

**RULES AND REGULATIONS
OF
THE PERSONNEL BOARD
FOR
MOBILE COUNTY, ALABAMA**

RULE I

GENERAL PROVISIONS

PURPOSE. The purpose of these rules is to provide an orderly procedure for the uniform administration and enforcement of the Civil Service Law; to assure all citizens of capacity and ability an equal opportunity to compete for positions in the public service; to establish conditions in the public service which will attract officers and employees of character and capacity; and to increase the efficiency of the governmental departments by the improvement of methods of personnel administration. The Board will welcome criticisms and suggestions from officers and employees to the end that the conditions of employment be satisfactory and the quality of service to the citizens be continually improved.

EQUAL EMPLOYMENT OPPORTUNITY. 1.1 Equal employment opportunity shall be assured for all persons in the Mobile County Merit System and affirmative action provided in its administration. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration because of political or religious opinions or affiliations or because of race, national origin, or other non-merit factors will be prohibited. Discrimination on the basis of age or sex or physical disability will be prohibited except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

Any employee, applicant for employment, or eligible on a register, who believes that he has been unjustly discriminated against, may appeal to the Personnel Board for a hearing subject to the procedural rules of the Board.

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DEFINITIONS. 1.2 In these rules, words used in the masculine gender include the feminine and neuter genders, and words used in the neuter gender include the masculine and feminine genders. The following words, terms, and phrases when used in these rules, shall have the meanings respectively ascribed to them in these rules unless the context plainly indicates a contrary meaning:

"Act" means Local Act No. 470 (H-952), approved September 15, 1939, Local Acts of Alabama, 1939, page 289, and commonly known as the Mobile County Merit System or Civil Service Law, as the same may be amended from time to time.

"Appointee" or "Employee" means a person in the Classified Service herein set up and appointed by an Appointing Authority, unless herein specifically excepted.

"Appointing Authority" or "Appointing Power" means a person, officer, board, commission or other body or person whose lawful jurisdiction or powers are confined wholly or primarily within the territorial limits of Mobile County, or any incorporated city or town therein and who or which have the power to make appointments to offices or positions of employment or trust in any of the Classified Service as defined in the Act.

"Board" or "The Board" means the Personnel Board created by the Act.

"Certification" means a submission of names of eligibles to an Appointing Authority from an employment register, a re-employment list or a promotion list.

"City" or "Municipality" means a duly incorporated town, village, or city within Mobile County.

"Class" or "Class of Positions" means a set of positions in the Classified Service established under the law or these rules sufficiently similar in respect to the duties, responsibilities and authority thereof that the same descriptive title may be used to designate each position allocated to the class, that the same requirements as to education, experience, capacity, knowledge, proficiency, ability and other qualifications should be required of the incumbents, that the same tests of fitness may be used to choose qualified employees and that the same schedule of compensation can be made to apply with equity.

"Classification" shall mean the assigning of a position to the appropriate class in accordance with its duties, responsibilities and authority.

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"Classified Service" includes all offices, positions, and employment in Mobile County or any such city therein as these offices, positions and employment now exist or as they may hereafter exist, the holders of which are paid whether by salary, wages, or fees in whole or in part from funds of Mobile County or any such city, or the holders of which receive their compensation from any elected official and perform duties pertaining to the office of such elected official or officer, except those placed in the "Unclassified Service" by Section Two of this Act, or exempted by legislative enactment.

"Committee" means the Supervisory Committee created by the Act.

"Common Laborers" means unskilled labor employed at not to exceed the "Unskilled Labor" rate of pay for a period or periods totaling not in excess of one year in any three year period.

"Department" means any department, bureau, institution, board, commission, or any other agency whose employees are under the jurisdiction of the Act.

"Director" means the Personnel Director created by the Act.

"Eligible" means a person whose name is on a re-employment or promotion list or on an employment register.

"Employment Register" means a record containing the names of those persons who have successfully completed prescribed tests, listed and ranked in order of their final earned average from the highest to the lowest and are considered qualified for original appointment to positions in the class for which the test was held.

"Grade" means a subdivision of a class and approximately represents a grade of responsibility.

"Group" means a major subdivision of the Classified Service embracing related occupational units.

"Notice of public hearing" means a written notice placed upon the bulletin board maintained at or near the entrance to the offices of the Board at least three days prior to such hearing, and the mailing or delivering of a copy of such notice to each governing body or Appointing Authority affected.

"Permanent Appointment" means an absolute appointment for an unlimited period of time in a permanent position in the Classified Service, subject to the provisions of the Act and these rules.

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"Permanent Position" means any position in the Classified Service which is intended or which is likely to require the services of an incumbent without interruption for a period of more than six months.

"Position" means any office or place of employment in the Classified Service with duties and responsibilities calling for the full-time or part-time employment of one person in the performance and exercise thereof.

"Probationary Employee" means an employee appointed to a permanent position from an employment register, promotion list, or re-employment list who has not completed his working test period.

"Promotion" means an advancement from one class to another class with increased duties or responsibilities, and for which a higher rate of pay is prescribed.

"Promotion List" means a list containing the names of employees, arranged in order of merit as provided in these rules, who have been found qualified for promotion to positions of a higher class than the positions they occupy.

"Public Hearing" means a meeting of the Board, open to the public, where any citizen, taxpayer, or party at interest may appear and be heard subject to such rules and regulations as may be fixed by the Board.

"Public Notice" means a written notice placed upon the bulletin board maintained at or near the entrance to the offices of the Board in a place accessible to the public during business hours, and one insertion in a daily newspaper published in and having a general circulation in Mobile, Alabama.

"Public Record" means a record which the public shall have the right to inspect in a reasonable manner during ordinary business hours.

"Qualifications" means the minimum experience, educational, physical, and personal requirements determining the eligibility of an applicant for examination.

"Re-employment List" includes (1) a layoff re-employment list containing the names of persons who have been laid off from permanent positions in the Classified Service and who, in accordance with these rules, are entitled to preference in appointment to vacancies in positions; and (2) a resignation re-employment list containing the names of persons who have resigned in good standing from permanent positions in the Classified Service and who are, in accordance with these rules, entitled to preference in appointment to vacancies in positions.

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"Regular Employee" means an employee who was appointed under the provisions of the Act to a permanent position and who has satisfactorily completed the working test period.

"Regular Employment" means employment in a permanent position, the compensation of which is fixed by the month.

"Related by Blood or Marriage within the Fourth Degree" means related by blood as parent; aunt or uncle, or great aunt or uncle; grandparent or great grandparent; brother or sister; first cousin; child; niece or nephew, or grand niece or nephew; grandchild or great grandchild; or connected by marriage in the relationships set forth above.

"Roster" means records of persons in the Classified Service containing information as to their service.

"Rules" mean the regulations adopted by the Board for carrying out the provisions of the Act.

"Seasonal Position" means any position in the Classified Service which requires or is likely to require the services of an incumbent during certain parts of each year only at recurring annual or other periods.

"Series" means a subdivision of a group consisting of two or more classes of positions, similar as to line of work but differing in responsibility or difficulty, which constitutes steps in a normal line of promotion.

"Specifications" means a formal statement descriptive of a class of positions, and shall contain: (a) the class title; (b) a description of typical duties and responsibilities thereof; (c) the minimum qualifications required of applicants therefor as to education, experience, physical ability, and other attributes.

"Temporary Appointment" means a qualified appointment for a specified period of time in a position in the Classified Service.

"Temporary Position" means any position in the Classified Service which is not permanent or seasonal but which is intended or which is likely to require the services of an incumbent for a period of six months or less.

"Tests" means written or oral examinations or other methods established by rules and regulations of the Board or the Director as herein provided, to determine the merit, efficiency, and general fitness of applicants for positions.

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"Title" means the terms used to designate all employment by class and grade and shall be descriptive of the duties of the position.

BOARD MEETINGS. 1.3 The Regular Meeting of the Board shall be held at such time and place as fixed by resolution of the Board. Special meetings may be called at any time by the Chairperson or a majority of the whole number of elected members of the Board. Three members shall constitute a quorum for the transaction of business. The affirmative vote of three members shall be required to make any action effective.

Notice of the time, place and purpose of special meetings shall be given to all members at least two (2) days in advance. At any regular meeting of the Board, the Board may schedule special meetings which require no further notice to the Board members.

All meetings of the Board shall be open to the public. The Director shall act as Secretary of the meetings and shall record every official act and the vote of each member thereof, except when unanimously adopted. Except where otherwise provided by the rules of the Board, Roberts Rules of Order shall govern all proceedings.

AMENDMENTS TO RULES. 1.4 No amendment shall be made to these rules, nor shall any rule be repealed nor any new rule promulgated at the same meeting at which it is proposed. No final action to amend, repeal, or supplement any rule shall be taken in less than seven days after the proposal and until after a public hearing, notice of which shall be given to the Appointing Authority affected. A copy of these rules and any amendments thereto shall be furnished to Appointing Authorities and their department heads who shall make them available to their employees for informational purposes. Further, additional copies shall be maintained at the Mobile County Personnel Department, the Main Library and each branch location for inspection during regular working hours by any citizen upon request.

(Rule 1.4 amended by the Personnel Board on March 14, 1996.)

PUBLIC RECORDS. 1.5 Minutes of Board meetings, the classification and pay plans, payrolls, actions of dismissal and suspension, such interdepartmental correspondence as may contain matters of public interest, and the rules shall be considered public records. Other records of the Personnel Department shall be held confidential by reason of public policy, except that; (1) an applicant shall have the right to review his examination papers within thirty days after notice to him of the grading of

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his examination; (2) an employee shall have the right to inspect the service ratings of all employees of his class and grade who are employed under the same Appointing Authority; (3) an Appointing Authority shall have the right to inspect the service ratings of all employees under his jurisdiction and the examination records and applications of those eligibles who have been certified to him for appointment. Records subject to inspection may be inspected in the office of the Director on any business day when the same are not in use. No person shall be permitted to remove any records from the Department.

PRESERVATION OF RECORDS. 1.6 Minutes of Board meetings, employee rosters and financial records of the Personnel Department shall be retained permanently. Employment registers and payroll records shall be retained for a period of six years. The applications and examination papers of all applicants whose names are placed on an employment register shall be retained so long as the register established as a result of such examination is continued in force. The applications and examination papers of those applicants who failed to qualify shall be preserved for ninety days after the establishment of the employment register.

DEPUTY DIRECTOR. 1.7 The Director may appoint one employee of the Department to act as his deputy in the event of the absence of the Director or Assistant Director.

(Rule 1.7 amended by the Personnel Board on June 15, 2004.)

EXAMINERS AUTHORIZED. 1.8 The Director may, with the approval of the Board, temporarily engage qualified persons to assist in preparing and conducting tests.

RULE II

POLITICAL ACTIVITIES

2.1 No person in the Classified Service or on the eligible lists shall use or attempt or cause to be used political influence or the improper influence of any State, County or City employee or officer in securing appointment, promotion, transfer, leave of absence, increased pay, or other advantage for himself or for any other public employee or officer.

2.2 All persons in the Classified Service shall have the right to join local political clubs and organizations as well as state or local political parties.

2.3 All persons in the Classified Service shall have the right to support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to candidates for public or elective office.

2.4 For purposes of this Rule, “persons in the Classified Service” shall mean those persons presently employed in a permanent position, seasonal position, or temporary position or a provisional position within the Classified Service.

(Rule 2.2 amended by the Personnel Board on April 16, 1991.)

LEAVE TO CAMPAIGN FOR OFFICE. 2.5 Upon application in writing to the Personnel Board, an employee in the Classified Service shall be granted leave of absence without pay or may use accrued compensatory time or vacation from the date he or she qualifies to run for office until the date on which the election results are certified or the employee is no longer a candidate or there are no other candidates on the ballot. No employee shall forfeit retirement, leave, vacation or any other privileges or benefits by reason of the granting of such leave of absence.

2.6 No classified employee, including those who have qualified to run for office in a jurisdiction other than in which he or she is employed, shall participate in political action during required working hours unless they are on approved leave for such purposes.

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RIGHT TO VOTE. 2.7 Nothing contained in these rules shall be construed as affecting the rights of classified employees to vote as they please and to express their opinions on all political subjects.

PENALTIES. 2.8 The violation of any of the provisions of Section XXIV of Act No. 470 or of Title 17-1-7 of the 1975 Code of Alabama or of any of the provisions of these rules promulgated thereunder, by any classified employee, shall be grounds for the dismissal of such employee. The violation of any of these provisions by any person on the eligible lists shall be grounds for the removal of such persons from such eligible lists.

Rule II amended by the Personnel Board on June 17, 1997 as follows:

Title of Rule II amended from "Political Activities Prohibited"
to "Political Activities"
Repealed 2.2(1) (a) (b) (c) (d) (e) (f) and 2.2 (a) (b) (c) (d) (e)
(3) amended and renumbered as 2.2
(4) amended and renumbered as 2.3
(5) amended and renumbered as 2.4
"Prohibits Political Endorsement or Contribution" 2.3. Repealed
"Leave to Campaign for Office" 2.4 amended and renumbered as 2.5
"Right to Vote" 2.5 amended and renumbered as 2.7
"Penalties" 2.6 amended and renumbered as 2.8

RULE III

ATTENDANCE AND LEAVES

HOURS OF WORK. 3.1 (a) The hours of work shall be fixed by the Appointing Authority with due regard to the convenience of the public, and to working hours customarily observed in the community, except that no full time employees shall work less than forty (40) hours per week.

COMPUTATION OF PAY. 3.1 (b) Computation of regular pay shall be determined by multiplying the established rate by the number of hours for the reporting period. Payments for vacation, sick leave, or compensatory time accruals shall be determined by multiplying the established rate by the accumulated hours of vacation, sick leave, or compensatory time. Only compensatory time accruals earned prior to October 1, 1976, as shown on the Personnel Board records, and such accruals earned by employees deemed non-exempt by the provisions of the Fair Labor Standards Act after April 15, 1986, shall be paid upon resignation, lay-off, termination, retirement or death.

PAYMENT FOR OVERTIME. 3.1 (c) Employees not engaged in fire protection or law enforcement activities, non-exempt from the provisions of the Fair Labor Standards Act shall be compensated for overtime for all hours worked in excess of forty (40) hours per week at one and one half (1 1/2) times the employees' hourly rate of pay, or in the alternative, shall be awarded compensatory time in accordance with the provisions of said Act. Employees engaged in fire protection or law enforcement activities shall be compensated for overtime in accordance with applicable law. The foregoing notwithstanding, any Appointing Authority may opt to compensate any non-exempt employees for overtime on the basis of hours paid rather than hours worked. Overtime, at the option of the Budgeting Authority, may be paid in the pay period within which it was earned, but in any event shall be paid to the employee within fifteen (15) days after the end of the month within which such overtime was earned.

(Rule 3.1 (b) and 3.1 (c) amended by the Personnel Board on April 15, 1986.)

(Rule 3.1(c) amended by the Personnel Board on July 10, 2008.)

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PAYMENT FOR YEARLY STANDBY CREWS. 3.1 (d) Where it has been established by the Appointing Authority to the satisfaction of the Board that, in any department, it is necessary to maintain on a year-round basis a standby crew, the employees of such standby crew shall receive no form of compensation unless called back in to work, in which event the employees will then be compensated at double the hourly rate established in the Basic Salary Schedule for their class for each hour worked while serving on such standby, and which was in excess of their normal work week. In the event the standby period includes a holiday, no additional compensation, other than the double time for additional hours worked on the holiday, shall be given.

(Rule 3.1 (d) amended by the Personnel Board on September 18, 1984.)

REGULAR DAYS OFF DURING VACATION AND/OR SICK LEAVE. 3.1 (e) Regular days off such as Saturdays, Sundays and holidays, which fall within approved vacation and/or sick leave, shall not be counted as vacation nor charged as sick leave.

HOLIDAY PAY. 3.1 (f) Employees who are required by their Appointing Authority to work on approved holidays shall be paid in accordance with the holiday policy established by the Personnel Board.

REPORTS OF ABSENCE. 3.2 The absence of an employee from duty shall be reported to the Director by the Appointing Authority or department head. Reports shall be made on the prescribed form (Form P6), and forwarded to the Personnel Department on the day absence begins. The reason for absence shall be stated; if unauthorized it shall be reported as "Absent Without Leave". The return of any employee to duty shall likewise be reported (Form P7) to the Personnel Department on the day of his return.

PENALTY FOR ABSENCE WITHOUT LEAVE. 3.3 An employee who is absent without leave for 24 consecutive work hours shall be suspended without pay for not less than 80 work hours, such suspension to commence within thirty days from the date of the employee's return to work, or the Appointing Authority may dismiss him as provided in Section 22 of the Act. Should the offense be repeated within twelve (12) months of the date such absence begins the Appointing Authority shall dismiss the offender. Provided, that this is not intended to limit the right of the Appointing Authority to suspend or dismiss any employee for a shorter period than three days (24 work hours). In the case of any employee whose wages are based on the average 56 hours work week they will be suspended without pay for not less than 112 hours.

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ANNUAL LEAVE. 3.4 (A) Each full time employee holding a permanent appointment in regular employment on a forty hour week basis, shall be entitled to annual leave with pay, at the following rates: 1. For all such employees who shall have less than five (5) years service in regular employment, annual leave shall be earned at the rate of .038461 hour for each hour of regular pay (10 days per year/or 80 hours per year). 2. Employees who have completed five (5) years or more of service in regular employment, the last three (3) years of which must be continuous, and who have not had any interruption of service exceeding five (5) years, annual leave shall be earned at the rate of .048076 hour for each regular hour pay (12 ½ days per year/or 100 hours per year). 3. Employees who have completed ten (10) years or more of service in regular employment, the last three (3) years of which must be continuous, and who have not had any interruption of service exceeding five (5) years, annual leave shall be earned at the rate of .057692 hour for each regular hour pay (15 days per year/or 120 hours per year) 4. For those employees who have completed fifteen (15) years or more of service in regular employment, the last three (3) years of which must have been continuous, and who have not have any interruption of service exceeding five (5) years, annual leave will be earned at the rate of .067307 hour for each hour of regular pay (17 ½ days per year/or 140 hours per year). 5. For those employees who have completed twenty (20) years of service in regular employment, the last three (3) years of which have been continuous and who have not had any interruption of service exceeding five (5) years, annual leave will be earned at the rate of .076923 hour for each hour of regular pay (20 days per year/or 160 hours per year). 6. For those employees who have completed twenty-five (25) years or more of service in regular employment, the last three (3) years of which must be continuous, and who have not had any interruption of service exceeding five (5) years, annual leave will be earned at the rate of .096153 hour for each hour of regular pay (25 days per year/or 200 hours per year).

(B) For those employees whose regular employment is based on the average 56 hours per week and are holding a permanent full time appointment, their annual leave with pay, will be figured at the following rates: 1. For all such employees who shall have less than five (5) years service in regular employment, annual leave shall be earned at the rate of .038461 hour for each hour or regular pay (14 days per year/or 112 hours per year). 2. Employees who have completed five (5) years or more of service in regular employment, the last three (3) years of which must be continuous, and who have not had any interruption of service exceeding five (5) years, annual leave shall be earned at the rate of .048076 hour for each regular hour pay (17 ½ days per year/or 140 hours per year). 3. Employees who have completed ten (10) years or more of service in regular employment, the last three (3) years of which must be continuous, and who have not had any interruption of service exceeding five (5) years, annual leave shall be earned at the rate of .057692 hour for each hour of regular pay (21 days per year/or 168 hours per year) 4. For those employees who have completed fifteen (15) years or more of service in regular employment, the last

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three (3) years of which must have been continuous, and who have not had any interruption of service exceeding five (5) years, annual leave will be earned at the rate of .067307 hour for each hour of regular pay (24 ½ days per year/or 196 hours per year). 5. For those employees who have completed twenty (20) years or more of service in regular employment, the last three (3) years of which have been continuous, and who have not had any interruption of service exceeding five (5) years, annual leave will be earned at the rate of .076923 hour for each regular hour of work (28 days per year/or 224 hours per year). 6. For those employees who have completed twenty-five (25) years or more of service in regular employment, the last three (3) years of which must be continuous, and who have not had any interruption of service exceeding five (5) years, annual leave will be earned at the rate of .096153 hour for each hour of regular pay (35 days per year/or 280 hours per year).

(C) Though annual leave may be taken at any time, it must be approved by the employee's department head or Appointing Authority before commencement of such leave, unless used for the purpose of sick leave after all sick leave accumulation has been exhausted, so that the employer may plan the work under his control and authorize absences only at such time as the employee can best be spared. Provided, however, no employee can take more than 280 work hours annual leave in any one calendar year, except in case of extreme emergency or hardship. Request for additional annual leave in excess of the 280 work hours in any one calendar year due to an extreme emergency or hardship must have the approval of the employee's department head or Appointing Authority and the Personnel Director.

(D) All new employees hired after the effective date of this amendment may accumulate annual leave up to, but not exceeding a maximum of 280 hours. All current employees hired before the effective date of this amendment may continue to accumulate annual leave up to, but not exceeding a maximum of 480 hours. This amendment shall become effective April 1, 1996.

(E) Upon written application made by the employee within sixty (60) days following the ending date of the last pay period in any calendar year, and with approval of the Appointing Authority and the budgeting authority showing to the satisfaction of the Director that at no time prior to the ending date of the last pay period during the previous calendar year could the employee be scheduled for annual leave because his services could not be spared, an employee shall be entitled to receive compensation in lieu of such amount of annual leave as was earned during the previous year in excess of the total allowable accumulation, said compensation to be paid on the basis of the regular hourly rate received by such employee on the last pay period of any calendar year.

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(F) In the event of the death, retirement, resignation, dismissal, layoff, transfer from a department in one taxing jurisdiction to a department in another taxing jurisdiction, or call to active duty in the armed forces of the United States, other than during the field training period, of an employee, compensation for accumulated annual leave shall be paid in one lump sum payment. In the event of layoff, the employee may, at his option, demand such compensation immediately or at any time within one year following date of layoff. Compensation for accumulated annual leave to an employee called to active duty in the armed forces of the United States other than during the field training period, shall be paid upon request of the employee.

The term "calendar year", as used in this rule, means a twelve months period commencing January 1st.

(Rule 3.4 amended by the Personnel Board on December 19, 1989; January 16, 1990, and May 21, 1991.)

(Rule 3.4 amended by the Personnel Board on March 21, 1996, with (D) effective April 1, 1996.)

(Rule 3.4 (E) amended by the Personnel Board on March 11, 1997.)

SICK LEAVE. 3.5 (A) Sick leave is hereby defined to mean an absence from duty by reason of illness of the employee; exposure to contagious disease; or attendance upon members of the immediate family of the employee whose illness requires the care of such employee; or death in the immediate family of the employee. The Director shall require evidence, in the form of a doctor's certificate or otherwise, to substantiate a claim for sick leave, or for annual leave used for the purpose of sick leave, for any absence in excess of 40 consecutive work hours for those employees whose hourly rate is based on the 40 hour work week. For those employees whose wages are based on the average 56 hour work week the doctor's statement or otherwise, will be required for any absence in excess of 48 consecutive work hours.

(B) In the event an employee's absence entitles him to the use of sick leave but he has exhausted his accumulation of such leave, he shall be entitled to use any accumulated annual leave to his credit rather than be placed on a without pay basis. Such absence shall be reported to the Personnel Department as "VS" which will denote annual leave, or vacation, used for the purpose of sick leave.

For each full time employee holding permanent appointment in regular employment shall be entitled to sick leave, with pay, at the following rates: 1. For those employees whose duties normally require them to work a 40 hour week the rate will be .038461 hour per hour of regular pay (10 days/or 80 hours per year) 2. For all such employees whose duties require them to work an average of 56 hours a week the rate will be .038461 hour per hour of regular pay (14 days per year/or 112 hours per year).

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Any such employee who has held such a position in the Classified Service since prior to the passage of the Act or whose position has been placed from the Unclassified Service into the Classified Service by Act of the Legislature of Alabama may be granted such additional sick leave, at whole or reduced pay, as the Board deems just and equitable.

Sick leave shall not be granted any employee whose absence from duty is a result of his own misconduct. Absence from such cause shall be reported as "Absence Without Leave" and shall subject the employee to disciplinary action.

(C) In the event of death or of retirement due only to the longevity of an employee, compensation for three-fourths (3/4) of accumulated sick leave shall be paid in one lump sum payment. Longevity of an employee, as used in this paragraph, is hereby defined to mean: (a) any employee who has twenty (20) or more years employment and who is placed on a pension roll; (b) or any employee, having reached his sixtieth (60th) birthday, and having completed ten (10) or more years of service receives a pension from the pension system prevailing in the agency in which he is employed; (c) or any employee who receives a pension from the pension system prevailing in the agency in which he is employed, due to a service connected disease or disability.

(D) Sick leave earned and accumulated by all new employees hired after the effective date of this amendment shall be tallied and credited to each such new employee at his or her rate of pay as of December 31, of the year in which the sick leave was earned and accumulated. This amendment will become effective April 1, 1996.

(E) When taking sick leave, the new employee hired after the effective date of this amendment, shall first use the sick leave earned in the current calendar year, and thereafter such employee shall use any additional sick leave in the order of that which was first accumulated. This amendment shall become effective April 1, 1996.

(Rule 3.5 amended by the Personnel Board on April 21, 1981 and December 19, 1989.)

(Rule 3.5 amended by the Personnel Board on March 21, 1996, with (D) and (E) effective April 1, 1996.)

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INJURY IN LINE OF DUTY. 3.6 An employee who sustains a disabling injury without fault or negligence on his part while performing the duties of his position may be granted leave with pay as the Board deems proper, up to a maximum of six (6) calendar months from the date of the injury. Every application for such allowance shall contain a statement by the employee, confirmed by his supervisor and approved by the department head, setting forth the details of the accident, and shall be supported by a doctor's certificate setting forth the nature and extent of the injury and the probable period of disability. Such request shall be initiated within seventy-two (72) hours of the accident and shall be submitted on the form approved by the Board for approval by the Director. Each request shall be limited to thirty (30) days from the date of injury and be extendable thereafter by periods of a maximum of thirty (30) day increments supported only by an additional doctor's certificate containing the aforementioned information. When in the judgment of the Director, circumstances so warrant, the Director may present such request to the Board for action. The foregoing provisions to the contrary notwithstanding, the amount of pay received by any employee for injury in line of duty shall be reduced by the amount of any workmen's compensation benefits received by such employee and in no event shall any such pay exceed 100% of the salary paid such employee.

In those jurisdictions which provide workmen's compensation benefits pursuant to the State of Alabama Workmen's Compensation law, the leave with pay benefit provided by this rule shall be complementary to said workmen's compensation benefit, subject to the following limitations: The amount of such complementary benefit shall equal the difference between the amount of workmen's compensation and the amount to which the employee would have been entitled under this rule. In no case shall the total amount of benefits, taking into account the workmen's compensation benefit and the benefit provided by this rule, exceed the base salary established in the classified service pay plan for the period during which disability exists.

If an employee is unable to resume his duties after the six (6) months' injury leave with pay, absences shall be charged against his accumulated sick leave, vacation, and compensatory time in that order. In the event an employee is unable to resume his duties at the expiration of his sick leave, vacation time and compensatory time, he may elect to retire from the service, if eligible, or request a leave of absence without pay in accordance with Rule 3.8.

The foregoing to the contrary notwithstanding, nothing herein shall prevent the Board from granting additional leave with pay for an employee, provided however, the request for such additional leave is (1) supported by two medical experts, (2) recommended by the Director, and (3) determined by the Board to be a case of extreme hardship.

(Rule 3.6 amended by the Personnel Board on November 2, 1993, to become effective December 1, 1993.)

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MILITARY LEAVE. 3.7 An employee who is an active member of the Alabama National Guard, naval militia, the Alabama state guard organized in lieu of the national guard, or any reserve component of the armed forces of the United States, shall be granted leave of absence with pay, as determined by the Appointing Authority and approved by the Personnel Board, for not more than 168 hours for those employees employed on a forty (40) hour work week, and 235 hours for those employees who work the fifty-six (56) hour work week during any calendar year for the purpose of engaging in field or coast defense, other training, or service ordered under the provisions of the National Defense Act, or of the federal laws governing the United States reserves.

In addition thereto, such persons shall be entitled to be paid for no more than 168 hours for forty (40) hour per week employees or 235 hours for fifty-six (56) hour per week employees at any one time while called by the Governor to duty in the active service of the State.

Any employee retained for a longer period of time in the active military service of the State of Alabama or in the armed forces of the United States referred to in the immediately preceding paragraph, shall be granted leave of absence without pay for a period not to exceed ninety (90) days beyond the date of his discharge from duty or from hospitalization continuing after such discharge for a period of not more than one (1) year.

Nothing in this rule shall serve to deprive any employee returning from Military Leave of his right to resume his position or a position of like seniority, status and pay, upon presentation of proper proof of his entitlement thereto, and upon making written application with the Board within ninety (90) days from the date of his release from active duty, or from hospitalization continuing after such discharge for a period of not more than one (1) year, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so. Upon resuming his position, his service in the Classified Service will be deemed continuous.

(Rule 3.7 amended by the Personnel Board on November 15, 1990.)

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ABSENCE WITH LEAVE. 3.8 (A) An employee who is temporarily incapacitated from performing his duties, or desires to engage in a course of study such as will increase his usefulness upon his return to duty, or who for any reason considered good by the Appointing Authority desires to secure a leave of absence from regular duty may, upon the recommendation of the Appointing Authority and with the approval of the Director, be granted leave without pay for a period not to exceed one year; provided, however, that the approval of the Director shall not be required for a leave or leaves aggregating for not more than 80 hours within any twelve (12) month period for those employees on a forty (40) hour work week and 112 hours for those employees whose salary is based on a 56 hour work week. No such leave shall be granted for the purpose of enabling an employee to engage in other employment outside the Classified Service; provided, however, that an employee may be granted special leave for a period not exceeding ninety days for the purpose of self employment in agricultural pursuits; and, provided further that, if any governmental agency should request the temporary services of a technically trained employee for the purpose of assisting in adoption or installing a change in service, the Appointing Authority may, with the approval of the Director, authorize a leave of absence. An employee requesting special leave without pay shall submit his request in writing, stating the reasons why such a request should be granted, the date when he desires leave to begin, and the date of return to duty. An employee who fails to report for duty upon the expiration of any such leave of absence will be considered to have resigned.

Should an employee in the Classified Service be appointed or elected to a full time position with an employee representative organization, which organization has been approved and recognized by the Personnel Board, such employee may, subject to the recommendation of his Appointing Authority and with the approval of the Personnel Director, obtain absence with leave, without pay and other emoluments of office, for the period of time the employee is employed by such organization, on a full time basis, not however to exceed the period of one year. This limitation of one year may be extended for three additional one year periods upon the recommendation of the Director and with the approval of the Personnel Board. Upon termination of employment by such organization the employee shall be permitted to return to his former position in the Classified Service at the rate of compensation then pertaining to such classified position, provided, however, such employee reports for duty to his classified position within ten days following the expiration of any such leave of absence, and provided further, however, during such leave of absence such employee has not been found guilty of any of the causes for dismissal as cited in Rule 14.2 (b) (d) (f) (l) (k). An employee who fails to report for duty within ten days of the expiration of such leave of absence will be considered to have resigned. No more than one employee for each such organization shall be entitled to such leave of absence.

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An employee who, at the direction of his Appointing Authority, attends a conference or institution for training or instruction, shall be considered to be on duty.

ADMINISTRATIVE LEAVE. 3.8 (B) For good cause shown or when an employee has been charged with a violation of the penal code, the Appointing Authority may place him or her on administrative leave for a period not to exceed 60 days. If a further extension is necessary, it shall require approval of the Personnel Board. During the administrative leave, the employee's compensation and other emoluments of his or her position shall not be diminished. Provided, however, the Appointing Authority shall have the right to take disciplinary action against any employee who has been placed on administrative leave, if, in the opinion of the Appointing Authority, disciplinary action is warranted, at which time the employee's administrative leave shall cease.

(Rule 3.8 amended by the Personnel Board on June 3, 1986.)(Rule 3.8 amended by the Personnel Board on June 15, 2004.)

MATERNITY LEAVE. 3.9 Maternity leave is hereby defined to mean leave of absence from duty by reason of pregnancy. Maternity leave shall be without pay, provided, however, that nothing herein contained shall operate to deprive an employee on maternity leave, of the use of her accumulated annual leave, and provided further however, that an employee on maternity leave, solely upon her written request therefor, shall be entitled to receive out of her accumulated sick leave, sick leave with pay up to but not exceeding 560 work hours. The foregoing to the contrary notwithstanding any employee on maternity leave who may have extended complications due to pregnancy or the birth of a child, or whose child may have extended complications, shall, upon her written request and a substantiating doctor's certificate be entitled to sick leave status as provided by the rules but in no event to extend beyond the date the doctor indicates the patient's health permits the employee's return to duty.

An employee, being pregnant shall, upon her application to the Appointing Authority, be granted maternity leave for so much of the period of such pregnancy and ending not later than three months after the date of delivery, as the employee may request.

Whenever the Appointing Authority considers it to be in the best interest of the service, he may require an employee to take maternity leave for so much of the period of the pregnancy and ending not later than three (3) months after the date of delivery as he may direct.

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Upon submitting to the Appointing Authority the written certificate of a physician that the employee is physically able to resume the duties of her position, an employee on maternity leave shall be entitled to return to her position on such date after the date of delivery (but not later than three (3) months after such date) as the employee may request and the Appointing Authority may approve.

FAMILY AND MEDICAL LEAVE ACT OF 1993. 3.10 In addition to other authorized leaves and benefits provided for employees under the provisions of Rule III heretofore promulgated by the Board, all eligible employees shall be entitled to such leave and benefits authorized under the Family and Medical Leave Act of 1993. The Personnel Department, under the supervision of the Director, shall be responsible for enforcing the provisions of the Family and Medical Leave Act of 1993, for all employees under its jurisdiction who may be covered by the Act. For more formal purposes, reference should be had to the Act itself found in 29 United States Code, 29 U.S.C. 2601, et seq.

(Rule 3.10 adopted by the Personnel Board on October 28, 1993. Rule 3.10, RESIGNATION, renumbered as 3.11 and Rule 3.11, REINSTATEMENT FOLLOWING RESIGNATION, renumbered as 3.12.)

DONATION OF ANNUAL LEAVE AND/OR SICK LEAVE TO FELLOW EMPLOYEES. 3.11 Any full time employee may voluntarily donate a portion or all of his accumulated annual leave and/or sick leave to another full time employee in the same jurisdiction provided the following conditions are met:

- I. 1. The donor employee must be at an equivalent or higher rate of pay than the donee employee.
2. The donor employee may donate not more than eighty (80) hours of sick leave and/or annual leave per year to one or more qualified employees in increments of eight (8) hours at any given time.
3. A leave donation form must be completed and signed by the donor employee and the Appointing Authority¹, and the same must be submitted to the Personnel Director for approval.

¹ It is the intent of this provision that the approval of the Appointing Authority shall not be unreasonably withheld.

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II. The recipient (donee) of the leave donated must meet the following criteria:

1. The illness of the Donee, or the illness of a member of the Donee's immediate family, must be classified as a catastrophic illness or injury. A catastrophic illness or injury is defined as one in which full recovery is not expected or in which an extensive period of not less than (6) weeks of recuperation is anticipated².
2. The Donee, or a member of the Donee's immediate family, must execute and deliver to the Personnel Director an application for donation of leave and attach thereto a statement from the treating physician containing the diagnosis, prognosis, treatment and expected length of recovery to the initial leave request form, and furnish periodic updated documentation when requested.
3. All accrued annual leave, sick leave and compensatory time of the Donee must be completely exhausted before the Donee is entitled to any donated leave.
4. All annual leave and/or sick leave accruals earned by the employee must be used as they are accrued, before using donated leave.
5. A maximum of 2080 hours can be donated to any one employee during each occurrence of a catastrophic illness.
6. The application for donated leave must be submitted in writing³, signed by the Donee, or a member of his immediate family, and approved by the Appointing Authority and the Personnel Director.

III. Transfer of Donated Leave

1. The Personnel Director shall administer and enforce the Donated Leave Program for all jurisdictions under the Mobile County Personnel Board. The Personnel Department shall prepare the necessary forms together with instructions for the implementation of this program.

² The use of the donated leave shall be applied in the same manner as sick leave is applied under the provisions of Rule 3.5.

³ All applications shall be submitted on forms approved by the Personnel Director.

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2. Where there are multiple donors, no more than eight (8) hour increments shall be taken at any one time from a single donor until such time as all donors shall have given an equal amount of leave. It is the intent of this provision, and in the interest of fairness, that an equal amount of donated leave ought to be taken from each donor for use by a single Donee where practicable. Circumstances, however, may negate equal increments of leave. In such instances, the decision of the Personnel director shall be final.

(Rule 3.11 adopted by the Personnel Board on April 6, 1995. Rule 3.11, RESIGNATION, renumbered as 3.12 and Rule 3.12, REINSTATEMENT FOLLOWING RESIGNATION, renumbered as 3.13.)

RESIGNATION. 3.12 An employee who wishes to resign from the service in good standing shall submit his resignation in writing to his Appointing Authority or department head not less than 80 work hours, for those employees on a forty (40) hour work week, and for those employees whose work week is based on the average work week of 56 hours, they must give 112 work hours notice before resignation can be in good standing. The Appointing Authority shall forward the same to the Director forthwith. Any employee who leaves the service without giving notice as required herein shall be ineligible for reinstatement, except that, under unusual conditions, the requirements of the foregoing rule may be waived when, in the judgment of the Director, the circumstances warrant such action.

(Rule 3.12, RESIGNATION, amended by the Personnel Board on November 4, 1980.)

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REINSTATEMENT FOLLOWING RESIGNATION. 3.13 Any person who has held a position in the Classified Service and has resigned in good standing may, within one year after the effective date of his resignation, make application to the Director for reinstatement to the same relative class and grade of position and rate of pay previously held by him. Upon approval by the Director, his name shall be placed upon the appropriate resignation re-employment list and may remain on such list for a period not to exceed one year. No more than two reinstatements following resignation shall be granted any employee. An employee's limitation as to reinstatement following resignation, as set out in this Rule, does not prohibit the re-employment of a former employee of a particular Department, when such employee has had a year or more of experience within that Department, if re-employment is requested for a temporary period not to exceed four months in duration by the Appointing Authority, recommended by the Director, and approved by the Board.

The limitation of one year may be extended by the Director if, in his opinion, the class of position is one requiring professional training or specialized skill; or if, in the opinion of the Director, the applicant, during the period of separation has engaged in a course of study or has been employed in an occupation or position that would tend to increase his value to the service. The opinion of the Director shall be conclusive and binding upon the applicant.

RULE IV

CLASSIFICATION PLAN

PLAN. 4.1 The Director shall at all times maintain a Classification Plan, which shall consist of a statement or schedule of each class of positions in the Classified Service, separately stated as to each Appointing Authority; and shall maintain a statement of the specifications covering each class of positions. The class title shall be the title of each position in the class and shall be used in personnel, budget and financial records and communications, for payroll records and in requesting certifications of eligibles, and in all administrative processes and documents.

SPECIFICATIONS NOT RESTRICTIVE. 4.2 The specifications shall be descriptive only and not restrictive. They are intended to indicate the basis on which positions are allocated to the several classes as determined by their duties and responsibilities, and shall not be construed as declaring to any extent, or in any way, what the duties or responsibilities of any position shall be, or as limiting or in any way modifying the power of an Appointing Authority to assign duties to, and to direct and control the work of employees under his supervision.

CREATION OF NEW POSITIONS. 4.3 Whenever a new position is to be established, the Appointing Authority shall, upon request, submit to the Director, in writing, a comprehensive statement describing in detail the duties of such position. The Director shall thereupon investigate the actual or suggested duties and report the same to the Board which may classify the position, assigning it to the appropriate class or creating a new class.

AMENDMENTS. 4.4 The Director shall conduct investigations of positions in the Classified Service whenever he believes such inquiries should be made and he shall recommend to the Board a change of classification when he deems the facts sufficient to warrant such action. The Director may, at any time, secure from the Appointing Authority or employee involved a new statement of duties and responsibilities of the position under consideration.

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Whenever a position is assigned to a higher class the Director, after conference with the Appointing Authority concerned, shall determine whether the position shall continue to be held by the incumbent without an examination, shall be filled through a non-competitive promotional test, or shall be filled through a competitive promotional test.

Whenever a position is assigned to a lower class, the incumbent shall have the option of: (a) transferring, subject to the provisions of these rules, to another position of the same class, if there be an existing vacancy in the class; or (b) continuing in the position with a reduction in rating and pay.

REDUCTION IN PERSONNEL. 4.5 Whenever the Director shall recommend to the Board that the number of positions in a department or office be reduced, the Appointing Authority concerned shall be furnished with a copy of such recommendation and be given a reasonable opportunity to be heard before action by the Board.

RULE V

PAY PLAN

PAY PLAN. 5.1 (a) The Director shall at all times maintain a pay plan for the classified service, which shall include minimum and maximum rates for such grade and class of positions. The rate of pay set forth in the plan shall be deemed to include total pay, except for allowances approved by the Personnel Board. The plan shall include for each class of positions, a minimum and maximum rate not inconsistent with the rate or rates as may otherwise in specific instances be fixed by law. The pay shall be based upon a basic salary schedule which shall provide successive salary ranges for rate of compensation by the hour, day, week, bi-week, semi-month, month and year, as well as the overtime rate. Such rates shall be determined in accordance with the following formulae, and all units of pay shall be rounded to the nearest whole cent:

- HOURLY RATE. (For average 40 hour per week employees) = The annual rate divided by 2,080 hours.
- HOURLY RATE. (For average 56 hour per week employees) = The annual rate divided by 2,912 hours.
- DAILY RATE. (For average 40 hour per week employees) = The hourly rate multiplied by 8 hours.
- DAILY RATE. (For average 56 hour per week employees) = The hourly rate multiplied by 24 hours.
- WEEKLY RATE. (For average 40 hour per week employees) = The hourly rate multiplied by 40 hours.
- WEEKLY RATE. (For average 56 hour per week employees) = The hourly rate multiplied by 56 hours.
- BI-WEEKLY RATE. (For average 40 hour per week employees) = The hourly rate multiplied by 80 hours.
- BI-WEEKLY RATE. (For average 56 hour per week employees) = The hourly rate multiplied by 112 hours.
- SEMI-MONTHLY RATE. = The annual rate divided by 24 months.
- MONTHLY RATE. = The annual rate divided by 12 months.
- ACCUMULATED LEAVE RATE. = The annual rate divided by 2,080 hours.

Rule V – Page 2

However, the Budgeting Authority for each Appointing Authority may establish pay ranges, salary steps and number of steps for any given class, provided that parity is continued for public safety employees and that the ranges, salary steps and number of steps are not less than those established by the Personnel Board.

(Rule 5.1(a) amended by the Personnel Board on June 15, 2004.)

ALLOWANCES. 5.1 (b) If any subsistence, quarters, maintenance or other form of allowances to be furnished to an employee, it must be first approved by the Personnel Board.

ENTRY LEVEL EMPLOYEES. 5.2 (a) The pay of all new employees shall be paid initially at the minimum rate set forth in the pay plan for the class of positions which the employee is employed. However, for professional and technical classes of positions, other than public safety officers, at the discretion of the Appointing Authority, the employee may be paid at a rate up to but not in excess of the mid-range of the pay plan established for the professional and technical position. In the event there is no mid-range in a particular jurisdiction's pay plan, mid-range shall be defined as the step that does not exceed the mean, i.e., the middle position between two extremes or midway between the highest and lowest of the ranges.

PROMOTIONAL EMPLOYEES. 5.2 (b) Upon promotion, employees shall receive not less than two steps or 10%, no more than the maximum rate established for the class at the discretion of the Appointing Authority, with the exception of the Mobile Fire Department, in which case, promoted employees shall receive two steps or 10% unless it would exceed the maximum.

(Rule 5.2 amended by the Personnel Board on April 15, 1986.)

(Rule 5.2 amended by the Personnel Board on July 2, 1991.)

(Rule 5.2 amended by the Personnel Board on June 15, 2004.)

(Rule 5.2 (b) amended by the Personnel Board on August 5, 2008.)

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CHANGES IN ENTIRE PLAN. 5.3 Changes in the basic salary and wage schedule or changes in the pay plan of one class or of any number of classes, including rates of pay for new classes of positions, shall be made only upon order of the Board; provided that the governing body of Mobile County or of any municipality shall be empowered to adjust the plan by uniformly decreasing the whole plan one or more ranges as to all classes within its jurisdiction. In such event, for each range of decrease, a decrease of five per centum (5%) shall be made as to all classes the rate of compensation of which is not prescribed by the basic salary and wage schedule. Any change in the basic salary and wage schedule or in the pay plan shall be forthwith certified by the Director to the Appointing Authority and governing body affected.

INDIVIDUAL MERIT INCREASES. 5.4 Salary advancement within a range shall not be automatic but shall be made upon specific recommendation of the Appointing Authority, with a similar recommendation of the Director, and the approval of the governing body. Each advancement shall be based upon quality and quantity of work as indicated by service ratings or other measurements of performance, with due respect to length of service and shall be referred to as merit increases or special merit increases, dependent upon the circumstances. Merit increases and special merit increases may be made in increments of 5% or 2.5%, to be determined by each budgeting authority prior to granting the first merit increase in each fiscal year, with such notification provided to the Personnel Board once the determination has been made.

No merit increase may be made for six months following an original or promotional appointment, except that when it is shown that unusual circumstances justify such action, a merit increase may be made not less than three months following such appointment. Each subsequent merit increase shall not be more frequently than at twelve month intervals, except that when it is shown that unusual circumstances justify such action, an employee may receive two merit increases within a twelve months period, the first of which shall be a merit increase and the second designated a special merit increase. The Director shall report to Personnel Board at its next meeting each special merit increase made and the justification therefor.

(Rule 5.4 amended by the Personnel Board on December 2, 2003.)

(Rule 5.4 amended by the Personnel Board on August 5, 2008.)

RULE VI

ENTRANCE TESTS

SCOPE. 6.1 The Director shall prepare and conduct tests to establish employment registers for the various classes of positions in the Classified Service. The tests may be written or oral or any other demonstration of merit, efficiency and fitness of the applicants as the Director may determine. The questions to be used in the tests shall be kept confidential.

PUBLIC NOTICE REQUIRED. 6.2 All tests for entrance into the Classified Service shall be open and competitive. Public notice shall be given at least two weeks in advance of the holding of any test. Such notice shall specify: (1) the date, time, and place of the examination; (2) the title or class of the position and salary; (3) the period during which applications will be received; (4) age limits, physical qualifications and citizenship requirements, if any; (5) minimum qualifications as to experience and education; (6) a general description of the duties; (7) the weights to be assigned the different elements of the test; and any other information deemed pertinent.

PHYSICAL LIMITS. 6.3 The Director, after consultation with the Appointing Authority and with the approval of the Board, shall establish height, weight and age limits for positions requiring particular physical ability.

QUALIFICATIONS AND WEIGHTS. 6.4 The Director shall determine the minimum qualifications which an applicant must possess before he is eligible to participate in an examination and shall prescribe the relative weights to be assigned for the written test, for training and experience, and for the oral examination. Such information shall be contained in the public notice of the examination.

APPLICATIONS. 6.5 All citizens who appear to meet the requirements set forth in the public notice are eligible to apply for examination upon filing the prescribed application within the time required. Application forms will be furnished at the offices of the Personnel Department.

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LABOR TESTS. 6.6 The Director may provide that examinations for positions in the labor class shall consist solely of a rating for experience, physical qualifications and diligence, to be determined by such evidence and in such manner as may be prescribed. Applicants may be required to perform practical tests to demonstrate their manual skill.

SPECIAL REQUIREMENTS. 6.7 In tests for positions the duties of which require special qualifications or skills, the Director may require evidence of a sufficient degree of education, training or experience, and may demand the production of such certificates of competency or licenses as the laws may require for the practice of the profession, art or trade involved.

IDENTITY CONCEALED. 6.8 Each entrant to a written test shall be assigned a number to be used as the sole identifying mark on the test papers. Any test papers bearing the name of the applicant or other identifying marks, except the assigned number, shall be rejected and the candidate so notified. An announcement to this effect shall be made by the examiner at the beginning of each examination.

However, where tests are conducted by the U. S. Civil Service Commission and where identity by name is required in order to perform the functions of the written test administration and computerized scoring of answer sheets, then the name of the applicant may be used.

IDENTIFICATION CARD. 6.9 Each entrant shall be furnished an identification card bearing his assigned number and required to furnish the information requested thereon. Before the close of the written test these cards will be delivered to the examiner in charge who shall seal the same in an envelope in the presence of witnesses. After the grading of the papers has been completed, the seals on the envelope containing the identification cards shall be broken in the presence of witnesses and the papers identified. Each entrant shall be notified of the result of his examination.

Rule VI – Page 3

TEMPORARY EMPLOYMENT. 6.10 Entrants shall be advised that an employment register for temporary employment and an employment register for permanent employment will be established as a result of the test, and they shall be instructed to state on the identification card whether they will accept temporary employment and that no names will be placed upon the temporary employment register except those who have signified a desire for such employment. Refusal to accept temporary employment will not affect an eligible's opportunity for permanent employment except, as provided by Rule 10.14.

FRAUD. 6.11 When an applicant during a test is found to be using, without permission, any extraneous means of information such as memoranda, pamphlets or books of any kind, the examiner in charge shall take up the test papers of the applicant. The Director shall in all such instances give the papers of the applicant a marking of zero and make notation on the paper explaining such markings and the applicant shall be barred from taking any future examination.

GRADE REQUIRED. 6.12 Each subject shall be marked upon a scale of 100. No applicant shall be placed upon the employment register whose final earned average on the written test is less than 70.

REVIEW OF RATING. 6.13 No request for a review of a rating shall be entertained by the Director unless such request be made within thirty days after notice to the applicant of his rating nor unless the applicant shall specify the matters to which he objects, and no change in ratings shall be made unless some manifest error shall appear; provided that no appointment previously made shall thereby be cancelled.

CANCELLATION OR POSTPONEMENT. 6.14 All examinations shall normally be held on the date fixed in the public notice except that the Director shall have the right to postpone any examination for sufficient cause. The Director may cancel any examination, the holding of which becomes unnecessary because of a change in personnel requirements.

SUPPLEMENTAL TESTS. 6.15 No applicant shall be granted a special or supplementary test, either written or physical, unless the failure of an applicant to appear at the stated test was due to manifest error on the part of the Director or to some cause beyond the control of the applicant. To prevent injustice the Director may, with the approval of the Board, order a special or supplementary examination and the reasons therefor shall be fully spread in the minutes of the Board.

RULE VII

VETERANS PREFERENCE

PREFERENCE GRANTED. 7.1 Preference in examination for those who have served in the armed forces of the United States, to their widows, and to their wives shall be granted in accordance with the following:

WAR VETERAN DEFINED. (a) A war veteran is defined as a person who has served in the armed forces of the United States while the United States is engaged in war, declared or in fact, or who directly engaged in armed conflict other than when the United States was at war, declared or in fact, and who has been discharged or released from such service under honorable conditions.

PEACE TIME VETERAN. (b) A peace time veteran is defined as a person who, in the ten years just prior to making application for a position with the Personnel Board for Mobile County, served as a member of the armed forces of the United States during a period in which persons were being drafted into the armed forces under a Selective Service Act and at which time the United States was not at war, declared or in fact, or whose service was not directly involved in armed conflict other than war, declared or in fact, and who has been discharged or released from such service under honorable conditions.

DISABLED VETERAN DEFINED. (c) A disabled veteran is defined as a war veteran, or, a veteran as defined in paragraph (b) hereinabove whose disability is the direct result of extra hazardous duty and who has been accorded by the Veterans Administration and has at the time of said application a disability rating of more than 10%; provided the disability was incurred in line of duty and was not the result of misconduct.

WIDOW OF WAR VETERAN DEFINED. (d) A widow of a war veteran is one who is the widow of a war veteran as defined in paragraph (a) hereinabove and who has not re-married.

OPEN COMPETITIVE EXAMINATION. (e) Preference will be confined to open competitive examination for entrance into the Classified Service.

PASSING MARK REQUIRED. (f) Veterans, wives of disabled veterans, and widows of veterans shall be required to obtain a passing mark of 70% in competitive tests before being entitled to preference.

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PREFERENCE IN FORM OF CREDITS. (g) Preference shall be granted in the form of credits to be added to the earned ratings in examinations of disabled veterans, wives of disabled veterans, and widows of war veterans by adding ten (10) points, and by adding five (5) points to the earned ratings of war veterans or peace time veterans; provided that no preference shall be granted to the wife of a disabled veteran if such veteran is gainfully employed or has been gainfully employed within three months prior to the date of her application for examination.

RULE VIII

EMPLOYMENT REGISTERS

ESTABLISHMENT. 8.1 An employment register containing the names of all applicants who successfully passed the prescribed tests listed and ranked in order of their final earned average, from highest to lowest, shall be established as a result of each examination. Whenever two or more applicants have a like final earned average their names shall be entered on the register in the order in which their applications were filed.

TERMS. 8.2 The term of a register shall normally be fixed at one year from the date of establishment provided, however, that the term of any register may be extended or terminated at any time, or any register may be revived if, in the judgment of the Board, the interests of the public service would be best served by such action.

COMBINING REGISTERS. 8.3 If a new register is established before the termination of an existing register, the names of those on the existing register not competing in the test by which the new register is established shall be transferred to the new register, being ranked thereon according to the final earned average attained in the test in which they competed. In no event, however, shall an applicant's name remain on a register in excess of two (2) years as the result of one examination.

(Rule 8.3 amended by the Personnel Board on October 28, 2004.)

MILITARY SERVICE OF ELIGIBLES. 8.4 Any person whose name appears on an employment register and who fails to receive certification to an Appointing Authority by reason of his active service in the military establishment of the United States shall retain his rights on the employment register for the period of his active service; if the register is abolished or is exhausted during his term of service, he shall be placed on a separate register upon his discharge from military service and will then be certified, in order, to any vacancy occurring in the class for which the original register was established. This specially created separate employment register shall last for a period of one year from date of honorable discharge, and shall be created upon receipt by the Director of written application of the candidate substantiated by proof of his honorable discharge.

Rule VIII – Page 2

ELIGIBILITY FOR DIFFERENT CLASSES OF POSITIONS. 8.5 The name of an eligible may appear on more than one register, but upon appointment to a permanent position his name shall be removed from all registers of an equal or inferior class or grade to the class to which he was appointed, unless he requests otherwise.

CAUSE FOR REMOVAL. 8.6 The name of an eligible may be removed from the employment register for any of the following causes, and the eligible shall be so notified if his whereabouts are known: (a) refusal or failure for three days to comply with the request of the Appointing Authority to report for interview following certification; (b) failure to respond to notice from the Director, or the inability of postal authorities to effect delivery of mail; (c) failure to notify the Personnel Department of a change of address; (d) refusal to accept appointment under such conditions as the eligible previously indicated he would accept; (e) failure to meet the requirements prescribed in the original or amended specifications applying to the class; (f) evidence that the eligible has been guilty of misconduct or has become incapacitated subsequent to the establishment of the register; (g) because of false statements made in his application or other similar reasons.

An eligible whose name has been removed from a register by the Director shall have the right, within ten days after notice, to appeal from the action of the Director by filing with the Board a request for a hearing. Such request shall be in writing and recite the reasons upon which the appeal is based.

TRANSFER TO ANOTHER REGISTER. 8.7 The name of an eligible may, during the term of a register, upon written request be transferred to a register for a lower class or position requiring qualifications of the same general character. He shall be ranked thereon according to the final earned average attained in the test in which he competed.

**RULE IX
PROMOTION**

POLICY. 9.1 Vacancies in classes of positions above the lowest class shall be filled, as far as practicable and as in the judgment of the Director is consistent with the best interests of the service, by promotion following competitive tests. Promotional tests shall be open to employees occupying lower positions in the series who meet the requirements set forth in the examination notice and who have demonstrated superior ability to perform the duties of their positions. Such ability may be determined by service ratings or such other evidence as is prescribed. Admittance to promotional tests will ordinarily be limited to qualified employees holding positions in the next lower class; however, the Director may admit additional classes in the series in order to secure competition. Provided, that in no case shall the standards as set forth in the specifications be lowered for the purpose of promoting any person who lacks the required qualifications.

NOTICE. 9.2 At least seven days notice shall be given prior to the holding of a promotional test by posting a notice thereof on the bulletin board maintained at the offices of the Board, and by delivering copies of such notice to all departments in which there are employees eligible to compete in the tests. Among other things the notice shall set forth the requirements as to length of service and ability and the manner in which they are to be determined; and the relative weights to be allowed for the various elements of the tests.

PROMOTION LIST. 9.3 The names of the applicants successfully passing the test shall be entered on a promotion list in order of rank according to their final earned average. The term of a promotion list shall normally be fixed at one year from the date of establishment provided, however, that the term of any promotion list may be extended or terminated at any time, or any promotion list may be revived if, in the judgment of the Board, the interests of the public service would be best served by such action.

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CERTIFICATION. 9.4 When a vacancy is to be filled from a promotion list, the Director shall certify the names of the ten (10) ranking eligibles, or such lesser number as remains thereof, and the appointment shall be made therefrom; except that, if there are one or more eligibles on that promotion list from the department in which the vacancy exists, certification may be limited to the ten (10) ranking eligibles, or lesser number thereon, from that department provided the Appointing Authority can show to the satisfaction of the Director that the best interests of the public will be served.

(Rule 9.4 amended by the Personnel Board on September 27, 1990.)

(Rule 9.4 amended by the Personnel Board on May 5, 1994.)

PROMOTION WITHOUT EXAMINATION. 9.5 The Director may permit the promotion without further examination of any employee who, having passed a test of as high a class as the position to which promotion is proposed, has been certified to, and has accepted an appointment to a position of a lower class. Advancement from one grade to another grade in the same class may be made at the request of the Appointing Authority, subject to the approval of the Director, without a promotion test, provided he shall have shown superior ability to perform the duties of the position of the lower grade.

EXCEPTIONAL PROMOTION NON-COMPETITIVE. 9.6 In case of a vacancy in a position which requires peculiar and particular training and experience which, in the judgment of the Board, may be properly and sufficiently acquired in the office or department in which the vacancy exists but not elsewhere, and it can be shown to the satisfaction of the Board that there is in such office or department an employee who was regularly appointed and who is serving in a lower or different class of position following regular appointment, and whose familiarity with the duties of the position vacant and who ascertained merit in performing or assisting in such work make it desirable for the best interests of the service to suspend competition, the Board may, after a public hearing, approve the promotion of such employee, either without examination or with such tests or evidence of fitness as the Board may see fit to require; however, in the event there is in such office or department two or more employees who meet the qualifications of the position to which promotion is proposed, a promotional examination shall be required.

(Rule 9.6 amended the Personnel Board on November 18, 1993.)

RULE X

APPOINTMENTS AND TRANSFERS

MANNER OF FILLING VACANCIES. 10.1 Vacancies in positions shall be filled in the following order: (1) by transfer within the Classified Service; (2) by re-employment following layoff; (3) by promotion or demotion; (4) by re-employment following resignation; or (5) by certification from the employment register.

No person shall be appointed under any title not appropriate to the duties of the position to which he is appointed.

WAR SERVICE APPOINTMENTS. 10.2 If the United States is at war, or if there exists a national emergency of some duration, which makes for a scarcity of applicants meeting standards of employment in effect prior to the war or national emergency for certain classes of positions, the Board, upon recommendation of the Director, may authorize temporary appointments, which appointments shall be known as War Service Appointments. War Service Appointments shall be made upon such terms and under such conditions as shall be determined by the Director and approved by the Board at the time of authorization of such appointments.

BOND REQUIRED. 10.3 When the position to be filled involves fiduciary or financial responsibility, the Appointing Authority or the Board may require the appointee to furnish a reasonable bond or other security in an amount and form to be fixed by the Appointing Authority or the Board, provided that where the amount and terms of such bond are now prescribed by law, such provisions of law shall remain in effect. The conditions of said bond shall be prescribed by the governing body unless otherwise prescribed by law, and said bond shall be kept by it and the premium on such bond shall be paid by it.

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CERTIFICATION TO REPLACE PROVISIONAL EMPLOYEE. 10.4 Upon the establishment of an employment register for a class or position which is being filled by provisional appointment, the Director shall thereupon make certification to the Appointing Authority in the usual manner and the Appointing Authority shall make the appointment as hereinafter provided within ten days of the date of such certification and the provisional appointment shall terminate. If no appointment shall be made, the provisional appointment shall terminate at the expiration of ten days from the date of certification. The Appointing Authority shall be personally liable for the salary of a provisional appointee for the time such appointee remains on duty over the allotted period.

(Rule 10.5, TERMINATION OF WAR SERVICE APPOINTMENTS, repealed by the Personnel Board on May 5, 1994.)

REQUEST FOR CERTIFICATION. 10.6 Whenever a vacancy is to be filled other than by transfer, promotion or demotion, the Appointing Authority shall make request to the Director in writing for a certification from which to fill the vacancy. The request shall recite the title of the position, the term of employment, the cause of the vacancy, and any other information deemed necessary by the Director. Whenever practicable, such requests shall be made not less than fifteen days prior to the time the new employee is to begin work.

CERTIFICATION. 10.7 Upon receipt of the request of the Appointing Authority, or as early as practicable thereafter, the Director shall certify to the Appointing Authority the required number of names from the appropriate re-employment or promotion list, or, if there is no such list, certification shall be made from the appropriate employment register. Eligibles shall be certified in alphabetical or ranked order, in accordance with the provisions of the law as amended by Section 15, appointments of Act No. 2004-105, enacted by the Legislature on April 8, 2004. That where sex is specified in the request and the Director is satisfied that there is good reason, therefore, certification shall be limited to the sex requested and where residence qualifications are prescribed, only those complying with residence qualification shall be certified. The certification shall contain the name, address, and phone number of the eligibles and any other information which will enable the Appointing Authority to communicate readily with eligibles. A certification shall remain in effect for thirty days. If the certification is not returned to the Director within thirty days, the certification shall be null and void.

However, when any jurisdiction has multiple appointments of ten or more positions from a single certification, the appointing authority may request an extension for an additional 30 days. The request must be in writing stating the reasons for the request, must be received at least one week (5 working days) prior to expiration of the

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initial certification, and must receive approval of the Director. The decision of the Director is final. If the special certification is not returned to the Director upon the completion of the additional thirty days, the certification shall be null and void.

(Rule 10.7 amended by the Personnel Board on June 15, 2004.)

(Rule 10.7 amended by the Personnel Board on June 19, 2007.)

INTERVIEW. 10.8 The Appointing Authority shall notify the eligibles to report at a designated time and place for interview. Failure of an eligible to so report within three days after written notice, or the refusal of an eligible to accept appointment shall be reported to the Director in writing, whereupon the Director, if requested, shall certify additional names until the proper number of eligibles available for appointment has been certified.

APPOINTMENT. 10.9 Appointment shall be made from one of the eligibles certified and the Appointing Authority shall notify the eligible selected of his appointment and shall direct him to the place to report for medical examination and shall designate the place and the date of the beginning of employment provided the medical examination is passed.

The Appointing Authority shall forthwith advise the Director, on the prescribed form, the name of the eligible appointed and the date the appointment is to become effective.

MEDICAL EXAMINATION REQUIRED. 10.10 (A) All appointees to initial permanent positions shall be required to pass medical and physical examinations to include examination for illegal drugs before appointment. Such examination shall be conducted by physicians designated by the Board. The fee for such examination shall be paid by the appointee. The medical and drug certificates shall be made in duplicate and shall be delivered to the Director who shall immediately transmit one copy thereof to the Appointing Authority. No appointment shall become effective until the medical and drug certificates are furnished as required herein.

PERMANENT EMPLOYEES SUBJECT TO CONTINUED DRUG TESTING. 10.10 (B) All permanent employees are hereafter subject to periodic drug testing at the petition of their respective Appointing Authorities and in accordance with the Substance Abuse Prevention Policy adopted by the Board.

(Rule 10.10 amended by the Personnel Board on August 6, 1991.)

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REMOVAL AND RESTORATION OF NAMES FROM REGISTER. 10.11 The names of the eligibles certified but not appointed shall be restored to their proper positions on the employment register, except that when an eligible's name has been certified and refused three times, his name may be removed from the register, but certification to a position of a different or lower class than the class for which the register was originally established shall not be counted as one of such certifications.

TEMPORARY APPOINTMENTS. 10.12 No eligibles shall be certified to a temporary position except those who have declared in writing that they would accept such employment.

TEMPORARY EMPLOYMENT. 10.13 When, for any reason, an incumbent of a position is temporarily absent and the Appointing Authority considers it necessary in the public interest that an additional employee be temporarily employed to perform the duties of the position, the Appointing Authority shall request certification of the Director to meet the situation thus created, and the Director shall make such certification.

TEMPORARY APPOINTMENTS MADE PERMANENT. 10.14 An eligible who has been temporarily appointed from an employment register and who, at the time of said appointment, was one of the first ten eligibles willing to accept said appointment under the conditions and for the period then stated, may be permanently appointed to said position, irrespective of the number of higher eligibles willing to accept permanent appointment but only on approval of the Board and only when it is shown to the satisfaction of the Board that the fact that the appointment would become permanent was not known to the Appointing Authority at the time the temporary appointment was made.

(Rule 10.14 amended by the Personnel Board on May 5, 1994.)

PENALTY FOR FAILURE TO REPORT AFTER APPOINTMENT. 10.15 Failure of an appointee to report for duty at the time and place designated shall void his appointment and his name shall be removed from the employment register. Provided, that if within ten days after notice to report he shall submit evidence satisfactory to the Director that his failure to report was unavoidable and without fault on his part, his name may be restored to the employment register.

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PROVISIONAL APPOINTMENT. 10.16 The Appointing Authority when nominating persons for provisional appointment shall do so in writing on the form prescribed by the Director. He shall certify that the proposed employment is necessary in the public interest, and that the nominee is not disqualified by reasons of any law regulating public employment.

EMERGENCY APPOINTMENT. 10.17 An emergency as used herein means an unforeseen condition which is likely to cause loss of life or loss or damage to public property, the stoppage of service, or serious inconveniences to the public. No condition of which the Appointing Authority had previous knowledge, or of which, by the exercise of due diligence, he should have had previous knowledge shall be considered as an emergency.

When an emergency occurs the Appointing Authority or department head may appoint one or more persons to remedy the condition at a rate of pay commensurate with the rate commonly paid for the type of service performed. Such appointments shall be reported to the Director on the next business day. The report shall recite: the nature of the emergency; the name of the emergency appointee and the rate of pay promised; the date of appointment and the kind of duty to be performed. No emergency appointment shall continue for more than five work days.

The Director shall review every appointment made under the provisions of this section and report his findings to the Board.

SEASONAL, PART-TIME AND SUPERNUMERARY EMPLOYEES MADE FULL-TIME. 10.18 A regular employee who has served at least one year in a permanent seasonal, part-time, temporary, or supernumerary position may be appointed to permanent full-time or part-time employment in the same classification upon recommendation of the Appointing Authority, concurrence by the Director, and approval of the Board after a public hearing when it is shown to the satisfaction of the Board that such appointment is justified.

In proposing said appointment, the Appointing Authority shall give due consideration to all eligibles, giving attention to such factors as availability, longevity, service ratings, and other factors deemed in the best interest of the Appointing Authority and the general public.

(Rule 10.18 adopted and existing Rule 10.18 renumbered to 10.19, Rule 10.19 to 10.20, and Rule 10.20 to 10.21 by the Personnel Board on November 20, 1984.)

(Rule 10.18 amended by the Personnel Board on March 19, 1985.)

(Rule 10.18 amended by the Personnel Board on April 17, 1990.)

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TRANSFER PERMITTED. 10.19 The transfer of an employee from one position to another position of the same class and grade and character of work and the same rate of pay, may be made as follows: (a) within a department by the Appointing Authority without the approval of the Director, which transfer shall be called a reassignment; (b) from one department to another department upon request in writing of both Appointing Authorities or department heads concerned and with the approval of the Director. The Director shall afford the employee affected an opportunity to be heard before approving the transfer. Such transfer shall be called an organization transfer.

Further, the transfer of an employee from one position to another position of separate classification may be made as follows: (a) when, in the judgement of the Director, with concurrence of the Board, said classifications are sufficiently similar in nature as to duties, requirements, qualifications, and pay; (b) upon the request in writing from both Appointing Authorities concerned; (c) and when said candidate for transfer has served at least three years in his incumbent classification.

Further, in the event that the same rates of pay, as prescribed in paragraph one above, do not exist because of differing pay scales, the rate of pay for the transferee shall be set at the nearest step, upward or downward, existing for the classification in the department to which he is transferred.

WRITTEN WAIVER. 10.20 Employees whose names are certified to an Appointing Authority for promotion to a higher position may voluntarily waive, in writing, his right to such promotion, but no such waiver in writing shall be deemed to be valid unless executed by the employee in the Personnel Department before the Personnel Director or one designated by the Director to accept such waivers.

(Title of Rule X amended and Rule 10.20, DEMOTION, deleted and Rule 10.21 renumbered to 10.20 by the Personnel Board December 4, 1990.)

RULE XI

WORKING TEST PERIOD

ENTRY LEVEL AND/OR INITIAL EMPLOYMENT. 11.1 (A) Every person appointed to an initial position with each jurisdiction for entry into the classified service is a probationary employee with that jurisdiction, and shall be tested by a working test while occupying the position. The period of the working test shall commence immediately upon appointment and shall continue for such time, not less than six months, as shall be established by the Director. At times during the working test period and in the manner as the Director may require, the Appointing Authority shall report to the Director his or her observation of the employee's work, and his or her judgement as to the employee's willingness and ability to perform his or her duties satisfactorily, and as to his or her habits and dependability. At any time during his or her working test period, after the first two months thereof, the Appointing Authority may remove an employee if, in the opinion of the Appointing Authority, the working test indicates that the employee is unable or unwilling to perform his or her duties satisfactorily or that his or her habits and dependability do not merit his or her continuance in the service. Upon removal, the Appointing Authority shall report to the Director and to the employee removed, his or her action and the reason therefor. No more than three employees shall be removed successively from the same position during their working test periods without the approval of the Director. The Appointing Authority may remove an employee within the first two months of his or her working test period only with the approval of the Director. The Director may remove an employee during his or her working test period if the Director finds, after giving the employee notice and an opportunity to be heard, that the employee was appointed as a result of a fraud or error. However, an employee in his or her working test may not be suspended nor otherwise disciplined nor have a right to a predisciplinary hearing inasmuch as the employee does not have a property interest in his or her position until such employee's working test has been successfully completed.

The Director may extend the working test period of any appointee upon the request of the Appointing Authority. The Director's decision shall be in writing and shall be final. If not removed during the working test period of any extension thereof, the employee shall be deemed to have earned permanent status.

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Prior to the expiration of an employee's working test period, unless the employee has been previously removed, the Appointing Authority shall notify the Director in writing whether the service of the employee has been satisfactory and whether he or she will continue the employee in his or her position. If the employee is not to be continued in his or her position, the employee must be provided a copy of the notice and should not be paid for work performed after the expiration of his or her working test period.

If any employee is removed from his or her position during his or her working test period, and the Director determines that he or she is suitable for appointment to another position, his or her name may be restored to the list from which it was certified.

WORKING TEST PERIOD AT PROMOTIONAL LEVEL. 11.1 (B) Every person in the classified service is a probationary employee in each promoted position and shall be tested by a working test period while occupying the promoted position. All provisions of Section XIX (a) (1) and (2) apply to the promoted employee. If an employee is removed from his or her promoted position during his or her working test period, the employee may be restored to the position from which the employee was promoted. However, an employee in his or her working test may not be suspended nor otherwise disciplined nor have a right to a predisciplinary hearing inasmuch as the employee does not have a property interest in his or her position until such employee's working test has been successfully completed.

(Rule 11.1 amended by Personnel Board on June 15, 2004.)

(Rule 11.1(A) and Rule 11.1(B) amended by Personnel Board on March 21, 2006.)

REPORTS. 11.2 At the end of each quarter during the period the Appointing Authority shall report to the Director, on the form provided, his observation of the work and conduct of the appointee.

REMOVAL BY DIRECTOR. 11.3 The Director will approve the removal of an employee during the first two months of the working test period for: insubordination, neglect of duty, misconduct, or any other reason which in the opinion of the Director indicates that retention of the appointee is not in the interest of the public service.

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REMOVAL BY APPOINTING AUTHORITY. 11.4 At any time during his Working Test Period, after the first two (2) months thereof, the Appointing Authority may remove an employee if, in the opinion of the Appointing Authority, the working test indicates that such employee is unable or unwilling to perform his duties satisfactorily or that his habits and dependability do not merit his continuance in the service. Upon such removal, the Appointing Authority shall forthwith report to the Director and to the employee removed, his action and the reason therefor. The Appointing Authority shall set forth in detail in written narrative form the reason for the employee's removal, such written report shall be delivered or mailed to the Personnel Department and a copy thereof delivered or mailed to the employee.

REINSTATEMENT. 11.5 Any employee who is removed from his position during the working test period may, with the approval of the Director, have his name restored to the list from which it was certified. An employee who is promoted to a position and who is removed therefrom by the Appointing Authority during the working test period shall be reinstated in the position from which he was promoted, provided such removal was not for a reason for dismissal as cited in Rule 14.2 (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m). In the event the Appointing Authority does not reinstate the employee in his former position, the employee has ten days from the effective date of his working test termination in which to file an appeal with the Director requesting a hearing before the Personnel Board to determine whether he shall be entitled to such reinstatement. Should the Board determine that the employee's removal was not for a reason for dismissal as cited in Rule 14.2 as aforesaid, the Board shall order the employee returned to his former position. In the event a vacancy does not exist in the former classification, the Board shall create such a position with the understanding that when the next vacancy occurs in such classification such vacant position shall automatically be considered as abolished.

(Rule 11.5 amended by the Personnel Board on August 6, 1985.)

RULE XII

SERVICE RATINGS

PURPOSE. 12.1 Service ratings shall be kept for the purpose of measuring the performance of incumbents of positions of the same class, so that a standard of performance may be established. Unsatisfactory service ratings shall be considered in determining the salary increases and decreases within the limits established by the pay plan; as a factor in promotion tests; as a factor in determining the order of lay-offs when forces must be reduced because of lack of funds or work, and the order in which names are to be placed on re-employment lists; and as a means of discovering employees who should be promoted, transferred or dismissed.

(Rule 12.1 amended by Personnel Board on June 29, 2004.)

RATING SYSTEM. 12.2 In cooperation with Appointing Authorities, the Director shall devise a system of service ratings applicable to each class of positions in the classified service for the purpose of measuring the ability of incumbents of the various positions. The rating shall be designed to show the degree in which each incumbent is qualified to perform the duties of the position the employee occupies.

Rating forms shall be submitted on the anniversary date of the employee's appointment to the position the employee currently occupies and annually thereafter. Rating forms are to be filled out by the employee's immediate supervisor only, dated and signed by the immediate supervisor and reviewed, dated and signed by the supervisor next in line.

It is incumbent upon the immediate supervisor to meet with the employees as often as necessary during the rating period to keep the employee fully advised of any deficiencies including violations of rules or policies, unacceptable attendance records and punctuality, and areas in which improvement is expected, etc. Written documentation shall be kept of each meeting or counseling session held with the employee during the rating period bearing the signature and date of the employee and supervisor.

The completed forms shall be filed with the Director not later than 30 days following the anniversary date of the employee. The Director shall officially notify both the employee and the Appointing Authority of the rating received and recorded at the Personnel Department.

(Rule 12.2 amended by Personnel Board on June 29, 2004.)

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RETENTION OF RECORDS. 12.3 The service rating of each employee shall be entered on the roster. The rating sheets shall be retained for three years after the rating period.

(Rule 12.2 amended by the Personnel Board on March 6, 2003, to become effective July 1, 2003.)

(Rule 12.2 amended by Personnel Board on June 29, 2004.)

RULE XIII

LAYOFF AND RE-EMPLOYMENT

ORDER OF LAYOFF. 13.1 Whenever it becomes necessary in any department through lack of funds or for other causes, to reduce the number of employees in a given class, or to lay off an employee in a given class in order to enable an employee returning from Military Leave to resume his position, provisional, temporary, seasonal, probationary, regular employees having less than one year's service in the class, and regular employees whose last two rating periods were below the rating "Satisfactory Job Performance-Meets job standards on all key aspects of job" shall be laid off first and in the order named; and thereafter regular employees in accordance with their seniority and service ratings as hereinafter provided. If the employee subject to layoff was promoted from a lower class through a promotional test he shall have the right to resume a position in that department in the lower class within the series and such class shall be reduced by laying off an employee in the same manner provided herein.

Seniority credits shall be allowed at the rate of one point per year of service in the class, a fraction of a year after the first year being counted as one year if covering at least six months, a lesser period being disregarded. To the seniority credit add credit for service rating (for this purpose averaging the two most recent annual service ratings) at the rate of four points for "Exceptional Job Performance-Consistently exceeds majority of job standards and is a significant contributor to organization"; two points for "High Quality Job Performance-Meets all job standards and exceeds some job expectations"; one point for "Satisfactory Job Performance-Meets job standards on all key aspects of job"; zero points for "Unsatisfactory Job Performance-Consistently does not perform as expected to meet minimum job standards". Employees will be laid off in inverse order of the combined score thus obtained, the Appointing Authority deciding which employee shall be laid off in the event of tied scores.

(Rule 13.1 amended by the Personnel Board on July 1, 2003.)

(Rule 13.1 amended by the Personnel Board on March 7, 2006.)

NOTICE OF LAYOFF. 13.2 All regular or probationary employees in regular employment shall be given fifteen days' notice prior to the effective date of layoff.

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RE-EMPLOYMENT LISTS. 13.3 A layoff re-employment list for each class of positions shall be established for each department in which employees are laid off. The names of regular and probationary employees who are laid off under the provisions of this rule shall be entered thereon, ranked in order of the combined score for seniority and service, except that employees whose last two service ratings were “Does not meet most requirements and behavior required to perform job at accepted levels of performance” shall be ranked thereon according to service ratings alone.

(Rule 13.3 amended by the Personnel Board on July 1, 2003.)

FILLING VACANCIES. 13.4 When a request for a certification to fill a vacancy is received from the Appointing Authority and there exists for that department a layoff re-employment list for the grade and class of position vacant, the Director shall certify the ranking name thereon for appointment and he shall be appointed to the vacancy. Provided, that if there is no such list for the class of position vacant, but there does exist a list for that department for a higher class in the series, and there are eligibles thereon willing to accept appointment to positions of a lower class, then the Director shall make certification of the names of the three ranking eligibles willing to accept such appointment.

When a vacancy in a department is filled by certification from an existing Layoff Re-employment List for that particular department for a higher class in the series, the person receiving appointment from that certification may be placed on any step of the lower class to which appointed, but not more than the rate of pay he was receiving at the time of layoff.

CAUSE FOR REMOVAL. 13.4 (a) The name of an eligible may be removed from the layoff re-employment list for any of the causes for which an eligible may be removed from an employment register as specified in Rule 8.6, such removal to be discretionary with the Personnel Director. In the event the name of an eligible is removed from the layoff re-employment list he shall be so notified at his last address of record in the Personnel Department. An eligible whose name has been removed from the layoff re-employment list by the Director shall have the right, within ten days after notice, to appeal from the action of the Director by filing with the Board a request for a hearing. Such request shall be in writing and recite the reasons upon which the appeal is made.

(b) The names of all persons laid off in good standing shall remain on a layoff re-employment list for a period of three years, at which time such names shall be automatically removed.

Rule 13.4 amended by the Personnel Board on April 3, 1984.)

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VACANCIES IN OTHER DEPARTMENTS. 13.5 When a vacancy occurs in a department for which no layoff re-employment list exists, but there is in force a layoff re-employment list which, in the opinion of the Director is appropriate to the position, the Director shall make certification therefrom in the same manner as certification is made from employment registers. Provided, that in no event shall the name of any person be certified who does not meet the specifications prescribed for admittance to competitive tests.

RESIGNATION RE-EMPLOYMENT LIST. 13.6 When a vacancy occurs in a department for which no layoff re-employment list exists, and there is not in force an appropriate layoff re-employment list, then the Director shall make certification from a resignation re-employment list for such position, or from a resignation re-employment list which, in the opinion of the Director, is appropriate to the position, and such certification shall be made in the same manner as herein provided for certification from layoff re-employment lists.

WORKING TEST PERIOD. 13.7 An employee appointed from a layoff re-employment list to a position in a department other than which he was laid off shall be required to serve a working test period of six months from date of appointment.

RULE XIV

DISMISSAL, SUSPENSION OR DEMOTION

POLICY. 14.1 It is declared to be the policy of the Board to support the Appointing Authority in enforcing discipline and in demanding courteous and efficient service from public employees.

CAUSE FOR DISMISSAL, SUSPENSION OR DEMOTION. 14.2 The tenure of every employee hereunder shall be during good behavior and the rendering of efficient service, but any employee may be dismissed or suspended for cause. The following are among the causes which shall be sufficient for dismissal, suspension or demotion: (a) absence without leave; (b) commitment of any criminal act; (c) conduct unbecoming an employee in the public service; (d) disorderly or immoral conduct; (e) failure to pay or make proper provision for the liquidation of just debts; (f) incapacity due to mental or physical disability, except as hereinafter noted; (g) incompetency or inefficiency; (h) insubordination; (i) intoxication while on duty or public intoxication while off duty; (j) neglect of duty; (k) negligence or wilful damage to public property or waste of public supplies or equipment; (l) violation of any lawful or reasonable regulations or order made and given by a superior officer; (m) wilful violation of any of the provisions of the Act or these Rules.

In case of mental or physical incapacity due to service connected disability incurred in the Classified Service or while on military leave as provided in these rules, an employee may, with the consent of the Appointing Authorities and department heads concerned, and with the approval of the Director, be transferred to a vacancy in a position in some class not having a higher rate of pay than the class formerly occupied or to a position in a lower class. Should no such vacancy exist, then the Director shall place the employee's name on the layoff re-employment lists for such classes of positions as he determines the employee is qualified to fill and his name shall remain on such lists, if he is not sooner appointed therefrom, for a period of two years.

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PROCEDURE. 14.3 (a) Before any permanent employee is dismissed, suspended or demoted for cause, the Appointing Authority or his designated representative shall afford the employee due process in the form of a pre-disciplinary hearing. Written notice of the reasons for termination, suspension or demotion must be given the employee at least twenty-four (24) hours prior to the pre-disciplinary hearing, at which time the employee must be given the opportunity to respond orally and/or in writing to the charges made before the official, or the designated representative of the official, charged with the responsibility of making the disciplinary decision. The dismissal, suspension or demotion of an employee by an Appointing Authority without having first accorded the employee a pre-disciplinary hearing in accordance with this Rule shall be void and of no force and effect, and shall not be recognized by the Board, except in extraordinary situations as hereinafter specified.

(b) A permanent employee may be dismissed, suspended or demoted for cause without complying with the foregoing pre-disciplinary hearing in the event of "extraordinary situations". Extraordinary situations is hereby defined to include circumstances where an employee's retention would: (1) result in damage to public property; (2) result in injury either to the employee, a fellow employee, or to the general public; and (3) where an employee is confined in jail or prison under a writ of arrest or other judicial process. In any such event, the Appointing Authority shall, nevertheless, furnish written notice to the employee of the specific reasons for termination, suspension or demotion within twenty-four (24) hours of such dismissal, suspension or demotion, by hand delivery to his place of employment or his place of confinement or by certified mail to his address as shown by the records on file with the Personnel Board, and such employee shall also be given an opportunity for an evidentiary hearing before the Personnel Board, as prescribed in Rules 14.2 through 14.8, within twenty-eight (28) days of such action. The foregoing to the contrary notwithstanding, the employee shall forfeit his right to an evidentiary hearing unless said employee files written notice of appeal from such dismissal, suspension or demotion, within ten (10) days after notice thereof in accordance with Section XXII of Act No. 470, and Rule 14.4 herein.

(c) The Director shall prepare and disseminate to all Appointing Authorities and department heads a uniform format for use in pre-disciplinary hearings.

(d) All notices of dismissal, suspension or demotion furnished the Director under the provisions of this rule shall have attached written evidence that a pre-disciplinary hearing was held prior to such action being taken and shall be in writing and shall set forth: (1) the cause of action; (2) the effective date of the dismissal, suspension or demotion; and, (3) any other information deemed appropriate. A copy of such notice shall be mailed or delivered to the Director on the same day that notice is served on the employee.

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APPEAL. 14.4 An employee desiring to appeal from a dismissal, suspension or demotion shall, within ten days after notice thereof, file with the Director, a written answer or explanation of the charges. Such answer shall contain (1) an admission or denial of guilt and, (2) reasons why the action should not become effective. Upon receipt of the appeal, the Director shall forward a copy thereof to the Appointing Authority concerned. The Director shall prepare and have available simplified forms for use by an employee in perfecting an appeal to the Personnel Board from such disciplinary action as aforesaid. The Personnel Department shall, where necessary, assist the employee to perfect such appeal.

INVESTIGATION AND HEARING. 14.5 The Director shall within seven (7) calendar days after receipt of the appeal, investigate to insure proper procedure was followed as set out in Rule 14.3 and 14.4 and report said appeal to the Board. The Board shall schedule a public hearing on the appeal as early as practicable. Notice of the date, time and place of the hearing shall be given to the employee and the Appointing Authority. The parties may be represented by counsel. The Board shall not be bound by the technical rules of evidence but shall seek diligently all the information and evidence bearing on the merits of the case.

ATTENDANCE OF WITNESSES. 14.6 It shall be the duty of the Director to subpoena witnesses other than character witnesses, for or against the employee upon written request of either party to the hearing. Civil Service employees under the jurisdiction of the Personnel Board shall be required to attend and testify without subpoena. In the interest of fairness and justice, the Board may direct that witness testimony be taken by deposition for use in hearings before the Board in accordance with the Alabama Rules of Civil Procedure. The party or parties requesting the deposition shall bear all costs attendant thereto.

DECISION. 14.7 The hearing on appeal shall be de novo, and the Board may rescind, modify, alter or affirm the penalty of action of the Appointing Authority, or may impose such additional or different penalty as may be warranted by the evidence adduced at the hearing. Within fourteen (14) days after the conclusion of the hearing, the Board shall render its decision which shall forthwith be certified to the Appointing Authority and be enforced by him. Copies of the decision shall be delivered to all other parties at interest.

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RECORD OF TESTIMONY. 14.8 The Board may require that testimony introduced at hearings be recorded by a court reporter but same shall not be transcribed except upon further order. However, any party to the hearing may request the Court Report to transcribe such testimony or portions thereof, provided all costs of such transcription is borne by the party requesting same.

SUSPENSIONS. 14.9 As punishment for cause as cited in Rule 14.2 an Appointing Authority may, from time to time, suspend any permanent employee without pay or other compensation after holding the pre-disciplinary hearing as set out in Rule 14.3 (a). No employee may be suspended by the Appointing Authority for a period or periods in the aggregate of more than thirty days in any year of service. However, at the request of the Appointing Authority, the Board may extend the suspension of an employee pending the resolution of criminal charges and under such other circumstances justifying such extension. An employee desiring to appeal from such suspension, as extended by the Board and as provided in this Rule 14.9, shall have the same rights of appeal for hearing before the Personnel Board and the same rights of due process and be subject to the same rules of procedure as provided in Rule 14.4 through 14.8 of these rules.

DEMOTION. 14.10 An employee may be demoted to a position of a lower grade for which he is qualified for any of the following reasons: (a) when an employee would otherwise be laid off because his position is being abolished, reclassified to a higher grade or a lower grade, lack of work, lack of funds; or because of the return to work from an authorized leave of another employee to such a position in accordance with the rules on leave; (b) when an employee is removed during his probationary period following promotion; (c) when an employee voluntarily requests such demotion; and (d) when an employee is demoted for cause.

The procedure outlined in Rule 14.3 through 14.8, inclusive, shall be applicable only for demotions by reason of Rule 14.10 (d) when an employee is demoted for cause.

REVOCAION OF SUSPENSION AUTHORITY. 14.11 The Board will revoke the right of an Appointing Authority to suspend, or set aside a suspension, only when it is clearly shown that this right is being abused or that its continued use by an Appointing Authority is inimical to the best interests of the public.

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CHARGES FILED BY CITIZENS OR TAXPAYERS OR OTHER EMPLOYEES.

14.12 Any person who desires to file charges against an employee, as provided by Paragraph (b) of Section 22 of the Act, shall file such charges in writing, in duplicate, and shall recite therein the specific act or acts of the employee constituting such cause. The Director shall serve a copy of the charges on the accused employee, and shall investigate the same and report his findings to the Board within fourteen days after receipt of the complaint. Within fourteen days after receipt of notice of the complaint, the accused employee shall file, in duplicate, a written answer to the charges. Thereafter the proceedings shall be conducted in the same manner as is provided in these rules for hearings on appeals.

(Rule XIV amended by the Personnel Board on July 6, 1993, to become effective August 1, 1993.)

RULE XV

CERTIFICATION OF PAYROLLS

SUBMISSION AND CERTIFICATION OF PAYROLLS. 15.1 All payrolls shall be prepared and submitted in sufficient copies and upon forms prescribed by the Director in sufficient time for certification by the Director prior to payment of any funds or salaries. All payrolls shall be signed by competent authority as authorized by the Director. The Director, or in his absence, the Deputy Director, shall certify all payrolls in such manner as to comply with the laws and rules of the Personnel Board.

PREPARATION OF PAYROLL. 15.2 Employees' names shall be grouped under captions as follows: (a) Unclassified Service; (b) Classified Service; (c) Provisional Appointees. (The reference numbers used refer to the column of the payroll as numbered above.) (1) Classified employees shall be listed in alphabetical order, surname first; (2) For Classified employees occupying permanent positions, list the position title; for Classified employees occupying temporary positions, list the abbreviation "TA" followed by date of appointment; for Provisional Appointee, list the term "PR" and date of appointment; (3) Any absence from duty shall be recorded herein; (4) The number of days for which pay is due is to be entered in this column; (5) List the rate of pay; (6) List herein the gross amount earned; (7) This column is to be used for deductions for excess pay, supplies maintenance, or accounts; (8) The net amount due is to be shown in this column; (9) Any additional information is to be shown under "Remarks". For payroll purposes, the following abbreviations shall be used: --EMPLOYMENT STATUS: "E" --emergency employee; "LO" --layoff; "ML" --military leave; "PT" -- part-time; "SE" --seasonal; "CL" -- common labor; ABSENCES: "AL" -- absent with leave; "AW" -- absent without leave; "CT" -- compensatory time off for overtime; "IP" -- injured with pay; "L" -- temporary layoff; "MA" -- maternity leave; "MT" -- military training; "SU" -- suspended without pay; "SP" -- sick with pay; "SW" --sick without pay; "V" -- vacation; "S" -- Sunday; "H" -- holiday; "D" -- day off or Saturday; PAY BASIS: "D" -- day; "H" -- hour; "W" -- week; "SM" -- semi-month; "OT" -- overtime payment; "VS" --vacation for the purpose of sick leave.

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The payroll shall bear either one of the following certificates of the department head:

I hereby certify that the following payroll amounting to \$_____ is true and correct; that the services therein specified were actually performed for the (_____) (County or City) by the persons therein named during the time stated; that all absences from duty are recorded thereon; that all persons whose names appear therein have been appointed and employed and have held their position during the period for which pay is claimed in accordance with the law and the rules of the Personnel Board for Mobile County, and that the sums charged thereon are duly authorized.

Department Head

I hereby certify that the following payroll in the amount as shown by the total in the gross pay column is true and correct; that the services therein specified were actually performed for the (_____) (County or City) by the persons named during the time stated; that all absences from duty are recorded thereon; that all persons whose names appear therein have been appointed and employed and have held their position during the period for which pay is claimed in accordance with the law and rules of the Personnel Board for Mobile County, and that the sums charged thereon are duly authorized.

Department Head

(Rule 15.2 amended by the Personnel Board on December 19, 1989.)

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CERTIFICATION PROCEDURE. 15.3 Payrolls shall be submitted to the Personnel Department as early as practicable after the close of the pay period. The Director shall cause each payroll to be checked against the roster and make thereon any exceptions. He shall then certify the payroll by executing a certificate as follows:

"I hereby certify that the name, rate of compensation, and attendance of each employee listed hereon has been verified by the records in this office. The rate shown for unskilled labor does not exceed the common labor rate of pay. Payment is approved except as noted hereon. The amount disapproved for reasons shown is \$_____

Witness my hand this ____ day of _____, 19____."

It shall be the duty of the Director to expedite the checking and certification of payrolls and to transmit them to the proper disbursing officer without delay.

LIABILITY FOR ILLEGAL PAYMENTS. 15.4 It shall be unlawful for any disbursing officer to pay or cause to be paid, either directly or indirectly, compensation to any person, approval of which has been withheld or excepted to by the Director. An Appointing Authority or department head who, by failure to report the absence of any employee or by any other means, has enabled the employee to receive pay in excess of the amount to which he was legally entitled, shall render himself liable for the amount so illegally paid.

When by reason of unreported absences, clerical errors, excess leave or for any other reason, an employee receives excess or illegal pay, the amount of any such excess or illegal pay shall be entered as a deduction on the next succeeding payroll of the employee following the discovery of the excessive or illegal payment.

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REMOVAL OF EMPLOYEES FROM PAYROLL. 15.5 In case of mental or physical disability which prevents an employee from performing the duties of the position to which he has been appointed, and where such employee has exhausted all of his authorized accumulated leave, and refuses to request absence with leave without pay, the Director shall have the authority to remove him from the payroll during the pendency of disability. ¹ After the removal of the employee from the payroll, written notice shall be furnished to the employee and his Appointing Authority of such removal. The employee shall have the right to appeal to the Personnel Board his removal by notifying the Personnel Director in writing within ten (10) days from receipt of such notice. ²

(Rule XV amended by the Personnel Board on May 9, 1995 by the addition of Rule 15.5.)

¹ Nothing herein shall prevent the employee from returning to work provided he has been declared medically fit for duty and meets all requirements of the Laws and Rules of the Personnel Board and with the approval of the Personnel Board.

² The removal of an employee's name from the payroll by the Personnel Director is an administrative function only and does not abrogate the rights, duties or obligations of the employee nor of the Appointing Authority under the Laws and Rules of the Personnel Board, but the same shall remain in full force and effect.

RULE XVI

GRIEVANCE PROCEDURE

STATEMENT OF POLICY. 16.1 It is the policy of the Personnel Board to provide equal opportunity for employment to all citizens and to improve the effectiveness of the public service by recruiting, selecting and retraining the most competent personnel. In so doing, the Board meets its responsibilities to the public, the elected officials and department heads charged with the responsibility of providing the necessary governmental services, and to the public employees. In order that local government can meet the needs of its citizens, it is imperative that there exist an orderly and constructive employee-employer relationship. It is, therefore, the further policy of the Board to continue to use its good offices to encourage and promote such relationship.

PURPOSE. 16.2 It is the purpose of this rule to provide a meaningful and orderly procedure for the resolution of employee grievances. Within the limitations imposed upon the governmental processes by the rights of the public and recognizing that harmonious relationships between the employer and its employees are essential in providing the necessary governmental services, the Board has determined that this can best be accomplished by the promulgation of this rule.

DEFINITIONS. 16.3 The words and terms contained herein shall have the following meanings for the purpose of carrying out the provisions of this Rule.

(a) Personnel Board: The Mobile County Personnel Board.

(b) Grievance Committee: The Grievance Committee provided in Step Two of the Grievance Procedure set forth in this Rule.

(c) Supervisor: The individual having the responsibility of supervising the work product of the employee.

(d) Department Head: The individual in charge of any department, bureau, institution, board, division, or commission, whose employees are under the jurisdiction of the Personnel Board Act.

(e) Personnel Board Act: Local Act No. 470, approved September 15, 1939, 1939 Local Acts of Alabama, and all subsequent amendments.

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(f) Grievance:

(1) Grievance – Inclusions: A complaint by an employee or a representative of an organization or association representing a group of employees under Civil Service concerning reprimands, service ratings, attendance regulations, hours of work, working conditions, any dispute concerning the interpretation or application of rules and regulations governing personnel practices or working conditions, as well as any other personnel matters which are germane to the employee's employment, and which are not specifically reserved to the Personnel Board and Personnel Director under the law and rules of the Personnel Board, or are not reserved to the various governmental bodies under any statutory provisions.

(2) Grievance – Exclusions: Matters dealing with classification, pay, compensation, examination and related actions specifically set forth in the Personnel Board rule and regulations shall not be considered under grievance procedures, but shall be adjusted in accordance with the provisions set forth in the rules and regulations. Any question as to what constitutes a grievance or what should be processed as a matter subject to these rules and regulations, shall be determined by the Director, subject to review of the Board.

(g) Grievant: An employee or representative of an organization or association representing a group of employees under Civil Service who files a complaint.

(h) Working Day: For the purpose of this rule the term "working day" shall mean the normal work day of the employee filing a grievance.

(i) Calendar Day: All the days of the calendar year.

(j) Computation of Time: In computing any period of time prescribed or allowed under this rule, the day of the act, event, or grievance after which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday in which event the period runs until the end of the next day, which is not a Saturday, a Sunday or a legal holiday. A half holiday shall be considered as other days and not as a holiday.

(k) Grievance Committee: A three member Committee composed of a representative of the Personnel Department, a representative of the grievant, and a representative of the employer. The grievant and employer representative shall be selected by the Personnel Department from each of three nominees submitted respectively by the grievant and the employer.

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(l) Relative: For the purpose of this rule "relative" shall mean one who is related by blood or marriage within the fourth degree.

GRIEVANCE NOT TO RESULT IN SUSPENSION OF WORK. 16.4 There shall be no suspension of work because of a grievance, but it shall be resolved in an orderly manner by submission to the grievance procedure hereafter provided for in this rule. No employee shall refuse to work, conduct a slowdown, or engage in a strike, or interfere in any way with governmental operations because of any alleged grievance.

GRIEVANCE PROCEDURE. 16.5 Any grievant may initiate a grievance. In the presentation of grievances, grievants are assured of freedom from restraint, interference, discrimination or reprisal. All adjustments of grievances processed under this Rule shall be retroactive to the time the grievance occurred or as modified by the Personnel Board. The grievant may be represented by counsel or other person of grievant's choosing.

PROCEDURE. 16.6 The following is the exclusive procedure for the settlement of any grievance:

STEP ONE

Any grievant who desires to initiate a grievance must file a complaint in writing, within seven (7) calendar days after the complaint arose. The grievance complaint must be filed with the employee's immediate supervisor, and a copy thereof furnished to the department head or representative, (unless the complaint is against the supervisor, in which case the grievant bypasses the supervisor and files the complaint directly with the department head or designated representative). The employee must be able to show proof of the filing of such complaint with the supervisor, department head or designated representative in order to trigger the time sequence for the processing of the grievance. The department head or a designated representative shall within seven (7) calendar days from receipt of such complaint, arrange a conference on the grievance with the grievant, with or without the supervisor, and such other representatives as the department head and the grievant may desire, in order to ascertain all the facts in the case, the total number of those present at such conference not to exceed five (5) persons for each party. Both the department head and the grievant shall make a good faith effort to resolve the complaint. Within seven (7) calendar days after such conference, the department head shall advise the grievant in writing of the disposition of the complaint, a copy of which shall be transmitted promptly to the Personnel Department, and at the same time the department head shall file a written report with the Personnel Director, with a copy

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being served on the grievant on the same date, setting forth the efforts made to resolve the grievance. This report shall show the date the conference took place, the parties present and steps taken to resolve the grievance, including the response of the grievant. If the department head fails to hold the conference or should a conference be held but no report filed with the Director, the grievant shall have the right to appeal the grievance to Step Two within seven (7) calendar days from the date of the department head's deadline for filing its report, or the settlement or remedy requested by the grievant may be implemented and enforced by the Director and/or by the Board, or the Director and/or the Board may order such conference to be held or impose such other or different settlement or remedy which shall be deemed to be appropriate and justifiable under the circumstances, and in the interest of fairness to both parties. Under extenuating circumstances, a reasonable extension of time may be granted either party by the Director. However, where an employee's service rating is the subject matter of the grievance, it is the policy of the Board not to substitute its own judgment for the Appointing Authority.

STEP TWO

(APPEAL TO GRIEVANCE COMMITTEE)

In order for a grievance to be considered in Step Two, it must be presented in writing by the grievant or a designated representative, to the Personnel Director with a copy to the department head within the time prescribed in Step One above and the department head must have filed the report as provide in Section 16.7 of this Rule and as prescribed in Step One above. The grievance as presented to the Personnel Director shall consist of the statement of the grievance, the statement of the supervisor, if any, and the statement of the department head, if any, stating the employer's position on the grievance.

The grievance shall be heard by a Grievance Committee designated to hear the grievance. The members of the Grievance Committee shall be composed of three (3) individuals, one to be a designated representative of the grievant, to be selected by the Personnel Director from a list of three (3) nominees made by the grievant, one to be a designated representative of the department head to be selected by the Personnel Director from a list of three (3) nominees submitted by the department head, and one to be selected by the Personnel Director exclusive of the Personnel Department who shall serve as Chairman of the Committee. The nominees submitted to the Personnel Department may be civil service employees or may be outside of civil service, provided, however, no person who is a relative of grievant or who is under the same direct supervisory chain of command as grievant shall be eligible to sit on such Grievance Committee. Elected public officials shall also be ineligible to serve on the Committee. In the event one or both parties fails to submit nominees to the Personnel

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Director within seven (7) calendar days from the date of the filing of the complaint with the Director, the Director shall be authorized to complete the selection of the members of the Grievance Committee. Members of the Grievance Committee shall, within fourteen (14) calendar days following their appointment, unless an extension of time has been agreed upon, conduct such hearing as it may determine to enable it to render a fair and equitable decision. The Grievance Committee shall not be bound by the technical rules of evidence but shall seek diligently all of the information and evidence bearing on the merits of the case. The total number of fact witnesses is not to exceed five (5) persons for each party. Character witnesses will not be allowed to testify at Step Two. Within seven (7) calendar days after the conclusion of the hearing, the Grievance Committee shall render its decision in writing which shall forthwith be certified to the grievant, and the department head. Copies of the decision shall be delivered to all parties at interest.

STEP THREE

(APPEAL TO PERSONNEL BOARD)

If such disposition by the Grievance Committee is not satisfactory to either party, either party may appeal such decision to the Personnel Board within seven (7) calendar days following the receipt of the decision of the Grievance Committee, which appeal must be in writing and received at the Personnel Department within the time allowed for the appeal.

The hearing before the Personnel Board shall be de novo and shall follow the same procedure and format as used by the Board in conducting disciplinary hearings appealed directly to the Board.

GOOD FAITH EFFORT. 16.7 Before there can be a hearing by the Grievance Committee at Step Two, the department head must have filed a written report within the time prescribed in Step One above setting forth the effort made to resolve the grievance, which report shall contain the information set out in Step One above.

SCHEDULING OF GRIEVANCE. 16.8 Where practicable, all hearings shall be conducted on the grievant's normal work day.

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CONTINUANCE OF PAY. 16.9 The grievant and his representative shall be allowed their regular rate of pay while attending a hearing on his complaint provided the hearing is conducted on their work day. No compensation shall be allowed where the hearing is conducted on their off days. On the hearing of any grievance filed by a representative of an organization or association representing a group of employees under Civil Service, no more than three (3) employees, in addition to the representative, shall be allowed pay at the regular rate for the time spent at such hearings.

ORGANIZATIONAL AND ASSOCIATIONAL GRIEVANCES. 16.10 Grievances filed by a representative on behalf of an organization or association representing a group of employees may be initiated at the second step of the grievance procedure.

PROPER FORM. 16.11 The Personnel Department shall make available the forms on which any complaint or grievance is made at Step One of the grievance procedure.

APPEAL FORMAT. 16.12 No particular form of appeal to Step Two or Step Three is required provided the notice of appeal is in writing, signed by the appellant. The following or similar language shall be deemed sufficient to effect an appeal:

APPEAL TO STEP TWO:

“The undersigned (Grievant) hereby appeals the decision of the Grievance Committee to Step Two and requests a hearing before a Grievance Committee.”

APPEAL TO STEP THREE:

“The undersigned (Grievant or Appointing Authority) hereby appeals the decision of the Grievance Committee to Step Three and requests a hearing before the Personnel Board.”

TIME OF THE ESSENCE. 16.13 Time is of the essence in the filing and processing of a Grievance under Rule XVI.

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GOOD FAITH EFFORT. 16.14 Good faith efforts in the Resolution of Grievances filed under Rule XVI on the part of both parties is essential.

(Rule XVI amended by the Personnel Board on July 6, 1993, to become effective August 1, 1993.)

(Rule 16.6 (Step One and Step Two) amended by the Personnel Board on February 18, 2003, to become effective April 1, 2003.)

RULE XVII

TEMPORARY DUTY ASSIGNMENTS

TEMPORARY DUTY ASSIGNMENTS. 17. It shall be incumbent upon all Appointing Authorities and/or Department Heads to promptly notify the Personnel Director when an employee in a lower class ¹ has been assigned to assume the duties of the position of a higher class on a temporary basis during such times as the position of the higher class is vacant due to death, retirement, extended illness, resignation or removal of the employee occupying the higher position. In no event shall such temporary duty assignment extend beyond a period of six (6) months. The assumption of the duties of the higher class position shall not entitle such employee to any additional salary, benefits or emoluments of the position.

At such time as the Director receives notice of such temporary duty assignment, if there is an existing register for that classification, a certification shall immediately be sent to the Appointing Authority, an appointment shall be made. In the event there is no current register, the Director shall immediately announce an examination and upon completion, shall furnish a certification to the Appointing Authority, and the Appointing Authority shall promptly make an appointment to the position. In the event the Appointing Authority fails to do so, and the name of the individual being worked in such position appears on the certification, the Personnel Board may order the promotion of that person to the position after holding a public hearing. Should that employee's name not appear on the certification, the Board may order the employee immediately returned to his proper classification, and the Personnel Board shall thereafter make an appointment to the position ².

(Rule XVII adopted by the Personnel Board on April 18, 1995.)

¹ Lower class as used herein is defined to mean a position sufficiently similar in respect to the duties of the position of the higher class, except that the responsibilities and authority of the person occupying the higher position is greater.

² This rule is not applicable to employees working out of class, nor is it intended to recognize, legitimate or authorize any employee to work out of class in derogation of the Laws and Rules of the Personnel Board.