications may compete in promotional examinations.

If in the opinion of the City Manager, the City is facing staffing reductions which will result in displacement of employees, a waiver of minimum qualifications and/or substitution of related experience and education may be made in promotional examinations, with an understanding on the part of management and supervisory personnel that adequate on-the-job training which can be completed within no more than one year, will be provided to facilitate job adjustment and to compensate for waiver of qualification standards if that has occurred. The promotional recruitment announcement will state that minimum qualifications may be waived providing the applicant's experience and education demonstrates his or her on-the-job development potential, as stated above. In promotional appointments where the minimum qualifications have been waived, the probationary period will be one year to allow the employee time to demonstrate development of the necessary job knowledges and skills.

6.04 NOTIFICATION OF RESULTS AND REVIEW OF PAPERS

Each candidate in a formal written examination where scores are provided shall be given notice of the results thereof, and if successful, of the final earned score and/or rank on the employment list.

All such candidates shall have the right to inspect their written test answer sheet within ten working days after the results are mailed. Such personal examination shall be made in the presence of the Director of Human Resources, or his or her authorized representative, and no notes shall be made by the applicant.

Any error in computation, if called to the attention of the Director of Human Resources within this period, shall be corrected and, in the case of a promotional eligible list, if any promotion was made on the basis of the error, it shall be adjusted accordingly. Any corrections called to the attention of the Director of Human Resources after this period shall not require invalidation of appointments previously made.

6.05 MEDICAL/PSYCHIATRIC EXAMINATIONS

The City requires a medical examination, following the job offer, but prior to appointment, for any classification which has been determined to require medical screening. The offer will be conditioned on a determination that the applicant is medically fit to perform the essential functions of the job and can perform without endangering the health and safety of the applicant or others. The examination will be conducted by a City-designated physician at the expense of the City. No medical information will be reported to the City. Instead, the City-designated physician will provide a determination of fitness to perform the particular job. For certain classifications which have been designated by the examination announcement to require a psychiatric evaluation, the offer of employment is further conditioned on successfully passing psychological tests as conducted by a licensed practitioner.

7.00 ELIGIBLE LISTS

7.01 ELIGIBLE LISTS

As soon as possible after the completion of an examination, the Director of Human Resources shall prepare and maintain an eligible list consisting of the names of candidates who qualified in the examination for a class in the career service.

7.02 EFFECTIVE DATES OF LISTS

Eligible lists shall become effective upon the announcement thereof by the Director of Human Resources.

7.03 DURATION OF ELIGIBLE LISTS

Eligible lists shall remain in effect for one year unless exhausted or abolished earlier or extended later than the one year period by the City Manager within his or her discretion.

7.04 REMOVAL OF NAMES FROM LISTS

The names of any persons appearing on an eligible list shall be removed by the Director of Human Resources if the eligible requests in writing that the name be removed or if the eligible fails to respond to a notice of certification mailed to the last designated address. The person affected shall be notified of the removal of the name by a notice mailed to the last known address. The names of persons on promotional employment lists who resign or are discharged from the service shall be automatically dropped from such lists.

7.05 CONTINUOUS ELIGIBILITY FOR CAREER EMPLOYEES

Any employee maintaining permanent or probationary status in any classification may qualify for continuous eligibility for classifications in which his or her name appears on the eligible list. Employees who qualify for continuous eligibility will remain on the eligible list in their relative standing without being required to compete in subsequent examinations. Continuous eligibility will require the submission of an updated application within the announced filing period only. Continuous eligibility is based on persons meeting the minimum requirements for the classification. At such time as new eligibility standards are introduced, employees will be required to meet the minimum requirements and pass the new examination in order to be placed on the eligible list. Continuous eligibility shall be administered by the Director of Human Resources according to procedures established by the Director of Human Resources.

7.06 CONTINUOUS ELIGIBILITY FOR TEMPORARY EMPLOYEES

Any employee continuously appointed as an at-will employee who was appointed from an eligible list shall remain eligible for probationary appointment to career positions within that classification for the duration of the at-will employment without renewing eligibility on subsequent eligible lists.

8.00 VETERAN'S PREFERENCE RIGHTS

8.01 VETERAN'S PREFERENCE

Preference shall be given to veterans in entrance and promotional examinations where scores are provided as in this chapter.

8.02 VETERAN DEFINED

A "veteran" is any person who has been on active duty in any branch of the Armed Forces of the United States for a period of one hundred eighty days or more, and who has been discharged or released under conditions other than dishonorable.

8.03 PREFERENCES GRANTED

Five credit points shall be added to the earned total examination score of veterans in both entrance and promotional examinations where scores are provided.

8.04 LIMITATIONS OF PREFERENCES

(.01) ELIGIBILITY

The veteran must obtain a passing grade in all parts of the examination and have all minimum qualifications for the position before any preference credit points are allowed.

(.02) TIME RESTRICTION

The preference in entrance examinations is limited and shall be granted only during the five year period from the date of the veteran's discharge or separation from the Armed Forces.

(.03) PROMOTIONAL EXAMINATIONS

The preference in promotional examinations is limited to veterans who were employed by the City of Berkeley prior to their entrance into the Armed Forces and shall be granted only during the period of six months after the veteran's return to the City service.

(.04) USE LIMITATION

A veteran is entitled to use this entrance preference once only. When he or she has established and used this preference to obtain appointment and has been appointed, preference rights will be exhausted.

8.05 PROMOTIONAL LISTS FOR MILITARY LEAVE OF ABSENCE

The rights of an employee who enters or has entered the Armed Forces of the United States or of this State, whether on annual or extended military leave, and whose name appears or has appeared on a promotional list at the time he or she enters or has entered such Armed Forces, shall not be prejudiced as a result of his or her having been absent from the City in the Armed Forces. For employees on extended military leave, it shall be the employee's responsibility to notify the Human Resources Department in writing within ninety days of release from active duty in order to reactivate eligibility on the promotional list in effect at the time of return. If no promotional list is in effect at the time of return, the employee will be required to compete in order to be

placed on subsequent eligible lists, unless he/she meets the criteria under Rule 7.05 for continuous eligibility.

9.00 METHOD OF FILLING VACANCIES

9.01 GENERAL PROVISIONS

All vacancies in the career service shall be filled by transfer, demotion, re-employment, reinstatement, or from eligibles certified by the Director of Human Resources from an appropriate eligible list, if available. In the absence of persons eligible in these ways, temporary appointments may be made in accordance with these Rules.

9.02 PROMOTION

Insofar as is practicable and consistent with the best interests of the City, all vacancies in the career service shall be filled by promotion from within the career service, after a promotional examination has been given and a promotional list established.

If, in the opinion of the appointing authority, the best interests of the service can be served by an open competitive examination instead of a closed promotional examination, and if there is not already an existing promotional list for the higher position, which list has not been abolished and from which the vacancy could be filled, the appointing authority, may instruct the Director of Human Resources to call for applications for the vacancy and arrange for an open competitive examination and for preparation and publication of an eligible list.

9.03 PROMOTION THROUGH A NON-COMPETITIVE PERSONNEL ACTION

Classifications that require professional licensure, certification or registration as a prerequisite at the journey level may be under filled at the unlicensed entry level, pending qualification for the required license based on the needs of the City. The City Manager or his designated representative may consider an employee for promotion to a higher class through a non-competitive personnel action if the employee meets all of the following criteria and has documented satisfactory performance in the lower level classification:

- The higher classification licensed position has been authorized for filling and the department has elected to fill it at the unlicensed level; and
- The employee has obtained the essential qualifications of the journey level classification, as outlined in the classification specification (i.e., experience and education qualifications, the demonstrated knowledge, skills and abilities, etc.); and
- The employee has obtained the required California State license, professional registration, or certification as identified in the job specification.

Unlicensed Classification	Licensed Classification
Mental Health Clinician I	Mental Health Clinician II
Psychiatric Social Worker I	Psychiatric Social Worker II
Assistant Environmental Health Specialist	Registered Environmental Health Specialist
Assistant Public Works Engineer	Assistant Civil Engineer
Psychiatrist I	Psychiatrist II
Psychiatrist II	Psychiatrist III
Public Health Physician	Public Health Physician (Certified)
Traffic Engineering Assistant	Assistant Traffic Engineer

If the department head determines that the employee meets the criteria outlined above, the department head then submits an Employee Transaction Form to the Director of Human Resources recommending promotion of the employee to the licensed journey level classification, without requirement that an eligible list for the journey level classification be established or certified for this appointment, with a copy of the required license. Upon determination that the criteria have been met, the employee will be advanced to the journey level classification subject to the requirement to serve the appropriate probationary period, as outlined in the applicable memorandum agreement.

9.04 CERTIFICATION OF ELIGIBLES

If appointment is to be made from an eligible list, the names of all eligibles on the list shall be certified, except that any employee on a current reemployment list for that classification shall be certified first, in accordance with the layoff policy.

9.05 APPOINTMENT

The appointing authority shall make appointments from among those certified and the person to be appointed shall be notified by the Director of Human Resources. The person accepting the appointment shall report for duty within the time period prescribed in the job offer. If the applicant accepts the appointment and reports for duty as prescribed, the applicant shall be deemed to be appointed. Otherwise, the applicant shall be deemed to have declined the appointment.

9.06 PROVISIONAL APPOINTMENTS

When a career employee who meets the qualifications of the classification is temporarily assigned to work in that higher class or at a lateral level, in accordance with these rules, the appointment shall be designated as a provisional appointment. They may be made to fill temporarily vacated or funded vacancies or career vacancies pending establishment of an eligible list, and shall include the continuation of benefits. The employee may be removed from the provisional appointment, at any time, without right of appeal or hearing.

9.07 TEMPORARY APPOINTMENTS

Temporary at-will appointments may be made by the City Manager to vacancies of limited duration which are caused by limited funding, temporary absences of career employees or pending the establishment of an eligible list, provided that the applicant meets the qualifications of the classification to which the vacant position has been allocated. Temporary appointments for work schedules of twenty to forty hours per week may be made for a period up to six (6) months. This time limitation may be extended by the City for an additional nineteen (19) months, if approved by the Personnel Board, except that temporary appointments of up to twenty-five (25) months may be made for applicants who are filling positions which have been vacated by employees on a temporary assignment or long term leave of absence, such as parental or workers' compensation leaves, without need for Personnel Board approval. If the Personnel Board does not approve an extension of a temporary employee appointment, beyond six (6) months to a maximum of twenty-five months, such extension may be submitted to the City Council for review and approval. Temporary employees are ineligible for benefits, except that if a temporary employee is appointed to a position expected to last for six (6) months or longer and funding is available, the City may provide benefits for the duration of that appointment. However, no one person may serve in a series of non-career temporary appointments of twenty to forty hours for greater than

thirty-six months in total. With the exception of a hiring freeze, which has been imposed to maintain career vacancies, no vacant career position should be filled by any temporary employee for longer than one year.

9.08 ACTING DEPARTMENT OR ASSISTANT DEPARTMENT HEAD

Whenever a vacancy occurs in any department head or assistant department head position and no applicable employment list exists, the City Manager shall appoint a person to the vacant position who meets the minimum qualifications of the position in an acting capacity. Such appointments shall be designated "Acting" followed by the appropriate class title.

No one position shall be filled continuously by such acting appointment for more than one year provided, however, that upon the recommendation of the City Manager, the Council may, by resolution, authorize the continuation of such acting appointment beyond the one year period.

9.09 EMERGENCY APPOINTMENTS

To meet the requirements of an emergency condition which threatens life, property or the general welfare of the City, the City Manager may employ such persons as may be needed for the duration of the emergency without regard to the regulations as to appointments in these Rules.

9.10 TEMPORARY SUPERVISORY ASSIGNMENT

For training purposes, employees not meeting all of the minimum qualifications for a supervisory position may be temporarily assigned for a minimum of one week, to perform the duties of supervisor and will receive a five percent (5%) increase in their current salary.

10.00 PROBATIONARY PERIOD

10.01 LENGTH OF PROBATIONARY PERIOD

All original and promotional appointments to positions in the career service shall be tentative and subject to a probationary period. The length of the probationary period shall be determined, as set forth in the Unrepresented Employee Policy Manual or in the applicable Memorandum Agreement. However, the length of the probationary period shall not be less than six months of actual service (1040 hours) or more than two years of actual service (4160 hours). A six month probationary period must be completed in no more than one year. A one year probationary period (2080 hours) must be completed in no more than two years. A two year probationary period must be completed in no more than three years.

10.02 OBJECTIVES OF PROBATIONARY PERIOD

The probationary period shall be regarded as a part of the selection process and shall be used to closely observe and evaluate the employee's work, to secure the most effective adjustment of a new employee to his or her position, and to eliminate any probationary employee whose performance does not meet the required standards of work.

10.03 REJECTION OF PROBATIONERS

During the probationary period, an employee may be rejected from employment at any time by the City Manager without cause and without the right of appeal.

10.04 REJECTION DURING PROBATIONARY PROMOTION

An employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he or she was promoted unless charges are filed and he or she is discharged in the manner provided in the Personnel Ordinance and these rules.

11.00 EMPLOYMENT TRANSACTIONS

11.01 TRANSFER

A transfer may be made at any time by the City Manager, except as provided in Sections 11.02 and 11.03 below. No person shall be transferred to a position for which he or she does not possess the minimum qualifications. An employee with permanent status who is transferred from one career position to another career position shall assume permanent status in the position to which he or she is transferred. Transfer shall not be used to effect a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in these Rules.

11.02 TRANSFERS BETWEEN THE CITY AND THE LIBRARY

A career employee of the City may transfer to the career service of the Library without loss of accrued benefits, subject to approval by the appropriate appointing authorities, except that in the event of a layoff, the layoff procedure under these Rules shall supersede.

11.03 TRANSFERS BETWEEN THE CITY AND THE RENT BOARD

A career employee of the City may transfer to the career service of the Rent Board without loss of accrued benefits, subject to approval by the appropriate appointing authorities, except that in the event of a layoff, the layoff procedure under these Rules shall supersede.

11.04 DEMOTION

The City Manager may demote an employee who so requests it or whose ability to perform the required duties falls below standard, or for disciplinary purposes. No employee shall be demoted to a class for which the employee does not possess the minimum qualifications as determined by the Director of Human Resources. Notice of the demotion shall be given to the employee no later than two weeks prior to the effective date of demotion. A copy of the notice shall be filed with the Director of Human Resources. Any employee who has been demoted shall be entitled to receive a written statement of the reasons for the action. Disciplinary demotion actions shall be taken in accordance with these Rules.

11.05 SUSPENSION

The City Manager may suspend an employee from a position at any time for cause. Suspension without pay shall not exceed thirty working days, nor shall any employee be penalized by suspension for more than thirty working days in any continuous twelve month period. Department heads may suspend a subordinate employee for not more than three working days at any one time. Intended suspension action shall be taken in accordance with these Rules. However, FLSA exempt employees shall not be suspended in less than regular workweek increments except for safety or security violations. A "regular workweek" is defined under Section 1.04 of the Unrepresented Employee Manual.

11.06 REINSTATEMENT

(.01) FOLLOWING RESIGNATION

An employee in the career service who has resigned with a good record may be reinstated within three years to his or her former position, if vacant, or to a vacant position in the same or compa-

rable class without competing in the examination process provided that the employee will be reinstated to probationary status irrespective of his or her status at the time of separation, and will serve a new probationary period, beginning with the date of reinstatement. This section shall not be interpreted as a guarantee of reinstatement to an employee who has resigned with a good record and who requests reinstatement within three years. Procedures regarding reinstatement may vary, according to the applicable Memorandum Agreement.

(.02) REINSTATEMENT FOLLOWING TERMINATION FOR CAUSE

An employee in the career service who is terminated for cause may within three years apply to his or her department head for reinstatement to his or her former position, if vacant, or to a vacant position in the same or comparable class without competing in the examination process, provided that at least one year has elapsed from the date of separation. If after reconsideration, the department head wishes to reinstate the employee, a written request will be made to the City Manager outlining the circumstances of the termination and the reasons justifying the reinstatement. If the City Manager approves the request, the employee will be reinstated to probationary status irrespective of his or her status at the time of separation, and will serve a new probationary period, beginning with the date of reinstatement.

(.03) SENIORITY RIGHTS AND BENEFITS

Upon satisfactory completion of the probationary period as set forth in this section, the employee will be entitled to seniority rights and benefits based on total cumulative service computed from the original date of first employment, less the time of separation.

11.07 DISCHARGE

An employee in the career service may be discharged at any time by the City Manager, but if the probationary period has been completed, the discharge must be for cause. Disciplinary discharge action of permanent employees in the career service shall be taken in accordance with these Rules.

11.08 RESIGNATION

An employee wishing to leave the career service in good standing shall file with the department head at least two weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Director of Human Resources with a statement by the department head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the notice required shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the department head immediately.

12.00 EMPLOYEE RECORDS

12.01 OFFICIAL PERSONNEL FILE

The Official Personnel File is retained in the Human Resources Department. The Official Personnel File contains all official records of the employee's personnel history with the City, including applications for appointment and promotion, performance evaluations, employee transaction forms, formal disciplinary actions and other related documents. Medical records are not retained in the Official Personnel File and must be maintained separately by the Human Resources Department, in accordance with existing law.

No material of any kind shall be placed in an employee's official personnel file after the date of employment without a copy being given to the employee. Documents submitted by the employee to his/her personnel file must be relevant to the employment history and are subject to approval for inclusion by the Director of Human Resources. Employees have a right to inspect their official personnel file in the Human Resources Department during normal business hours, as provided by law. Employees may be required to make an appointment to view their personnel file.

Personnel files are confidential and access to the Official Personnel Files is limited to Human Resources Department and City Attorney staff who have a legitimate business need to review the material contained therein. The employee's department director, division manager and/or immediate supervisor may also review the employee's Official Personnel File in the Human Resources Department.

The confidentiality of the employee's official Personnel File is maintained except when legal requirements force the City to disclose some or all of the information contained in the official personnel file, such as in response to a subpoena deuces tecum, which can require the release of the entire record, or, under the California Public Records Act, where an employee's current salary and work history, may be subject to disclosure.

13.00 EMPLOYEE OATH

13.01 OATH

All officers and employees of the City are required by State law to take the following oath of allegiance as set forth in Section 3 of Article XX of the California Constitution before entering upon their duties. An employee's failure to sign the oath at the time of appointment disqualifies him or her from appointment to the position which has been offered.

I, _____, do solemnly swear (or affirm) that I will faithfully discharge the duties upon which I am about to enter, and will to the best of my ability, preserve, protect and defend the Constitution of the United States and the State of California

RECENT REVISIONS

SECTION	TITLE	CHANGE	DATE REV.
Section 9.03	PROMOTION THROUGH A NON-COMPETITIVE PERSONNEL ACTION	New classifications added to licensed / unlicensed table	Dec 11, 2007

