



Civil Service System Rules & Regulations

Revised in accordance with Ordinance No. 2010-20
(ordinance adopted 12/14/2010 by City Council)

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SECTION I PURPOSE

The purpose of the rules and regulations contained herein is to implement the provisions of Newport Beach Municipal Code Chapter 2.24, Civil Service System, an ordinance relating to Civil Service.

SECTION II ENABLING LEGISLATION

The establishment of these Rules and Regulations is authorized by Section 2.24.050C. in order to implement the provisions of Chapter 2.24,

SECTION III DEFINITIONS

The terms defined in Chapter 2.24 shall have the same meaning in these rules and regulations as they are defined to have in Chapter 2.24.

SECTION IV CIVIL SERVICE BOARD

400. Creation

A Civil Service Board, consisting of five members, is appointed by the City Council in accordance with the City Charter. Each of the members shall be a person of good repute in his business, profession or occupation and known to support civil service principles in the public service.

401. Meetings

The Board shall determine the order of business for the conduct of its meetings; hold regular meetings at least once a month and such special meetings as are necessary on call of the Chairman or a majority of the members of the Board, and keep a record of its proceedings and transactions.

401.1 Types of Meetings

A. Regular

Regular meetings of the Board shall be held on the first Monday of each month at 5:00 p.m., in the City Hall Council Chambers. If any such Monday falls on a City holiday, the meeting shall be held on the next succeeding Wednesday at the same time and place *or on a date and at a time agreed to by the Board in an open meeting*. Any other meeting of the Board shall be a special meeting.

B. Special

Special meetings of the Board shall be held on call of the Chairman or majority of the members of the Board. Such meetings shall be held at such time and place as are designated in the call.

401.2 Quorum

A majority of the members of the Board shall constitute a quorum for the transaction of business. An affirmative vote of a majority of the members present shall be necessary to exercise any of the functions or authority of the Board.

401.3 Notice

Under general direction of the Board, a written notice of each regular and special meeting shall be posted in the City Hall, Police Department, and each Fire Station. Such notices shall be posted before 2 p.m. of the Thursday next preceding a regular meeting, and at least 24 hours in advance of the time of a special meeting. Such notices shall contain the date, time, place of, and an agenda for, each such meeting. Notices of special meetings shall include the name or names of Board members calling such meetings.

401.4 Agenda

All written communications to the Board, and any matter to be considered by the Board, where practical, shall be summarized in the agenda. No matter shall be considered by the Board at a special meeting unless it appears on the agenda.

SECTION V RECRUITMENT, EXAMINATION AND SELECTION

The *City Manager* shall establish policies and approve procedures of the recruitment and selection of Civil Service personnel, including, but not limited to, the posting of recruitment notices, the preparation and scoring of examinations, and the establishment and certification of eligibility lists. The policies and approved procedures shall be consistent with these rules and regulations, Chapter 2.24 and the City Charter.

500. Recruitment

Recruitments shall be specified as promotional or as open. Insofar as practicable and consistent with the best interests of the City service, all vacancies shall be filled by promotion.

500.1 Recruitment Notices

Notice of any open or promotional recruitments shall be posted *for a minimum of one week prior to the final date for submitting applications, unless limited to a specified number of applications to be accepted as indicated on the notice.* The information required by section 500.4, below, may be included in the recruitment notice.

500.2 Applications

The City Manager shall have the right to require all applicants to submit applications, agreements, or statements pertinent to their employment.

500.3 Rejection of Applications

Applications for employment on the basis of either an open or promotional recruitment may be rejected for any of the following reasons:

- 1) Failure of the applicant to indicate conformity with all of the announced minimum qualifications.
- 2) False statements by the applicant on his application with regard to any material fact.
- 3) Failure of the applicant to submit an application within the time specified in the examination process.

500.4 Examination Announcements

Examination announcements shall be posted *for a minimum of one week prior to the final date for submitting applications, unless limited to a specified number of applications to be accepted as indicated on the notice.* Such posting shall be in a conspicuous place at the City Hall, at the Office of the appropriate Department, and at such other places as *the Human Resources Director* deems appropriate. In addition to a description of the examination scope and the relative weight of each test to be given, the examination announcement shall contain information on salary, final date for submitting applications, working conditions, minimum qualifications, and other information of interest to a prospective applicant.

501. Examination

501.1 Scope

The scope of an examination for a class shall be stated in the examination announcement. It may consist of any one or a combination of the following techniques: written, oral and demonstration tests; an appraisal of education and experience; and any test of manual skills or physical fitness which fairly evaluates the candidates.

Applicants will not be permitted to participate in the examination process if they have participated in a previous examination by the City of Newport Beach for the same position within the last six month period. On a case by case basis, *the City Manager* may waive this rule for promotional testing only when recommended by the Police or Fire Chief.

Lateral candidates may not be required to take a written examination.

501.2 Passing Scores

- A. The minimum passing score shall be 70 percent for written and performance tests and for ratings by qualifications appraisal boards. For written test such 70 percent need not be the arithmetical 70 percent of the total possible score but may be an adjusted score based on a consideration of to what extent, if any, the test has been validated; the number of competitors; and the number of existing and contemplated vacancies. Any such adjusted score shall be established before the candidates' test papers are identified.
- B. The following tests shall be scored on a pass-or-fail basis using the standards specified:
 1. Typing, dictation, and other skills tests
Minimum scores as prescribed in the class specifications.
 2. Physical agility test
Completion of the test prescribed in a policy adopted by the Board motion within the time limit set forth in such policy.
 3. Medical examination
Possession of the minimum physical requirements described in a policy adopted by Board motion and as determined, in each examination, by the City's Medical Examiner.

4. Psychological evaluation

Emotional maturity and stability as determined by the City's Psychologist or Psychiatrist in accordance with standards established by law.

5. Inspection of Examination Papers

The examination papers of candidates are not subject to inspection by the public.

(a) Written tests

Upon request made within seven days after the notices of the examination results have been mailed, any candidate may inspect his own examination papers, including the questions and answers, excepting copyrighted or standardized tests. On copyrighted or standardized tests the candidate may review the accuracy of scoring and computations by comparing the answer sheet with the key answer sheet.

(b) Other tests

The written comments of a Qualifications Appraisal Board and the written evaluation of a psychiatrist, if any, shall not be reviewed by the candidate; on request of the candidate, his rating by the Qualifications Appraisal Board shall be summarized for his information. Requests must be made within seven days after notification of the results of the Qualifications Appraisal Board.

6. Review Procedure

If the candidate believes an error has been made in the grading of his examination or in the credit given to him, he may within twelve days after the mailing of examination results make written application to the Board for a review; provided, however, that in such application he must state specifically and particularly wherein he believes an error has been made.

Upon receipt of such application and in no case later than its next regular meeting, the Board shall examine the candidate's papers and grades. Any error or injustice shall be corrected, and any change in the order of standing of candidates as a result thereof shall be made by the Board. No appointments shall be made by the Board. No appointments shall be made from the eligibility lists until the Board has acted upon such application. The Board's decision shall be final.

7. Disqualification of Candidates

A candidate for employment on the basis of either an open or promotional recruitment may be disqualified for any of the following reasons:

- 1) Any fraudulent practice by the candidate in connection with any phase of the recruitment and selection procedure.

- 2) Failure of the candidate to appear as scheduled for any phase of the selection procedure.
- 3) Disclosure of an unsatisfactory record in the background investigation.
- 4) Failure to attain a satisfactory score on any test conducted as part of the selection procedure.

502. Selection

502.1 Eligibility Lists

A. Priorities

Priority for consideration for employment shall be given to eligibility lists in the following order: reemployment eligibility lists, promotional eligibility lists, and open eligibility lists.

B. Reemployment Eligibility Lists

1. Defined

A reemployment eligibility list for a class shall consist of the names of the following:

(a) Regular Employees

1) Layoff

Regular employees who have been laid off for lack of work or lack of funds.

2) Position Reallocation

Regular employees whose positions in a class have been reallocated to a class with a lower maximum rate of compensation.

Such names shall be placed on the list in the reverse order of layoff or position reallocation. The order of layoff or position reallocation shall be on the basis of inverse employee seniority in the class.

(b) Probationary Employees

The names of probationary employees who are laid off or reduced in rank for lack of work or lack of funds shall be restored to the same promotional or open eligibility list from which the original appointment was made and in the same order as when the original appointment was made.

2. Expiration

A reemployment eligibility list shall remain in effect until exhausted by the removal of all names on such list as herein provided *or the expiration of two years from the certification of the list, whichever first occurs.*

3. Removal of Names

A person's name shall be removed from a reemployment eligibility list for any of the following reasons:

- 1) If he fails to respond within seven (7) calendar days to a certified mail, return-receipt-requested inquiry concerning his interest in being reemployed to a current vacancy.
- 2) If he declines reemployment to a currently existing vacancy.
- 3) Disclosure of any conduct that would be grounds for demotion, suspension, or discharge.
- 4) If the medical examination, required as a condition of reemployment, discloses any mental or physical disability that would be a reason for demotion or discharge on the grounds of in competency.
- 5) Reemployment of the person.

C. Promotional Eligibility Lists

1. Defined

Promotional eligibility lists shall consist of the names of City employees who have been successful in a promotional recruitment and examination.

2. Expiration

A promotional eligibility list shall expire one year after the date of *certification of the eligibility list* unless exhausted sooner by promotion or termination of all employees whose names appear on such list or the list is vacated sooner by the *Human Resources Director* as provided herein. The list may be extended for *up to an* additional year on recommendation of the Department Director and *approval of the Human Resources Director*. Candidates on the promotional eligibility list shall receive thirty (30) days advanced notice of the additional year extension.

3. Removal of Names

A candidate's name shall be removed from a promotional eligibility list for any of the following reasons:

- 1) Termination of his City employment.
- 2) If requested by the candidate.
- 3) If the candidate declines an offer of appointment to three (3) different vacancies.
- 4) If subsequent to the establishment of the eligibility list, there is evidence that the candidate does not possess the minimum qualifications required for appointment at the time the recruitment was undertaken.

D. Open Eligibility Lists

1. Defined

Open eligibility lists shall consist of the names of all candidates who have been successful in an open recruitment and examination.

2. Expiration

An open eligibility list shall expire one year after the date of *certification of the eligibility list* or if the list is vacated sooner by the *Human Resources Director* as provided herein. The list may be extended for up to an additional year on recommendation of the Department Director and approval of the *Human Resources Director*.

3. Removal of Names

A candidate's name shall be removed from an open eligibility list for any of the following reasons:

- 1) If the candidate fails to appear as scheduled for an interview with the Department Director in response to a written request to do so.
- 2) Failure of the candidate to reply within seven (7) calendar days to a certified mail, return-receipt-requested inquiry concerning his interest in remaining on the eligibility list or in being considered for a current vacancy.
- 3) If subsequent to the establishment of the eligibility list, there is evidence that the candidate does not possess the minimum qualifications required for appointment at the time the recruitment was undertaken.
- 4) If requested by the candidate.
- 5) If the candidate declines an offer of appointment to a currently existing vacancy.

E. Notification and Appeal of Removal

1. Notification

A candidate or person whose name has been removed from any eligibility list, or any applicant whose application has been rejected, shall be promptly notified in writing of the reasons for such action and of his right to appeal.

2. Appeal

Within five (5) calendar days after such notification is mailed to the addresses indicated on his application, the candidate, person, or applicant may appeal such action to the Board, provided he states in writing the specific reason or reasons he believes the action of removal or rejection to have been in error. Upon receipt of such statement and appeal, the Board shall promptly schedule a hearing and the applicant shall be notified of such hearing.

(a) Reemployment and Promotional Eligibility Lists

In the case of an appeal resulting from the removal of a candidate's name from a reemployment or promotional eligibility list, an existing vacancy shall be maintained for each appeal until the Board has acted on such appeal.

(b) Open Eligibility Lists

In the case of an appeal resulting from the removal of a candidate's name from an open eligibility list, an appointment may be made from such list before the Board acts on the appeal.

(c) Rejection of Applications

An appeal of the rejection of an application shall not halt the examination process; if the appeal is resolved in the applicant's favor he shall participate on an individual basis in those tests, if any, which occurred during the appeal process so that the applicant may have an opportunity to compete on an equal basis with other applicants.

F. Authority to Vacate Eligibility Lists

The Human Resources Director may at any time vacate any promotional or open eligibility list, and thereafter no person on any list so vacated shall be appointed unless such person makes a new application, is examined, and qualifies as if such person had not been on the list so vacated.

G. Certification of Eligibility Lists

Subject to the provisions of Chapter 2.24 and sections of these rules and regulations with respect to reemployment eligibility lists when an appointment is to be made *the names of the eligibles with the highest three (3) scores* willing to accept appointment shall be certified to the Department Director in the order in which they appear on the appropriate eligibility list and the appointment shall be limited to these eligibles. When a promotional or open eligibility list contains fewer than three (3) names, a new eligibility list shall be established on written request of the Department Director in order that the names of three (3) eligibles can be certified to the Department Director.

502.2 Other Appointments and Personnel Actions

A. Acting Appointments

1. Absence of Eligibility Lists

In the absence of an eligibility list for a class, a vacant position may be filled by an acting appointment. No credit shall be allowed in any examination or the establishment of any eligibility list for service rendered under an acting appointment.

2. Absence of Regular Employee

(a) Suspension

During the period of suspension of a regular employee from a position or pending final action on proceedings to review the suspension, demotion, or dismissal of a regular employee, the position may be filled by an acting appointment.

(b) Leave

During the period that a regular or probationary employee is on a leave of absence, the position may be filled by an acting appointment.

3. Limitations

An acting appointment shall be limited to ninety (90) calendar days in any 12 month period unless extended to a maximum of an additional ninety (90) calendar days on written recommendation by the Department Director and approval by the City Manager.

B. Temporary Positions

Appointments to temporary positions need not be made from eligibility lists. Such appointments shall be limited to 120 calendar days in any 12 month period unless extended by the Department Director and approved by the City Manager.

C. Transfers

With the approval of the City Manager an employee may be transferred from one position to another. Transfers shall not affect in any way the status, rights, and privileges of an employee under Chapter 2.24.

D. Reinstatements

On recommendation of the Department Director and approval by the City Manager, a former employee may be reinstated to the class of position he occupied at the time of his termination, irrespective of the existence of an open or promotional eligibility list for the class, subject to the following conditions:

- 1) There must be vacant position in the class and no reemployment eligibility lists for such class.
- 2) The employee must have completed at least one year of continuous service in the class immediately prior to his termination.
- 3) The employee must have terminated his City employment under favorable conditions.
- 4) *The reinstatement must occur within one (1) year of his termination:*
- 5) The employee may be required to serve a probation period.
- 6) The employee will be required to take any necessary examinations at his expense and as prescribed by the City Manager.

502.3 Probation Period

A. Defined

A probation period is a working test period that is part of the selection process and during which an employee is required to demonstrate his fitness for the duties of the position which he has been assigned by actual performance of such duties.

B. Application

A probation period shall apply to all appointments to positions included in the System except acting appointments.

C. Length

The normal length of a probation period shall be twelve (12) months. On written recommendation by the Department Director and approval by the City Manager, however, an employee's probation period may be extended for a maximum of six (6) months beyond the normal twelve (12) month period. The purpose of such extension shall be to allow the Department Director additional time to evaluate the employee's job performance.

D. Rejection During Probation

1. Initial Appointment

At any time during which an employee is serving an initial probationary period, he may be discharged without cause and without the right of appeal to the Civil Service Board.

2. Promotion

In the event of promotion to a position in a higher class and at any time within his probation period in that position, an employee may be rejected by the Department Director and reduced to such position he occupied prior to such promotion without right of appeal to the Board, provided he had acquired regular status in such former position. If the employee had not acquired regular status in the System prior to such promotion, he may be discharged without right of appeal to the Board.

E. Notification to Employee

After the first twelve (12) months of the probation period have elapsed, the employee shall be advised in writing whether or not he has successfully completed his probation period. If not, and if an extension of his probation period has been approved, he shall be advised in writing of his status when such extension expires.

SECTION VI DISCIPLINARY ACTIONS, APPEALS AND HEARINGS

Pursuant to the City Charter and Municipal Code Chapter 2.24, the Board shall receive and hear appeals submitted by *any employee in the System relative to* appointment, promotion, dismissal, demotion, suspension and other disciplinary actions; the alleged violation of Chapter 2.24 or these rules and regulations; and certify its findings and recommendations. The Board shall also receive and hear appeals submitted by City employees not included in the System to the extent, and in the manner, specified by ordinance, resolution or other action of the City Council. The hearing procedures (Subsection 602) shall be applicable to all appeals.

600. Disciplinary Actions

Employees in the System may be demoted, suspended or dismissed only on the following grounds: incompetency, inefficiency, dishonesty, misconduct, insubordination, or failure to observe Departmental or City rules and regulations.

601. Appeals

The Board shall convene in regular or special meetings for the purpose of reviewing appeals of regular employees as follows: *Any regular employee in the System who has received a notice of intent to suspend, demote, or dismiss may, within a period of seven (7) days after such notification, respond to the Department Director, orally or in writing. The Department Director shall, within ten (10) days, provide the Employee with written notice of his decision. The employee may, within ten (10) days thereafter, file a written appeal with the City Manager. The City Manager shall review the administrative records and may conduct an additional investigation. The City Manager shall render a written decision on the appeal within ten (10) days. The City Manager shall have the right to modify the discipline imposed by the Department Director. The employee may, within ten (10) days, file a written appeal with the Board by serving a Notice of Appeal on the Secretary of the Board. The Board shall take action as soon as reasonably possible to schedule the hearing, but no later than its next regular meeting. An appeal shall be heard and resolved within 90 days. The hearing shall be a closed hearing at the request of the employee.*

602. Hearings

602.1. In General

The Board hearings need not be conducted according to technical rules relating to evidence and witnesses.

602.2 Right of Counsel

The employee may be represented by counsel and shall have the right to produce witnesses to testify in his behalf. The Board shall issue subpoenas and compel the attendance of all witnesses.

602.3 Modification of Disciplinary Action

The Board may modify or revoke a disciplinary action only on the following three grounds:

- 1) *The facts do not justify the action taken, the action taken is unlawful or the action taken is superseded by local, state or federal law; or*
- 2) Substantive violation or omission of procedure was made; or
- 3) The action taken was unreasonable, capricious or arbitrary in view of the offense, the circumstances surrounding the offense, and the past record of the employee.

602.4 Reimbursement of Loss of Pay

An employee shall be reimbursed for a loss of pay arising from a disciplinary action against him to the extent that it is subsequently revoked or modified by the Board. Reimbursement shall be confined to the period of time between the date of such disciplinary action and the date of the Board's final decision as set forth in section 602.5 hereafter.

602.5 Findings

The Board shall certify copies of its findings and decisions to the City Manager, the Department Director from whose action the appeal was made, and the appellant employee. *In the case of Civil Service Employees, the decision of the Civil Service Board shall be final.*

SECTION VII SEVERABILITY

If any section, subsection, sentence, clause, phrase or portions of these Rules and Regulations, or any additions or amendments there to, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these Rules and Regulations or their application to other persons. The City Council hereby declares that it would have adopted these Rules and Regulations and each section, subsection, clause, phrase or portion, and any additions and amendments thereto, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions, or the application thereof to any person, be declared invalid or unconstitutional.
