

City of San Bernardino Personnel Rules



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Rule I – General Provisions and Employment Practices

Purpose: To define the purpose of the personnel rules, equal employment, amendment, conflicts of interest, nepotism and revision of the personnel rules.

1-1 Purpose: The City of San Bernardino will employ the best qualified persons available. The tenure of every City employee will be based upon a demonstrated need for the work performed, availability of funds, effective performance, proper personnel conduct, and continuing fitness and qualification for the position.

Each regular employee of the City of San Bernardino has the right to expect that he/she will be fully informed of his/her duties and responsibilities; that he/she will be provided with adequate administrative and supervisory direction; and that he/she will be informed of how well he/she is performing his/her duties. Promotions will be made on the basis of qualifications, merit and ability. Classified employees will not be subject to suspension, demotion, salary reduction, or discharge without reason or cause.

These Rules do not create any contract right, or any express or limited contract of employment and the City retains the full discretion to modify the Rules at any time in accordance with the law. If any provision of a valid collective bargaining agreement between the City and a recognized employee organization conflicts with any provision of these Rules, the agreement shall apply to the employees covered by the collective bargaining agreement.

1-2 Equal Employment: The City affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination. The City prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or other basis protected by law. Compensation, hiring, training, promotion, transfer, discipline, and termination are based solely upon individual qualifications and other non-discriminatory business needs.

Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in the City's policy on non-discrimination, retaliation, workplace harassment and sexual harassment, or by contacting the U.S. Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing.

1-3 Conflicts of Interest: Each department head, officer and employee of the City of San Bernardino shall devote their attention and efforts to the City office of employment during normal hours of duty. No such department head, officer or employee shall engage in any



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employment, activity, enterprise or conduct of any nature which is inconsistent, incompatible or in conflict with the duties as a department head, officer or employee, or with the duties, functions or responsibilities of the department or office in which employed. The employment, activities, enterprises, or conduct which are inconsistent, incompatible or in conflict with the duties of such personnel include but are not limited to matters which:

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

1-4 Nepotism: Any relative of the Mayor, City Council, Water Board, Library Board, Personnel Commission or City Manager shall not be appointed to any position within the City service. It is not, however, the intention of this Rule to terminate an employee of the City of San Bernardino who's relative, becomes the Mayor, a City Council member, the City Manager, a Water Board Member or a Library Board Member.

For the purpose of this rule, "relative" means any individual related by blood, marriage, marital-type relationship, or domestic partnership, within the third degree. A marital-type relationship is defined as two or more people living together in a family relationship without legal or blood ties. An employee is required to notify the appointing authority if the employee enters into a marriage, domestic partnership, or marital-type relationship with another employee where a supervisor/subordinate relationship exists.

Relatives may be allowed to work within the same department as determined by the department head provided one does not supervise the other. No person shall be appointed, promoted, or transferred to a position in any department in which the person's relative already holds a position when such employment would result in any of the following:



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- (a) A supervisor-subordinate relationship; or
- (b) The employee having job duties which require performance of shared duties on the same or related work assignment.

If a City of San Bernardino employee marries, or enters a marital-type relationship or domestic partnership with, another person employed by the City within the same department, both employees shall be allowed to retain their respective positions provided a supervisory relationship does not exist at the time of marriage between these two positions. For the purpose of this rule, a supervisory relationship shall be defined as one in which one person exercises the right to control, direct, reward or discipline another person by virtue of the duties and responsibilities assigned to his or her position.

1-5 Amendment and Revision of Rules: Recommendation for amendment and revision of these Rules shall be made by the Appointing Authority. Prior to consideration, any recognized employee organization shall be given reasonable written notice of any proposed amendment or revision and be provided with an opportunity to respond. Amendments and revisions shall become effective upon adoption by Resolution of the City Council.

1-6 Departmental Rules and Regulations: Each department may establish a department manual of rules and regulations which shall be subject to approval by the Appointing Authority. These Personnel Rules may be further defined and qualified but not superseded by administrative regulations or policies.

1-7 Conflict between the Rules and a Collective Bargaining Agreement: If a provision of these Rules conflict with any provision of a valid collective bargaining agreement between the City and a recognized employee organization, the provision of the collective bargaining agreement that is in conflict shall apply to employees covered by that collective bargaining agreement.



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Rule 2 – Types of Positions and Appointments

Purpose: To define employment terms for uniform application/interpretation.

2-1 Types of Positions

- (a) **Full Time:** A classified or unclassified position established to provide full time service on an ongoing basis with all applicable benefits provided.
- (b) **Part Time:** An unclassified position established to provide part time service on an ongoing basis not to exceed an average of 29 hours per week or 1,000 hours in any 12 month period. The established work schedule may be irregular including short shifts at various times and days of the week. Part-time employees do not receive benefits beyond what is mandated by federal, state or local laws, rules, regulations or resolutions.
- (c) **Temporary:** An unclassified position established to provide service during emergency situations, unusual work load demands, special programs, training, projects or other like reasons on a full-time or part-time basis. Such positions are of a specific duration not to exceed 12 months except as authorized by the Appointing Authority. All appointments in this category shall be designated as “at will” and no benefits are provided beyond what is mandated by federal, state or local laws, rules or regulations. The Appointing Authority has the prerogative to appoint an individual to an unclassified position without a competitive process.
- (d) **Seasonal:** An unclassified position established for a period of time which will recur at definite intervals to meet seasonal staffing needs. Those appointed to seasonal positions will be separated at the end of the season and may be regularly re-appointed at each recurrence of the seasonal period. All appointments in this category shall be designated as “at will” and no benefits are provided beyond what is mandated by federal, state or local laws, rules or regulations.



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2-2 Types of Appointments

- (a) **Regular Classified Appointment:** An appointment made in the classified service as defined in Municipal Code Chapter 2.04 from a certified eligible list to an authorized full-time position. Appointment is subject to successful completion of a probationary period.
- (b) **Regular Unclassified Appointment:** An appointment made outside the classified service as defined in Municipal Code Chapter 2.04. Such appointments shall be made to an authorized full or part time position typically from a certified eligible list. All appointments in this category shall be designated as “at will”. The Appointing Authority has the prerogative to appoint an individual to an unclassified position without a competitive process.
- (c) **Temporary:** An unclassified appointment to provide service during emergency situations, unusual work load demands, special programs, training, projects or other like reasons for a specific duration. All appointments in this category shall be designated as “at will” and no benefits are provided beyond what is mandated by federal, state or local laws, rules or regulations. The Appointing Authority may authorize the temporary appointment of a qualified individual that exceeds an average of 29 hours per week or 1,000 hours in 12 month period.
 - 1) **Provisional:** In the absence of a certified eligibility list, the Appointing Authority may authorize a temporary provisional appointment to an authorized classified position without a competitive process. The provisional appointee must be qualified to hold the job classification. No provisional appointment may extend more than 90 days beyond the creation of a certified eligibility list for the classification. Nor may a provisional appointment extend more than six (6) months from the date of appointment unless an extension is authorized by the Appointing Authority for an additional period not to exceed six (6) months. Experience gained as a provisional appointee shall be given no more credit in the competitive examination process than would be received with an equal amount of experience in any other employment.
 - 2) **Limited-Term:** An appointment to provide service during emergency situations, unusual work load demands, special programs, training, projects or other like reasons. Such positions are of a specific duration not to exceed 12 months except as authorized by the Appointing Authority. All appointments in this category shall be designated as “at will” and no benefits are provided beyond what is mandated by federal, state or local laws, rules or regulations.
 - 3) **Intern:** An appointment designed to provide education, training and work experience to students enrolled in high school or college. Appointments are limited to 12 months except as authorized by the Appointing Authority and are



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not to exceed an average of 29 hours per week or 1,000 hours in any 12 month period. All appointments in this category shall be designated as “at will” and no benefits are provided beyond what is mandated by federal, state or local laws, rules or regulations.

- 4) **Apprentice:** An appointment designed to provide on the job education, training and work experience opportunities in all City departments. Appointments are limited to 12 months except as authorized by the Appointing Authority and are not to exceed an average of 29 hours per week or 1,000 hours in any 12 month period. All appointments in this category shall be designated as “at will” and no benefits are provided beyond what is mandated by federal, state or local laws, rules or regulations.
- (d) **Seasonal:** An unclassified position established for a period of time which will recur at definite intervals to meet seasonal staffing needs. Those appointed to seasonal positions will be separated at the end of the season and may be regularly re-appointed at each recurrence of the seasonal period. All appointments in this category shall be designated as “at will” and no benefits are provided beyond what is mandated by federal, state or local laws, rules or regulations.
- (e) **Higher Acting Appointment:** Upon approval of the Appointing Authority, a department/division head may assign a qualified employee to discharge the duties of a higher classification when a position is vacant or in the absence of the incumbent. Government Code section 20480 limits out-of-class appointments of California Public Employees’ Retirement System (CalPERS) members for not more than 960 hours per fiscal year. An out-of-class appointment is defined as an appointment to an upgraded position or higher classification for a permanent appointment in the position to a vacant position during recruitment for a permanent appointment in the position.
- (f) **Transition from Regular Unclassified Appointment to Classified Service Appointment:** In the event an employee in the classified service is appointed to a position in the unclassified service the employee shall be re-instated to their former position upon the termination of appointment in the unclassified service, unless so terminated for a cause which would justify dismissal from the classified service.



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Rule 3 – Probation

Purpose: To describe the terms and conditions of probation and probationary periods.

3-1 Probationary Appointment:

- (a) **Objective of Probation:** An appointment or promotion to a classified position will not be deemed complete until an applicable period of probation for the position has elapsed. The probationary period is regarded as part of the testing and selection process and will be used for the purpose of determining the person's performance and fitness for employment in the classified service.
- (b) **Probationary Period:** The length of probation will be 2080 hours of employment, except as provided in the applicable Memorandum of Understanding (MOU). The probationary period will begin on the effective date of appointment or promotion. In the event of an illness or injury or other reason requiring an extended absence from work, the length of the probationary period shall be extended automatically by the duration of the absence.

A new probationary period is required for:

- 1) Initial appointment or promotion to a classified position.
- 2) Appointment of an employee that held regular status in a classified position if more than 12 months have elapsed since voluntary separation.
- 3) Reinstatement of an employee that had not completed probation prior to separation.

A new probationary period will not be required for:

- 1) Promotion within a "flex series" where there is no competitive process when the department certifies that the employee is successfully performing at the higher level upon flex promotion.
- 2) Transfer to another position in the same classification.
- 3) Reinstatement of an employee that held regular status in a classified position and returns to service in the classification held at the time of separation within 12 months of a voluntary separation.
- 4) Reinstatement of a regular or probationary employee in a classified position within 24 months of a reduction in force, as long as the employee has completed probation in the classification prior to the reduction in force.
- 5) Reclassification



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- (b) **Removal During Probation** – During the probationary period, an employee may be discharged or demoted at any time upon the recommendation of the department head in which the probationer is employed with approval of the Appointing Authority without the right of appeal or hearing.

- (c) **Rejection After Promotion** – Any employee promoted from a classified position and released during the probationary period will be reinstated to their former position unless charges as defined in Rule 7, Disciplinary Procedures are filed and the employee is dismissed in the manner provided by law and these rules.



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Rule 4 – Applications and Examinations

Purpose: To define the methods used for examination and applicant evaluation to provide a fair and equitable process to determine whether applicants possess the knowledge skills and abilities to perform the duties of the position for which they are applying.

4-1 Requisition: Whenever a vacancy exists the department head shall notify the Human Resources Department on the approved forms, which shall be so designed as to provide all necessary information concerning the nature of the vacancy.

4-2 Announcement: All examinations for classifications in the classified service shall be announced on official bulletin boards and in such other manner as the designee of the Appointing Authority and affected departments find advisable and necessary to attract the largest number of qualified candidates. The announcements shall specify the title and pay range for the class for which the examination is announced; the nature of the work to be performed; qualifications required; the time, place and manner of making application; the general scope of the examination; and other pertinent information.

4-3 Testing: Upon the recommendation of the Human Resources Department, the Appointing Authority may establish and approve recommended general requirements appropriate to each class for which examinations are held to determine applicant qualifications. No examination shall be closed to any applicant on the basis of race, religious creed, disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or other basis protected by law, except where specific requirements constitute a bona fide occupational qualification. All tests shall be carried out in accordance with merit principles and in compliance with applicable state and federal laws/regulations. All testing procedures shall be conducted in accordance with accepted merit principles, Equal Employment Opportunity Commission (EEOC) guidelines on employee selection and applicable Federal and State Laws. The steps in the selection process may include any of the following:

- Screening of employment applications for minimum qualifications. Each candidate's application is reviewed and compared to the minimum qualifications listed in the job description.
- Further screening of applications and/or supplemental questionnaires or documents for job-related qualifications. Candidates which meet the minimum qualifications are further reviewed to determine which candidates are the most qualified as well as meet the desirable qualifications of the position.
- Administration of a job related written examination. Examinations are applied to measure the knowledge, abilities, judgements, and aptitudes that are related to the ability to perform the work in the class for which the exam is being held. Written examinations do not apply to all positions.



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- Administration of a job related performance examination. Performance examinations evaluate speed, accuracy, or other standards of performance in an actual demonstration of samples of work in the position. Performance examinations do not apply to all positions.
- Administration of interviews. The most competitively qualified candidates will be invited to participate in a structured interview process. Qualified interview panel members will assess each candidate's knowledge, skills, abilities, education, and experience as it relates to the position.
- Coordination of an appropriate medical screening or examination after a job offer has been made. The exam type is dependent upon the classification and the type of work that will be performed.
- Investigation of references and background information, including criminal records of individual candidates in keeping with state and federal laws/regulations.

The Human Resources Department may call upon subject matter experts from within or outside City employment for assistance in developing and/or administering any of the testing procedures. Consideration in determining the appropriate selection device shall include cost to the City and candidates, time constraints, legality of the process, and practicality.

4-4 Eligible List: Upon the completion of all phases of an examination, the designee of the Appointing Authority shall establish an eligible list. When applicable, the Appointing Authority may rank the candidates according to their scores in the various parts of the examination, and the relative weights thereof, with credit for any other preference or credit authorized by the Municipal Code or these rules.

4-5 Notification of Results: Each candidate taking an examination shall be given written notice of the pass or fail results of the examination or test. Each failing candidate may inspect their score sheet, beginning on the second business day following the mailing of notice of test results, and continuing for five (5) business days thereafter. During this period, appeals in writing will be accepted challenging the scoring of answers on the grounds of fraud or mistake, but a further appeal shall not be made challenging the keyed test material, the content of the examination or the answers. The designee of the Appointing Authority shall rule upon such appeals and the final score of the examinee shall be made to conform to that decision.

4-6 Use of Appropriate List: When there is no re-employment list, promotional list, eligible list or transfer list for a class for which a requisition has been received, at the discretion of the Human Resources Department, and upon the request of the recruiting department, Human Resources may use the list for any other class which is nearly enough related to be considered as appropriate. In such case the re-employment or promotional list for such class shall be treated in the same way as though they were eligible lists for such class to which certification is made. Any waiver made by an eligible certified from an



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appropriate list shall be deemed to apply to that particular certification only.



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Rule 5 – Employment Lists

Purpose: To define the establishment of re-employment, promotional, transfer and eligibility lists, the duration of employment lists and the terms associated with disqualification and removal of names from an employment list.

5-1 Re-employment List: A re-employment list shall be established for a class whenever any regular classified employee has been laid off for lack of work or lack of funds, or upon the abolishment of a position for any reason not involving the fault or delinquency of the employee. Names shall be arranged on a re-employment list in the order of relative total length of probationary and regular service in the class. The name of a person on a re-employment shall remain for a period of 24 months from the date the individual was placed on the list, unless sooner removed by appointment or removal pursuant to this Rule. Wherever a re-employment list exists for a class, it shall take precedence over the promotional list and the eligible list.

5-2 Transfer List: The designee of the Appointing Authority may maintain lists of employees who wish to transfer to another department. When a vacancy occurs to which any regular or probationary employee has asked for transfer and is qualified, the designee of the Appointing Authority may, with the consent of the two department heads concerned, arrange for such transfer in preference to certification from any eligible list. The name of a person on a transfer list shall remain for a period of 24 months from the date the individual was placed on the list, unless sooner removed by appointment or removal pursuant to this Rule.

5-3 Promotional List: Promotional lists shall be established as a result of promotional examinations held by themselves or in conjunction with open examinations, and such lists shall take precedence for any class over the open eligible list for that class. Promotional lists shall remain in effect for a period of 24 months after the list is established, unless the list is exhausted by appointment or removal pursuant this Rule. A promotional list may be extended by the Appointing Authority for an additional period of time not to exceed 24 months upon the recommendation of Human Resources or the Department Head.

5-4 Open List: Eligible lists resulting from open competitive examinations shall be used when other lists having priority are not available. Open eligible lists shall remain in effect for a period of 12 months or such shorter period as may be established by the Appointing Authority at the time of determining the examination procedure to be used for that particular classification. An open eligible list may be extended by the Appointing Authority for an additional period of time not to exceed 12 months upon the recommendation of Human Resources or the Department Head.



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5-5 Certification and Combination of Lists: At any time during the life of an eligible list the designee of the Appointing Authority may add names to the list through giving another examination. The names shall be added and merged with the existing lists in order of final ratings of those added and those already on the list. In the event that there are fewer than three (3) persons qualified for certification for the class in which a position belongs, the designee of the Appointing Authority may certify fewer than three (3) names for the position under consideration.

5-6 Disqualification and Removal: Names on an eligible list may be removed after review by the designee of the Appointing Authority for any of the following reasons:

- (a) Conviction history of an individual that the City has determined, after conducting an individualized assessment, has a direct or adverse relationship with the specific duties of the job.
- (b) Proof of fraud or false statements in the application, or proof of fraudulent conduct in connection with an examination.
- (c) Appointment to a position in the class for which the eligible list was established or for which the list is deemed suitable by the designee of the appointing authority.
- (d) Separation from the service of an individual on a promotional or transfer list for any reason.
- (e) Separation from the service due to termination for cause or resignation in lieu of disciplinary action.
- (f) Discharge during probation from a job classification held at the time of release shall result in removal of the probationary employee's name from the eligibility list that specifically pertains to the job classification for which the employee was released.
- (g) Failure to meet pre-employment medical examination and/or background investigation requirements.
- (h) Failure to appear or to arrange for an interview within a reasonable time after notification of certification, or failure to appear for work after appointment.
- (i) Failure to respond to documented City inquiries.
- (j) Declination of appointment.



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Rule 6 – Resignation, Job Abandonment, Reduction in Force, Demotion, Transfer and Reinstatement

Purpose: To define the conditions for and benefits associated with a resignation, job abandonment, reduction in force, demotion, transfer (interdepartmental and intra departmental) and reinstatement.

6-1 Resignation: An employee may resign in good standing from the City service by filing a statement of his/her intention with the Department Head. The employee shall provide the City at least a two (2) week notice period before the effective date of the resignation. The Director of Human Resources or Department Head may accept a resignation letter submitted with less than a two (2) week notice period. The resignation shall be forwarded to Human Resources. Once the resignation is accepted by Human Resources, it is final and cannot be revoked by the employee without approval of the appointing authority. If a resignation is submitted to avoid disciplinary action, the Department Head shall accept it with prejudice and such record shall bar the employee from reinstatement or from participation in further examinations.

6-2 Job Abandonment: Absence from duty without authorization for three (3) successive scheduled working days is deemed a resignation from service as of the last day on which the employee worked or was on authorized leave. The employee will be issued a written notice of intent to separate due to job abandonment including the reason(s) for the separation and the process for response either orally or in writing within five (5) working days after the notice is mailed. If an oral or written response to provide an explanation for the unauthorized absence is not submitted within five (5) working days the resignation will be deemed final. An employee separated from City service for job abandonment shall not have the right to a post-separation appeal. If the employee proves the absence was caused by illness, injury, or an emergency which made reporting to work impossible, to the satisfaction of the appointing authority, the appointing authority may reinstate the employee into the position.

6-3 Reduction in Force: When it becomes necessary through lack of work or lack of funds or for other reasons to reduce the number of employees within a given class, the appointing power shall present evidence to the Director of Human Resources that every effort has been made to transfer, demote, temporarily appoint or undertake other action to retain permanent employees in lieu of a lay-off.

The department head shall give at least two (2) working days advance notice to the Director of Human Resources of the titles, classes and number of positions involved. The Director of Human Resources shall thereupon designate the order of layoff in accordance with this rule and the department head shall process the necessary personnel actions. Emergency, temporary and provisional employees shall be laid off in that order prior to the lay-off of permanent employees in the same class. The order of layoffs shall thereafter be determined by seniority. Seniority of employees for purposes



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of reduction in force or transfers and demotion brought about by said reduction in force shall be based on seniority in class with the department so that the employee with the shortest term of service within the department shall be the first to be transferred, demoted or laid off. However, any employee who has or shall be transferred involuntarily or who was or shall be transferred upon written initiating notice to the Director of Human Resources by, or at the behest or initiation of, an appointing power or department head for the benefit of the City to a position in another department shall retain the seniority earned and accrued in the class in the department from which the employee was or shall be transferred. In the event more than one employee is transferred, demoted or laid off, such transfers, demotions or layoffs shall be in inverse order to the length of service in the class, provided, however, no employee shall be transferred or demoted to a class, title or position in which the employee has not previously held status.

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

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

If an employee subject to lay-off displaces another employee in an equal or lower class in a position in which said employee subject to lay-off has served, but not completed the required probationary period, such appointment shall be on a probationary basis. Not later than the end of the probationary period, said employee shall either become regular in this position or be allowed to displace an employee in the next lower class in which the employee has previously held status. Any employee displaced hereunder shall have the same right to displace employees in equal or lower classes as does an employee subject to layoff. Any employee laid off or demoted to a lower class or transferred to an equal class under this rule shall have the right for two (2) years to be reemployed, transferred or promoted to the former class upon the first vacancy occurring in any such class in the department and such right shall take precedence over the regular employment or promotional lists. In the event more than one employee was so laid off, demoted or transferred from such class the rights to re-employment, transfer or



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

1. The department head shall review all personnel records including probationary and/or annual employee evaluation reports, letters of commendation or reprimand and such other information as may assist him in making a final determination. The department head's review shall be objective in nature and free of any personal bias or consideration. After such review and based upon work performance and the good of the service, the department head shall establish the final order of lay-off.

2. In the event two or more employees within the same classification are determined to be equal, based upon the above criteria, the time and date of filing application for appointment to the position shall be used. The last employee to have filed application for appointment to the position shall be the first employee subject to lay-off. Any employee laid off, transferred or demoted under this rule shall have the right of appeal to the appointing authority based upon misinterpretation or improper application of said rule in writing, not later than the end of the next working day, that the Human Resources office is open, after receiving written notice of said lay-off.

Any employee laid off, transferred or demoted under this rule shall have the right of appeal to the appointing authority based upon misinterpretation or improper application of said rule in writing, not later than the end of the next working day, that the Human Resources office is open, after receiving written notice of said lay-off

6-4 Voluntary Demotion: An employee may at any time request a voluntary demotion to a lower classification, provided there is a vacancy and the employee meets the employment requirements for the position. Such demotion will require approval from the Appointing Authority.

6-5 Transfer: An employee may be transferred by the Appointing Authority at any time from one position to another position in the same or comparable class. Transfers shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in these rules. No person shall be transferred to a position for which he/she does not possess the required employment standards. In the case of transfers between departments, the approval of both Department Heads shall be required unless the Appointing Authority orders the transfer for purposes of economy or efficiency.

6-6 Reinstatements:

(a) **Voluntary Separations:** Upon approval of the Appointing Authority, a probationary or regular employee who voluntarily resigned from City service may be



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reinstated to a position in the same classification held at the time of separation if there is a need for his or her services within 12 months of separation. Such employee must meet the current minimum qualifications for the position. The degree of City provided benefits that an individual shall receive is determined by the status of the employee (probationary or regular) and the length of time elapsing between the effective date of termination and the date of re-employment to exclude the period of time not employed by the City. State retirement system benefits shall be handled in accordance with existing California Public Employee' Retirement System (CalPERS) policies. As a condition of reinstatement, the City may, at its sole discretion, require the employee to pass a background check and medical examination, including a drug screen.

- 1) **Reinstatement of a Regular Employee:** A former regular employee reinstated within 12 months of separation shall be entitled to the same vacation accrual rate attained immediately prior to separation. Reinstatement shall be at the salary step previously held. Recognition of prior service for the purposes of determining length of service with the City (seniority) shall exclude the time not employed by the City. The review date for performance reviews and/or merit increase shall be extended by the period of time equal to the period of absence from City employment.
 - 2) **Reinstatement of a Probationary Employee:** A former probationary employee reinstated within 12 months of separation shall be considered for employment without having to re-qualify through the competitive examination process. Reinstatement shall be at the salary step previously held. The former probationary employee returning within this timeframe shall receive benefits as a new employee and a new probationary period shall be required.
- (b) **Employees Laid Off, Demoted or Transferred due to a Reduction in Force:** A probationary or regular classified employee who has been laid off, transferred or demoted as a result of a reduction in force shall have the right to be reinstated to his/her former position in the department for up to 24 months from the date of layoff, demotion or transfer. The order of reinstatement will be based upon total length of probationary and regular service in classification in the department. Whenever a reduction in force reinstatement list exists for a classification, it shall take precedence over all other employment lists.



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Rule 7 – Disciplinary Procedures

Purpose: To define the basis for disciplinary action, the types of discipline and the appeal and hearing procedures.

7-1 Disciplinary Actions: A regular classified employee may be disciplined by dismissal, suspension, demotion, or reduction in rank or compensation in accordance with this Rule and the applicable Memorandum of Understanding (MOU).

7-2 Causes: Disciplinary actions shall not be taken except for cause related to performance of duty, personal conduct or qualifications of the employee, which causes may include but are not limited to:

- (a) Working or being under the influence of alcohol or any controlled substances while on duty.
- (b) Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties.
- (c) Discourteous treatment of the public
- (d) Dishonesty
- (e) Failure of good behavior or acts during or outside of duty hours, which are incompatible with or inimical to the public service
- (f) Any conduct that impairs, disrupts or causes discredit to the City, to the public service, or other employee's employment
- (g) Falsification of official documents
- (h) Fraud in securing employment
- (i) Improper or unauthorized use of City property
- (j) Incompetency, inefficiency and/or Inability to perform
- (k) Insubordination
- (l) Inexcusable or excessive absence from the City and/or violation of any sick leave provisions of the City
- (m) Neglect of duty
- (n) Political activities precluded by Local, State or Federal law
- (o) Unsafe act



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- (p) Violation of the Charter, Municipal Code, ordinances, resolutions, or any rules, regulations or policies which may be prescribed by the City Council, the Appointing Authority, the Department Director, Manager or Supervisor.

7-3 Pre-Disciplinary Procedures: Before discipline can become effective, an employee in the classified service shall receive the following:

- (a) **Notice of Intent:** Notice of proposed disciplinary action and effective date.
- (b) **Causes:** The causes for the proposed disciplinary action.
- (c) **Charges:** A copy of all charges and all materials upon which the charges are based including a description of the discipline proposed, any rules, regulations, or laws that are alleged to have been violated, a description of the facts that show the elements of each charge at issue, and the reasons for which the action has been proposed. If applicable, a description of any previous disciplinary actions, counseling, evaluations, or other relevant actions which support the proposed action.
- (d) **Response:** The right to respond orally and/or in writing and the time within which to respond at least seven (7) working days from receiving the notice of proposed disciplinary action. Failure to respond within the specified timeframe constitutes waiver of the right to respond prior to the final discipline being imposed and no further administrative remedy shall be available.
- (e) **Representation:** An employee has the right to representation throughout the pre-disciplinary and disciplinary appeals process.

7-4 Notice of Decision and Charges: Notice of a final decision, charges and all supporting facts and materials shall be presented to the employee within five (5) working days of the employee's response. When discipline is imposed, the notice of decision shall include a statement informing the employee of his/her right to appeal the action to the Personnel Commission. A copy of such notice and charges shall at the same time be filed with the Secretary to the Personnel Commission.

7-5 Personnel Commission Hearing: An employee in the classified service shall have a right to appeal a disciplinary action before the Personnel Commission, subject to the provisions of the applicable labor agreement, if any.

- (a) **Hearing Request:** The hearing request shall be filed by the employee, or a representative of the employee, with the Secretary to the Personnel Commission within five (5) working days of receiving the notice of decision and charges.
- (b) **Hearing Date:** The hearing request shall be submitted to the Personnel Commission at their next regular meeting for establishment of a hearing date. A



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date for the appeal hearing shall be set within a reasonable time after the employee files his or her reply. The City shall notify the employee at least 21 days prior to the hearing of the scheduled date.

- (c) **Hearing:** At the hearing the Commission shall hear evidence on behalf of the person bringing the charges and the employee. The parties may be represented by counsel, but the hearing shall be conducted informally and shall not be bound by formal rules of evidence. The hearing will be recorded to preserve an accurate, reliable record of the proceedings and the preponderance of the evidence will be used as the standard of proof. At the discretion of the Commission, the hearing may be continued from time to time upon request by either party for good cause. Upon completion of the hearing, the Commission may take the matter under submission with or without request for further written summary of the evidence or arguments by the parties.
- (d) **Hearing Decision:** Within 30 days after taking a disciplinary case under submission, unless the time is further extended by mutual agreement of the parties, the Personnel Commission, by majority vote of all members present, shall render a decision affirming, modifying or reversing the disciplinary action identified in the notice and charges. In the event the decision modifies or reverses the action sought, the Commission shall determine the effect of such decision. All decisions of the Commission in disciplinary matters shall be final. A copy of the final written findings and decision shall be mailed with proof of service to the employee.



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Rule 8 – Definition of Terms

Purpose: Define terms and phrases referenced in the Personnel Rules

Appointment - The designation of a person by due authority to become an employee in a position and his/her induction into employment in such position, as provided in these rules.

Appointing Authority - The officers of the City who as individuals, or as a Board or Commission, have the final authority to make the appointment to a position to be filled.

Commission - The Personnel Commission established by the City Charter.

Certify - Review and verify that the matter is in compliance with the Personnel Rules and Regulations.

Charter - The City Charter of the City of San Bernardino.

City - The City of San Bernardino, California.

Class - A group of positions enough alike in duties, authority and responsibility to permit grouping under a common title, and the use of common standards of selection, transfer, promotion and pay.

Classified Service - Includes all positions not specifically identified as unclassified within the Municipal Code, Chapter 2.04.

Council - The City Council of the City of San Bernardino.

Demotion - A change in employment status from one class to another class having a lower salary range.

Department Head - The person designated by the Appointing Authority to direct the activity of a department or other recognized separate office or agency of the City government.

Eligible – A person whose name is on a re-employment list, promotional list or eligible list and who is not ineligible for appointment for any reason.

Eligible List - A list of persons who have qualified for appointment to any position in a class in the classified service, listed in the order provided in these rules.

Examination - A test or group of tests and evaluations used to determine the eligibility and rank candidates for employment in a class.



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Marital-Type Relationship: Two or more people living together in a family relationship without legal or blood ties.

Probation Period - A working test period during which an employee is required to demonstrate his/her fitness for the class to which he/she is appointed by actual performance of the duties of his position.

Probationary Status - The status of any employee who has been regularly appointed from an eligible list but who has not completed the probationary period.

Promotion - A change in employment status from one class to another with a higher salary range.

Promotional Examination - An examination in which competition is limited to regular employees in specified lower classes in the classified service.

Promotional List - An eligible list resulting from a promotional examination.

Provisional Status - An employee who has been appointed to fill a position for which no eligible list exists and which is limited as prescribed in these rules.

Re-Employment List - A list of regular or probationary employees who have been laid off for lack of work, lack of funds or other causes not involving fault or delinquency on their part. (

Regular Employee - An employee who has successfully completed their probationary period and has been retained as provided in these rules.

Relative - Any individual related by blood, marriage, marital-type relationship, or domestic partnership, within the third degree.

Seasonal Position - A full-time or part-time position that requires or is likely to require the services of an incumbent during certain parts of the year, or recurring annually, or at other periods.

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

Temporary Position - Any position which requires the services of an incumbent for a limited period only, or a regular position which can be filled only on a temporary basis pending the return of a regularly appointed employee who is on authorized leave.



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

Transfer - A change of an employee from one position to another position in the same class or in another class having similar duties, essentially the same range of pay and similar employment standards.

Unclassified Service - All positions identified as unclassified in the City of San Bernardino's Municipal Code, Chapter 2.04.