

# Personnel Board of Jefferson County

## The Merit System



## Rules & Regulations

Revised May 2003



# PERSONNEL BOARD OF JEFFERSON COUNTY

## RULES AND REGULATIONS

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## **RULE 1: GENERAL PROVISIONS**

### **1.1 AUTHORITY**

These Rules are promulgated pursuant to the Act and govern the civil service system in each of the following jurisdictions:

- a. Counties with 400,000 or more inhabitants;
- b. Cities with 5,000 or more inhabitants in counties having a population of 400,000 or more inhabitants;
- c. Police officers employed by cities with 2,500 inhabitants, where the cities are wholly located within a county having 400,000 or more inhabitants;
- d. The County Board of Health for counties with 400,000 or more inhabitants; and
- e. The Board of Registrars for counties with 400,000 or more inhabitants.

### **1.2 SCOPE**

Unless provided elsewhere in these Rules or the Act, these Rules apply only to the Classified Service of the jurisdictions covered by the Act and to the employees of the Personnel Board of Jefferson County. The Classified Service is defined as all persons employed by the jurisdictions referenced in Rule 1.1 above. Employees occupying these Positions shall be deemed to be in the Classified Service unless they fall within one of the following exemptions: all persons employed by a city or county board of education; all persons employed by a library board; persons engaged in teaching or in supervising teaching in the public schools; officials elected by popular vote; the judge of any court; a county attorney; the Director of Personnel; the County Health Officer (except as provided under Section 2 of the Act); a private secretary of a member of the governing body and of each official elected by popular vote, except judges; interns, resident physicians, resident dentists, student technicians, and student nurses undergoing training in a county health department or in a hospital maintained by public funds; common laborers (as defined by the Board); part-time members of boards; attorneys, physicians, surgeons, and dentists who, with permission of the Appointing Authority of a governing body, engage in outside similar employment; and the Chief Deputy of an elected official in charge of a branch office as required by law in a separate courthouse within the county (Such courthouse site to be physically separate and a branch of the main courthouse. The exemption shall include, to wit: the Deputy Tax Assessor, the Deputy Tax Collector, the Deputy Treasurer, the Deputy Probate Judge, and the Deputy Sheriff in charge of such branch department).

### **1.3 DEFINITIONS**

Act, Act No. 248 of the 1945 Legislature of the State of Alabama, as amended (commonly referred to as the "Enabling Act").

Appointing Authority. Any person, officer, board, council, commission or other governmental body whose lawful jurisdiction or powers are confined wholly or primarily within

the territorial limits of such county and who or which possesses final power to appoint persons to services, jobs, offices or Positions, the compensation of which is paid in whole or in part from the public funds of such county or from the public funds of a municipality in such county subject to this Act.

Board. The Personnel Board created by the Act.

Certification. The process of submitting the names of one or more Eligible Candidates from an Eligibility List to an Appointing Authority for the purpose of filling a Position in the Classified Service, which, when produced from a Promotional or Open Competitive Eligibility List, shall be provided in random order.

Class or Class of Positions. A Position or group of Positions sufficiently similar in respect to duties, responsibilities and authority such that the same descriptive title may be used to identify all Positions 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 applicants; and that the same schedule of compensation can be made to apply with equity.

Classification. The process of assigning a Position to the appropriate Class in accordance with the Position's duties, responsibilities and authority.

Classified Employee. A person appointed (*i.e.*, hired) by an Appointing Authority for employment in the Classified Service.

Classified Service. Classified Service shall have that definition as set forth in Rule 1.2. The Classified Service is also commonly referred to as the "Merit System."

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Class Specifications. A formal statement descriptive of a Position containing: a) the title and Class; b) a description of the duties and/or responsibilities thereof; and c) the minimum qualifications required of applicants therefor as to education, experience, physical ability and other attributes.

Common/unskilled laborer. A person who performs routine, usually repetitive, manual duties requiring physical exertion, for which there is no defined class in the Classified Service.

Compensatory Time. Leave provided to an employee in lieu of monetary compensation.

County. Jefferson County, Alabama.

Demotion. The transfer of an employee from a Position in one Class to a Position in another Class for which the final Pay Step in the Pay Grade is lower.

Director. The Director of the Personnel Board created by the Act.

Eligible Candidate. An individual placed on an Eligibility List.

Eligibility List. A written record containing the names of those persons who have successfully completed the competitive examination process, listed and ranked in order of their final scores from the highest to the lowest, and who are considered qualified for original appointment to Positions in the Class for which the test was held. (Eligibility List is sometimes commonly referred to as a "Roster of Eligibles" or "Eligibility Register.")

Fiscal Year. Any continuous twelve (12)-month period used by the County as its accounting period.

Full-time. Any Position in which a Classified Employee is regularly scheduled to work at least forty (40) hours per week.

Good Standing. Not subject to any ongoing discipline, or suspension, or investigation into alleged misconduct.

Municipality or City. A village, town or city duly incorporated and not excepted, excluded, or excused from the operation of the Act and within a county subject to the Act.

Pay Grade. The range of Pay Steps for the Class of Positions, as set forth in the Pay Plan.

Pay Step. The specific pay rate within a Pay Grade as set forth in the Pay Plan.

Position. Any job or set of duties in the Classified Service.

Probationary Period. The uninterrupted twelve (12)-month period of paid service following appointment or promotion in the Classified Service.

Promotion. The transfer of an employee from a Position in one Class to a Position in another Class for which the final Pay Step in the Pay Grade is greater.

Public Hearing. A meeting of the Board, open to the public, during which 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. 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.

Regular Employee. A Classified Employee who has completed his or her Probationary Period. A Full-time Regular Employee has the right to grieve or appeal as set forth in these Rules.

Tests. Written and/or oral examinations and/or other methods established by these Rules, the Board, and/or the Director, as herein provided, to determine the merit, efficiency, and general fitness of applicants for Positions.

#### **1.4 PRESERVATION OF RECORDS**

Minutes of Board meetings, active employment lists, and financial records shall be retained for a reasonable length of time, consistent with state and/or federal law. Applications and examination papers of successful candidates shall be retained for the duration of appropriate Eligibility Lists.

#### **1.5 PERSONNEL RECORDS**

a. To ensure the security and confidentiality of personnel records, each Appointing Authority shall protect information in personnel records from unauthorized access, use, modification, destruction, or disclosure. Personnel records must be stored in a reasonably secure manner.

b. All persons whose official duties require access to, and use of, personnel records shall be responsible and accountable for safeguarding those records and for ensuring that the records are secured whenever they are not in use or under the direct control of the Appointing Authority or the Director.

c. Personnel records shall contain only information concerning an individual that is relevant and necessary to accomplish the goals of these Rules or as otherwise required by state or federal law. To the extent any medical information is acquired from an applicant or employee, such information shall be maintained in a separate file.

## 1.6 PUBLIC RECORDS

*Transcript  
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a. Scope. The Classification Plan and the Pay Plans, payrolls, minutes of Board meetings, notices of dismissal and suspensions, and the Rules shall be considered public records. Any other record of the Board shall be held confidential by reason of public policy.

b. Review. Any person seeking review of any public record of the Board shall request such review in writing. The Board shall permit review of such records, subject to reasonable restrictions as to the time, place and manner of such review, taking into account confidentiality, convenience, and related factors. The Board shall charge any reviewing party the reasonable costs associated with such review.

## 1.7 PROCEDURES FOR ADMISSION INTO THE CLASSIFIED SERVICE OF NEWLY ACQUIRED EMPLOYEES

a. Interim Period. If any county, municipality, or Appointing Authority hereafter becomes subject to the provisions of the Act ("New Appointing Authority") and these Rules, a period of sixty (60) days ("Interim Period") shall be allowed the New Appointing Authority in which to prepare for application of these Rules. During the Interim Period, the employees of such Appointing Authority shall continue in all respects to be subject to the previous applicable laws, rules, and policies of the New Appointing Authority.

b. Granting of Regular Status. At the time such New Appointing Authority becomes subject to the provisions of the Act and these Rules, the Board, in its sole discretion, may extend or grant Regular Status to any or all employees of such New Appointing Authority.

c. Admission to Classified Service. If all or a portion of the unclassified service of any New Appointing Authority subject to the Act or these Rules becomes a part of the Classified Service, the Board, in its sole discretion, may extend regular status to any or all such employees, taking into consideration the type of work performed, length of service, and related individual factors.

d. Future Appointments. All future appointments to Classified Positions within the New Appointing Authorities shall be in accordance with the Act and these Rules.

## 1.8 COMPUTATION OF TIME

In computing any period of time prescribed by the Act or these Rules for notice to be filed or perfection of an appeal to the Director or the Board, the day of the act, event, or default

from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a day in which the office of the Personnel Board of Jefferson County is not open to the public, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a day in which the office of the Personnel Board of Jefferson County is not open to the public. When the period of time prescribed or allowed in these Rules is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to do some act or take some proceeding within a prescribed period after the service of a notice or other paper upon him by the Director or the Board and the notice or paper is served upon him by mail, three (3) calendar days shall be added to the prescribed period.

## **1.9 CONFLICTS WITH COLLECTIVE BARGAINING AGREEMENTS**

To the extent any provision in these Rules is inconsistent with the terms of a valid and enforceable collective bargaining agreement between any Appointing Authority and its employees, the terms of such collective bargaining agreement shall control, provided such contractual provision is not inconsistent with the Act or any other state or federal law.

## **RULE 2: RULE MAKING**

### **2.1 AUTHORITY**

The Board, by Public Hearing, may from time to time adopt new Rules, or amend or repeal existing Rules. No change to these Rules shall become effective unless approved by a two-thirds (2/3) majority of the Board (*i.e.*, two (2) members).

### **2.2 NOTICE**

Prior to the adoption, amendment, or repeal of any of these Rules, the Board or the Director shall give at least twenty (20) days Public Notice of the Board's intended action. The Public Notice shall include a brief description of the subjects and issues involved and shall specify a comment period ending not less than ten (10) days prior to the Public Hearing, in which interested persons may present their views in writing on the proposed rule changes. The Board shall consider fully all such written comments respecting the proposed rule changes. It shall be the responsibility of the representative employee association to provide a current name and address for the Board for proper mailing.

### **2.3 DECLARATORY RULINGS**

On the petition of an Appointing Authority affected by a rule, the Board may issue a declaratory ruling with respect to the validity of the rule, its applicability to a specified set of facts, or as to its meaning and scope. The petition seeking a declaratory ruling under this section shall be in writing and shall state with particularity facts sufficient to show that the Appointing Authority is substantially affected by the rule. Any declaratory ruling made by the Board pursuant to this Rule shall not constitute a final order of the Board.

## 2.4 PETITION FOR PROMULGATION, AMENDMENT, OR REPEAL OF RULES

Any interested person may file a petition with the Board to promulgate, amend, or repeal a rule. To be considered by the Board, the request must be in writing, and contain the following:

- a. Specific reasons for the request;
- b. The substance or nature of the request, the proposed text of the new rule and the statutory authority under which the requested action may be taken, if any; and
- c. If the petition is to amend an existing rule, the petition must indicate any existing text to be deleted and include any new text to be added.

Within thirty (30) days of receipt of the request, the Board shall, in writing, either deny the petition or approve the petition for hearing in accordance with this Rule.

## RULE 3: CITIZENS SUPERVISORY COMMISSION

### 3.1 MEMBERSHIP

The membership of the Citizens Supervisory Commission (hereinafter the "Commission") shall consist of the following members:

- a. The Probate Judge of Jefferson County, who shall serve as chairperson of the Commission.
- b. The presidents, or other chief executive officers by whatever name called, of institutions of higher learning in Jefferson County not operated for profit and offering two or more years of instruction in a general level curriculum. These presently include the following:
  - i. The President of the University of Alabama at Birmingham;
  - ii. The President of Birmingham-Southern College;
  - iii. The President of Miles College;
  - iv. The President of Lawson State Community College;
  - v. The President of Jefferson State Junior College;
  - vi. The President of Samford University.
- c. A representative of the municipal employees as provided for in Act No. 684, 1977 *Ala. Acts* (Election and terms of office for employment members shall be in accordance with Section 5 of the Act as amended);
- d. A representative of the county employees as provided for in Act No. 684, 1977 *Ala. Acts*;
- e. The president of the trades council, group, society, or association in Jefferson County with which is affiliated more than one-half of the unions or other organizations of the workers in the organized trades and crafts in the county as provided for in Act No. 684, 1977 *Ala. Acts*;

- f. The president of the largest chamber of commerce situated within Jefferson County as provided for in Act No. 684, *1977 Ala. Acts*;
- g. The president of the Jefferson County Medical Society as provided for in Act No. 684, *1977 Ala. Acts*;
- h. The president of any council of parent-teacher associations of the entire Jefferson County school system as provided for in Act No. 684, *1977 Ala. Acts*;
- i. The president of the National Association for the Advancement of Colored People (NAACP) branches situated in Jefferson County;
- j. The president of the Birmingham Urban League, Inc.;
- k. The president of the Bessemer Association of Women and Youth Clubs;
- l. The president of the Interdenominational Ministers' Alliance of Greater Birmingham.

### 3.2 DUTIES OF CITIZENS SUPERVISORY COMMISSION

a. Meetings. The Commission shall meet no less frequently than twice each year. At least one (1) of such semi-annual meetings shall be held on the third Tuesday in May and the other on the third Tuesday in November.

b. Duties. At each semi-annual meeting, the Commission:

May make such recommendations to the Board as it shall deem in the interest of sound administration of the Act and system;

ii. At the semi-annual meeting in November, shall receive the annual report of the Board;

iii. Shall fill any existing vacancy on the Board and elect a successor to any member of the Board whose term shall expire before the next semi-annual meeting of the Commission; or

iv. Shall review changes to these Rules implemented by the Board pursuant to Rule 2, since the Commission's last semi-annual meeting and may repeal any such Rule(s). The Commission, however, shall not have the power to amend any rule changes made by the Board or create any new Rule. The term "Rule" shall not include orders, actions or decisions made by the Board in the administration of the Act or these Rules.

## RULE 4: THE PERSONNEL BOARD

### 4.1 MEMBERSHIP

The Board shall consist of three (3) members appointed by the Commission. Such appointments shall be for staggered terms of six (6) years. No member of the Board, at the time of appointment or for three (3) years prior to appointment, shall have held public office or political party office, or have been a candidate for public office. Vacancies during unexpired terms shall be filled for the remainder of the term.

#### 4.2 ALTERNATE METHOD OF SELECTING BOARD

If the Commission fails for any reason whatsoever to elect the Board, or fill any vacancy thereon, the vacancy shall be filled in accordance with the Act.

#### 4.3 DUTIES OF THE BOARD

In addition to any duties specifically set forth elsewhere in the Act or these Rules, the Board shall:

- ✓ a. Meet in regular session at least monthly and at other times as necessary to transact the business of the Board;
- b. Promulgate such policies, rules, and regulations necessary to carry out the provisions of the Act and to administer the Classified Service;
- ✓ c. Appoint the Director;
- d. Review, approve, disapprove, or modify administrative actions;
- ✓ e. Hear and render decisions relative to disciplinary and related matters as set forth in the Act and these Rules;
- ✓ f. Conduct hearings investigating the operation and implementation of the Act or the operation of the Classified Service contemplated by the Act; and
- g. Transact such other business within the purview of this Board, consistent with the Act, and these Rules.

The Board shall not take any action unless all three (3) Board members are present. Unless otherwise provided for in these Rules, no Board action shall be effective unless approved by at least two (2) members.

#### 4.4 EXPENSES OF THE BOARD

a. Salaries and Expenses. The salaries and expenses of the Board and the Director, and all other expenses necessary for implementation of the Act shall be paid from the general fund of the County.

b. Allocation of Expenses. At the close of the Fiscal Year, the total amount expended by the Board shall be allocated between the County and the other Appointing Authorities under the jurisdiction of the Act. Such allocation shall be based on the number of Classified Employees on the payroll for each Appointing Authority as of the last day of the Fiscal Year.

#### 4.5 REVIEW OF ACTIONS OF THE DIRECTOR

Any interested party aggrieved by any act of the Director may request in writing that the Board review such action. At its regularly scheduled meeting following receipt of a written request for review, the Board shall either:

*Complaints  
to be written  
to manager to  
be after the fact?*



- a. Conduct the required review and render its decision based on the written request as made and the Director's written reply thereto;
- b. Order that the individual requesting review of the Director's act and the Director submit additional written materials by a date certain, and then proceed to conduct the required review and render its decision at the next Board meeting following receipt of the additional written material requested; or
- c. Order that the individual requesting review of the Director's act (or authorized representative) appear before the Board for oral presentation of the reasons why the Director's actions should be reviewed by the Board.

#### **4.6 LEGAL SERVICES FOR THE BOARD**

Whenever it shall become necessary for the Board to employ legal counsel to enforce the Act or these Rules, or otherwise defend itself in any legal proceeding, the Board may retain the county attorney, the city attorney of any city subject to the provisions of the Act, or independent counsel.

### **RULE 5: DIRECTOR OF PERSONNEL**

#### **5.1 APPOINTMENT**

The Board shall appoint a Director, who shall serve at the will of the Board. The Director shall be experienced in the field of human resources administration and shall administer a scientific and economical personnel system in accordance with the Act and these Rules, and shall carry out the policies established by the Board.

#### **5.2 POWERS AND DUTIES**

In addition to any of the duties and responsibilities specifically set forth in section 12 of the Act and elsewhere in these Rules, the Director shall:

- a. Serve as secretary to the Board and shall be its executive officer;
- b. Appoint or remove such subordinates as may be necessary to administer the Classified Service;
- c. Prepare for approval by the Board, such directives, rules and regulations as needed to carry out the provisions of the Act;
- d. Examine the effectiveness of the Classified Service and compliance with the Act and the Rules, by conducting such necessary studies and inquiries and reporting such findings along with recommendations to the Board for improvements. In connection with such investigations or inquiries, the Director shall have the power to administer oaths, issue subpoenas to require the attendance of witnesses, and the production of records, documents, and papers pertaining to the subject under consideration;

e. Shall have the authority to study the organization, operation, and personnel requirements of the Appointing Authorities and to make recommendations for improvements to the Board or the Appointing Authorities;

f. Shall maintain an official list of all Positions and incumbents in the Classified Service, and maintain the personnel records for all Classified Employees;

g. Establish and administer, subject to approval by the Board, plans for the Classification and compensation of Positions;

h. In cooperation with the Appointing Authorities, promote and assist in the establishment of programs for employee pension, welfare, health and career development; and

i. Appoint a Deputy Director who shall serve at the pleasure of the Director and who shall not be entitled to any appeal or grievance rights set forth in Rules 12 and 15, respectively.

## **RULE 6: EXEMPT EXECUTIVE SERVICE**

### **6.1 EXEMPT EXECUTIVE SERVICE POSITIONS**

a. Limitations. Current legislative authority limits this Rule's application to the City of Birmingham.

b. Placement. The Board has the discretion to place positions under the Exempt Executive Service when an Appointing Authority in a Class 1 municipality (Birmingham only) requests such designation. A position may be considered for placement in the Exempt Executive Service when the position is created or designated for primary policy determination, such as department heads and their chief deputies.

c. The Appointing Authority shall forward its recommendations to the Director (title, job code, and minimum qualifications), and the Director shall review the recommendation and prepare for Board approval a proposed position description, job code, title and minimum qualification requirements.

d. An Appointing Authority will forward applications for vacant Classified Positions in the Exempt Executive Service to the Director, and notify the Director of the intent to fill the vacancy. The Director will review the application for purposes of determining whether the applicant meets the minimum qualifications established for the position. Within twenty (20) days of receipt of all applications, the Board shall render its decision on the list of qualified applicants prepared and presented by the Director. Upon Board approval, the list of qualified applicants will be provided to the Appointing Authority.

e. The Director will also prepare and maintain advisory salary range recommendations based upon current salary surveys.

f. When a Classified Employee is placed into Exempt Executive Service pursuant to this Rule 6.1, the Director may eliminate the vacant Classified Position, prepare a new Certification for the Classified Position in accordance with Rules 10 and 11, or elect to keep the vacant Classified Position open.

## **6.2 EXEMPT EXECUTIVE SERVICE EMPLOYEES**

a. Employees appointed to the Exempt Executive Service serve at the pleasure of the Appointing Authority and have no appeal or grievance rights under Rules 12 and 15 of these Rules.

b. Employees in the Exempt Executive Service shall be members of a pension system available for Classified Employees in the Appointing Authority they serve unless the person elects in writing to forfeit such participation.

c. Classified Employees cannot be placed in Exempt Executive Service positions unless:

i. The Classified Employee voluntarily elects such status by indicating his acceptance in writing. This document will be placed in the employee's official personnel file with the Board.

ii. The Appointing Authority indicates approval of the assignment in writing. This document will be placed in the Classified Employee's official personnel file with the Board.

iii. The Board indicates its approval and such approval is reflected in the minutes of an official Board meeting.

d. A Classified Employee appointed to the Exempt Executive Service shall have the option to return to a Position in the same Class as he or she held prior to transfer into the Exempt Executive Service, provided such individual:

i. Voluntarily elects to return to the Classified Service;

ii. Returns to a Position that was in the same Appointing Authority as the Exempt Executive Service Position at the time of the transfer into the Exempt Executive Service;

iii. Has not had a break in service exceeding one (1) pay period; and

iv. Is in Good Standing.

## **RULE 7: CLASSIFICATION PLAN**

### **7.1 COMPOSITION OF THE CLASSIFICATION PLAN**

The Classification Plan shall:

a. Group together all Positions approximately equal in terms of difficulty, responsibility, and general qualifications, and which can be equitably compensated within the same Pay Grade under similar working conditions.

b. Identify and describe the work to be performed by the various Positions in each respective Class.

c. Contain written specifications for each Class consisting of:

i. A descriptive title consistent with other titles in the Classification Plan;

ii. A brief overall description of the kind and level of work;

write

- iii. Examples of typical duties performed in Positions in the Class; and
- iv. Qualification requirements setting forth the necessary experience, education, license or other special requirements, and the required knowledge, skills and abilities needed in order to perform the work.

d. In preparing any Classification, the Director shall consider each Position's specifications in its entirety, compared to other similar Positions in similar classifications. No single specification will be a controlling factor in placing a particular Position within a classification. Specifications are deemed to be descriptive and explanatory of the kind of work performed and not necessarily inclusive of all duties performed.

## 7.2 RESTRICTION

No person shall be appointed to or employed in a Position under a title not included in the Classification Plan. Working titles used in the course of departmental routine to indicate authority, status in the organization, or administrative rank may be continued in use for those purposes.

## 7.3 ALLOCATION LIST

The Director shall maintain a list showing each Position currently occupied, organized by name of the incumbent appointment and the Position's Class title.

## 7.4 USES OF THE CLASSIFICATION PLAN

The Classification Plan is to be used to:

- a. Recruit and examine candidates for employment;
- b. Determine lines of Promotion;
- c. Develop employee training programs;
- d. Determine, in conjunction with wage surveys and job analysis, salaries to be paid for various types of work;
- e. Determine personnel service items in departmental budgets; and
- f. Provide uniform job terminology understandable by all officials, employees, and the general public.

## 7.5 ADOPTION OF THE CLASSIFICATION PLAN

The Director shall submit a proposed Classification Plan or any amendment thereto to the Board for final approval no later than thirty (30) days following its completion. Upon receipt of the proposed Plan or any amendment thereto, the Board shall hold a Public Hearing upon no less than ten (10) days notice to all Appointing Authorities, Department Heads, Classified Employees, and the public, in order to provide an opportunity for comment. No later than thirty (30) days after the close of the Public Hearing, the Board shall adopt, modify, or return the proposed Classification Plan to the Director for further revisions consistent with the Board's

recommendations. The Classification Plan shall become effective thirty (30) days after adoption by the Board. Upon final approval by the Board, the Director shall certify the Classification Plan, or any amendment thereto, and forward a copy to each Appointing Authority.

#### **7.6 MAINTENANCE OF THE CLASSIFICATION PLAN**

The Director shall maintain the Classification Plan so that it reflects the duties performed by each Classified Employee and the Class to which each Position is allocated. It shall be the duty of the Director to:

- a. Recommend the creation, deletion, or revision of new Classes.
- b. Review the duties and responsibilities of each new Position established and, with approval of the Board, allocate the Position to the appropriate Class. It shall be the responsibility of the Appointing Authority to submit to the Director, in writing, a comprehensive job description describing in detail the duties of each new Classified Position established.
- c. Make periodic studies of Positions in order to determine changes in duties and responsibilities, and on the basis of findings, recommend re-allocation or Re-Classification of Positions. Classification studies may be made at the request of the employee, Appointing Authority, or on the initiative of the Director. Changes in duty assignments must be more than temporary in nature, and the incumbent must be performing the duties for a sufficient duration to warrant investigation.
- d. Direct the grading and classifying of all Positions in the Classified Service at least once every five (5) years.
- e. Notify Appointing Authorities, Classified Employees, and any other person affected by an allocation or re-allocation of Positions and provide them with a reasonable opportunity to be heard by a review panel consisting of the Head of Classification and Pay, the Director, and the Board.

#### **7.7 DISTRIBUTION OF THE CLASSIFICATION PLAN**

- a. Upon completion of the Classification Plan, the Director shall submit a copy of the Classification Plan to each Appointing Authority and a list allocating each Position in the Appointing Authority into the appropriate Class.
- b. The Appointing Authority shall be responsible for notifying Classified Employees as to the allocation of their respective Positions.
- c. A copy of the Class Specification and individual allocation shall be made available to the employee or his representative on request.

#### **7.8 RE-ALLOCATION OF POSITIONS**

The re-allocation of any Classified Position as a result of an amendment to the Classification Plan shall be in accordance with Rule 11.

## **RULE 8: PAY PLAN**

## 8.1 PREPARATION OF THE PAY PLAN

The Director shall, after consultation with the Appointing Authorities and appropriate employee representatives, prepare a Pay Plan setting forth various Pay Grades for all Classified Positions (the "Pay Plan"). In setting the various Pay Grades that constitute the Pay Plan, the Director shall consider the following factors:

- a. Varying degrees of difficulty and responsibility among several Classes;
- b. Prevailing rates of pay and fringe benefits for similar employment in private establishments and other public jurisdictions in the area;
- c. Recruiting experience for the several Classes; and
- d. Financial conditions of the Appointing Authorities.

## 8.2 ADMINISTRATION OF THE PAY PLAN

Each Classified Employee shall be paid at one of the Pay Grades set forth in the Pay Plan for the Position in which he or she serves, in accordance with these Rules and the special provisions for administering the Pay Plan.

a. Minimum Rate. New appointments to the Classified Service shall be made at one of the beginning steps (step 1, 2, 3, or 4) of the Pay Grade for the Position to which the appointment is made. A new appointment at step two (2), three (3), or four (4) of the Pay Grade shall be based on outstanding education and/or experience qualifications of the Eligible Candidate.

b. Authorized Step Increase. An Appointing Authority may not make an initial appointment above step four (4) of the Pay Grade unless requested in writing and approved by the Board. Following recommendation by the Director, the Board may authorize an initial appointment above step four (4) of the Pay Grade when:

- i. There is a lack of available candidates for recruitment at step four (4) of the Pay Grade;
- ii. A former, satisfactory employee is re-employed in the classification formerly held; or
- iii. An Appointing Authority recommends appointment above step four (4) of the Pay Grade, based on outstanding education and/or experience qualifications of the candidate, or the Position to be filled is that of a Department Head, Deputy Department Head, or a high-level professional or administrative Position.

c. Salary Advancement. Salary advancement within established Pay Grades shall be based on meritorious performance on the job and shall be in accordance with the special provisions for administering the Pay Plan. An efficiency review reflecting satisfactory performance shall be required for advancement. Advancement from the first to the second step in the Pay Grade shall be allowed a Regular Employee in a Full-time Appointment (trainees are not included) after the completion of one (1) year of satisfactory service. A Classified Employee

with continued satisfactory service shall be eligible for future one-step annual increases until such time as the Classified Employee reaches the maximum Pay Step for the Pay Grade.<sup>1</sup>

d. Salary Rate Following Promotion Unless requested in writing by an Appointing Authority and approved by the Board upon recommendation by the Director, the new base rate of pay for a Classified Employee who is promoted shall be the greater of:

i. A one step increase in the Classified Employee's Pay Grade at the time of Promotion; or

ii. The entrance Pay Step for the new Position to which the Classified Employee has been promoted.

e. Salary Rate Following Demotion When a Classified Employee is demoted for cause, he or she shall be placed into the Pay Step in the Grade for the position into which he or she is demoted that most nearly results in a five (5) percent reduction in compensation. When a Classified Employee is demoted voluntarily, he or she shall be placed into the Pay Step in the Grade for the position into which he or she is demoted that most nearly approximates the pay step he or she held prior to the demotion.

f. Salary Rate Following Transfer When a Classified Employee is transferred from one department to another, or from one Appointing Authority to another, and/or from one government to another, in accordance with Rules 11.11 and 11.8, respectively, he or she shall be placed into the Pay Step that most nearly approximates his or her previous Pay Step. Such Classified Employee shall not be considered to have been promoted or demoted and his or her anniversary date shall not be changed.

### **8.3 PROCEDURE FOR THE ANNUAL ADOPTION OR AMENDMENT OF THE PAY PLAN**

The Director shall submit a proposed Pay Plan to the Board for final annual approval no later than thirty (30) days following its completion. Upon receipt of the proposed Pay Plan, the Board shall hold a Public Hearing upon no less than ten (10) days notice to all Appointing Authorities, Department Heads, employees, and the public, in order to provide an opportunity for comment. The Board shall adopt, modify, or return the proposed Plan to the Director for further revisions consistent with the Board's recommendations. The plan shall become effective thirty (30) days after adoption by the Board. Upon final approval by the Board, the Director shall certify the Plan, or any amendment thereto, and forward a copy to each Appointing Authority.

### **8.4 INTERIM AMENDMENTS TO THE PAY PLAN**

The Pay Plan may be amended in the interim in the following manner:

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<sup>1</sup> The portion of Rule 8.2(c) providing for annual increases in the last two steps of a Pay Grade shall become mandatory on October 1, 2003. An Appointing Authority may, at its discretion, implement this provision prior to October 1, 2003.

a. By a Governing Body. Except as provided in subparagraphs b(i) and b(ii) below, a Governing Body may raise or lower the basic salary schedule in the Pay Plan only if it applies the same percentage increase or decrease to the entire schedule.

b. Restrictions by a Governing Body to Amend Pay Plan Under no circumstance may a Governing Body raise or lower only certain portions of the Pay Plan on its own accord. A Governing Body shall obtain approval from the Board if:

i. A Governing Body desires to increase the entire schedule within twelve (12) months after the adoption of a new salary schedule; or

ii. A Governing Body desires to increase the entire schedule within twelve (12) months immediately preceding any primary or general election in which members of the governing body are to be elected.

c. By a Governing Body upon Approval by the Board. A Governing Body may change the Pay Grade of one Class or a number of Classes in the pay plan only upon final approval by the Board. If the Board fails to approve any proposal contemplated by this section within thirty (30) days, such proposal shall become operative according to its terms.

d. By the Board. The Board may, upon written recommendation of the Director, any Governing Body, Department Head, or employee representative, amend the Pay Plan, taking into account changes in responsibilities of work of classes, availability of labor supply, prevailing rates of pay, or other pertinent economic factors. The Board shall amend the Pay Plan whenever:

i. The Board adds a new Position to the Classification Plan and fixes the salary grade; or

ii. Every five (5) years, whichever occurs first.

## **RULE 9: RECRUITMENT AND EXAMINATIONS**

### **9.1 RECRUITMENT**

Individuals shall be recruited for appointment from a geographic area as wide as is necessary to ensure well-qualified candidates for the various Classes. Employment in the Classified Service, therefore, shall not be limited to residents of the County.

### **9.2 ANNOUNCEMENTS**

a. Maintaining of List. The Appointing Authorities shall promptly notify the Director of any vacant Position to be filled. The Director shall maintain a Public Notice, updated monthly, listing all vacancies to be filled in the Classified Service ("Vacancy Announcement").

b. Content. Each Vacancy Announcement shall set forth:

i. Periods of application; and

ii. Minimum qualifications and, if known at the time of posting, the Test(s) to be administered and the weights of various components thereof.



c. Announcement Period. The minimum period of time between Public Notice and closing dates for applications shall be fourteen (14) days. The maximum period of time shall be at the discretion of the Director, taking into consideration the number of Positions to be filled, availability of applicants, and the geographical area of recruitment.

### **9.3 ACCEPTANCE OF APPLICATIONS**

Applicants for employment or Promotion shall apply by completing the required application forms, as determined by the Director. Completed applications will be accepted only during the time period stated on the Vacancy Announcement; provided, however, the Director may, under circumstances he or she deems reasonably necessary, extend the application acceptance period beyond the closing date stated on the Vacancy Announcement. The application acceptance period shall not extend beyond the date and time the test begins. The Director may also refuse to test an applicant who has previously taken the same or a similar test within the preceding nine (9) months.

### **9.4 PRE-EMPLOYMENT BACKGROUND SCREENING**

a. An Appointing Authority may conduct permissible pre-employment background screening of all Eligible Candidates certified by the Director, provided such screening is consistent with all applicable state and federal laws and regulations. The Director may conduct permissible pre-employment background screening of his or her subordinates.

b. All pre-employment screening shall be documented and made part of the applicant's file maintained by the Appointing Authority.

c. Any information obtained by the Director or Appointing Authority during any pre-employment screening in this regard shall be considered confidential information available only to the Appointing Authority or the Director in considering an applicant.

### **9.5 DISQUALIFICATION**

Upon the Director's initiative or upon the written request of an Appointing Authority, the Director shall disqualify an applicant or remove a candidate from an Eligibility List, as the case may be, for any one or more of the following reasons:

- a. Failure to meet the minimum qualifications;
- b. Unsatisfactory employment record that demonstrates unsuitability for employment;
- c. False statement of any material fact or practiced deception or fraud in his or her application, examination, or medical history;
- d. Current use of illegal drugs or abuse of alcohol, if the applicant or candidate is not currently participating in a supervised rehabilitation program;
- e. Conviction of a felony under state or federal law;
- f. Conviction of infamous or disgraceful conduct;

- g. Unsatisfactory driving record as evidenced by a pattern, frequency and/or severity of traffic violations, where driving is an essential function of the job applied for;
- h. Failure to report for an interview after Certification to an Appointing Authority;
- i. Failure to respond to any official notice from the Director or an Appointing Authority;
- j. Failure to notify the Board or postal authorities of a change in address;
- k. Certification from the same Eligibility List three or more times without selection by an Appointing Authority;
- l. Exceeds the maximum age prescribed for the Class where age is a Bona Fide Occupational Qualification; or
- m. Any other good cause consistent with the intent and spirit of the Act.

All applicants or Eligible Candidates disqualified shall be notified in writing within ten (10) days of their disqualification. A disqualified applicant or candidate removed from an Eligibility List may appeal to the Board within (10) days after notice by filing a written request with the Director. The Board shall decide any appeal on the written record or such other proceeding, as the Board deems appropriate.

## 9.6 COMPETITIVE EXAMINATIONS

All appointments to the Classified Service, either at the entrance level or the promotional level, shall be made upon the basis of merit, efficiency and fitness of applicants and shall be determined as far as practical and possible by competitive examinations. All announcements and examinations shall be prepared and weighed under the supervision of the Director. Competitive examinations shall relate to those matters that fairly test the relative capacity and fitness of those examined to discharge the duties of the Class.

a. Open Competitive. Any competitive examination in which competition is open to all applicants meeting the announced requirements for the examination constitutes an Open Competitive examination.

b. Promotional. A competitive examination in which competition is limited to current Classified Employees is known as a Promotional examination. Such examinations shall customarily be restricted to employees serving in lower, related Classes and possessing Regular Status. However, additional training, education and/or experience beyond Regular Status may be required as determined by the Director in the best interests of the Classified Service. A promotional examination may include employees in all Appointing Authorities or may be limited to less than all jurisdictions. Such exams may also include all departments or less than all departments within an Appointing Authority. The Director shall in each case determine whether an Open Competitive or Promotional examination will serve the best interests of the Classified Service in attracting well qualified candidates.

c. Qualifying. For certain Classes, where competitive examination is impractical and/or the needs of the service are such to render competition impractical, the Board may provide for qualifying examinations. Such examinations may be limited to Regular Employees

and may consist of an evaluation of the candidate based upon evaluation by a competent authority and physical fitness to perform the work or such other methods as may be determined by the Director, not inconsistent with the intent of the Act and the needs of the Classified Service.

## 9.7 CONTENTS OF EXAMINATIONS

Examinations shall consist of any, all or part of the following items listed in subsections (a) through (h). No question in any test, form or application or any other proceedings, however, shall be framed to elicit the political or religious beliefs of applicants, or shall in any way discriminate for or against an applicant because of his or her age, color, disability, national origin, race, sex, religion, military/veteran status, or any other protected classification under state or federal law.

a. Knowledge Tests. Written or oral Tests designed to measure an applicant's familiarity with subject matter considered essential to successful performance on the job or their general educational attainments that serve as qualifications for the job. A formal essay upon one or more subjects may be required.

b. Ability or Aptitude Tests. Written or oral examinations designed to predict an applicant's ability to perform or learn to perform skills required on the job. These Tests may consist of components designed to measure cognitive, analytic, communication, supervision, psychomotor, or interpersonal skills.

c. Personality or Biodata Tests. Written inventories designed to measure the degree to which an applicant's character or personality traits fit with those deemed important for successful job performance. Such Tests may consist of personality, work styles, experience, or preference inventories.

d. Performance Tests. Tests of performance as would determine the ability and manual skills of an applicant to perform essential functions of the job. These Tests differ from (a) and (b) above in that work samples or work simulations (e.g., in-baskets, assessment centers) are used rather than written or oral Tests.

e. Physical Abilities Test. Tests designed to determine whether an applicant can perform the essential functions of the Class for which he or she has applied, with or without reasonable accommodation; provided, such Tests be related to the Class for which the applicant has applied and consistent with business necessity.

f. Oral Interview. A personal interview of applicants for classes of Positions where ability to deal with others, to meet the public, or other qualifications are to be determined. An oral interview may also be used in examinations where a written test is unnecessary or impractical.

g. Training and Experience. Marked from the statements of the education and experience contained in the application form or from such supplemental data as may be required. Results of the pre-employment background screening, as provided in Rule 9.4, may be a part of the evaluation of training and experience.

h. Additional Promotional Examination Provisions – Seniority Credit. A promotional candidate who attains an overall score of seventy (70) or more on the Tests, shall have added to his or her score one (1) point for each year of service as a Full-time Regular Employee, up to and including twenty (20) years. Suspensions and unauthorized absences shall not be counted in computing seniority credit. In addition, in computing seniority credit, the ending date shall be the final date for attainment of permanent status shown on the announcement. This provision is applicable only to the examination on a promotional basis to Regular Employees who may apply and/or compete in promotional and/or promotional-open competitive examinations.

## **9.8 RATING EXAMINATIONS**

Sound measurement techniques and procedures shall be used in rating test results and determining the relative ranking of Eligible Candidates. In all competitive examinations, the minimum rating standards for each and/or all Tests, parts and/or sections shall be established under the supervision of the Director. Information concerning the type of test(s) and weighting may, but need not, appear on the Vacancy Announcement; however, in all cases the preceding will be announced prior to administering the examination. Eligible Candidates may be required to attain at least a minimum rating on each test component in order to receive a passing score or to be rated on the remaining parts of the examination and/or test. The final score shall be marked upon a scale of one hundred (100). No applicant shall be placed upon the employment register whose final score on the examination is less than seventy (70). The final score of an applicant shall be determined by combining the earned rating on each part of the examination in accordance with the weights established for the examination.

## **9.9 TIE BREAKING OF RATINGS**

Whenever two or more applicants have the same final score, their rank will be the same.

## **9.10 NOTIFICATION OF EXAMINATION RESULTS**

Each person who participates in a competitive examination shall be notified by mail of his or her score.

## **9.11 IDENTIFICATION OF TEST PAPERS**

Every applicant sitting for a written examination shall use a random number provided to him or her by the Director for use in identifying his or her paper. Any test papers not bearing such identification may be rejected and the candidate so notified.

## **9.12 REVIEW**

a. Eligibility to Take an Examination Applicants declared by the Director to be ineligible to take an examination may appeal said decision to the Board by filing a written appeal with the Director, which fully states the basis for review, within seven (7) calendar days from the date the eligibility notices were mailed. The Board shall review the appeal and may, upon

finding sufficient basis of manifest error, revise the rating to permit the applicant to be examined. The Board shall hear such appeals consistent with the procedures described in Rule 12.6.

b. Training and Experience Evaluations. Applicants may appeal their training and experience evaluations to the Board by filing with the Director a written appeal which fully states the basis for review, within seven (7) calendar days from the date the test scores were mailed.

c. Written Examination Scores. Applicants may request review of written examination scores by filing with the Director a written request within seven (7) calendar days from the date the test scores were mailed. The Director's review shall be limited to the accuracy of the scoring procedure and shall not be appealable to the Board.

d. Content of Examinations. Applicants may appeal the content of examinations including testing procedures, fairness of the examination and reasonableness of the examination by filing with the Director a written request to appeal within seven (7) calendar days from the date the test scores were mailed.

Any decision by the Board in accordance with this Rule 9.12 shall be final and not appealable.

### **9.13 CHANGES TO ELIGIBILITY LISTS PENDING APPEAL**

Whenever a review of ratings results in a change in Rank on the Eligibility List, all persons so affected shall be notified by mail. The Director may certify candidates from an Eligibility List during the relevant appeal period if an appeal is filed pursuant to this Rule, so long as no appeal is prejudiced by expediting the Certification; provided, however, the Director shall endeavor to delay, to the extent practicable, the Certification of Eligible Candidates until every appeal is resolved.

### **9.14 FRAUD**

a. If an applicant during an examination is found to be using, without permission, any extraneous information such as another applicant's papers, memoranda, crib notes, pamphlets and/or books of any kind, the applicant's test papers shall be taken and the Director shall have them graded with a zero and shall note on the test papers the reason for such score. Such applicant shall be barred from participating in any future competitive examinations.

b. No person shall:

i. Willfully make a false mark, grade, estimate or report on an examination with respect to the proper standing of any person examined; or

ii. Willfully make any false representation concerning any person examined; or furnish to anyone special or secret information for the purpose of improving or injuring the prospects or chances of the appointment, employment or Promotion of any person examined or to be examined.

iii. Any person violating this Rule shall be disqualified and barred from participating in any future competitive examinations.

## **9.15 CANCELLATION OF EXAMINATION**

The Director may cancel, postpone, reschedule, or re-announce any competitive examination for any good and sufficient reason deemed in the best interest of the Classified Service. All such incidents shall be reported to the Board and shall appear in the minutes with the reason for such action.

# **RULE 10: ELIGIBILITY LISTS, CERTIFICATION AND APPOINTMENTS**

## **10.1 ELIGIBILITY LISTS**

The Director shall establish and maintain the following Eligibility Lists for the various Positions as he or she deems necessary to meet the needs of the Classified Service.

a. Open Competitive Lists. Such lists shall contain the names and final scores in order of rank for those applicants attaining a minimum passing score in a competitive examination. Names shall remain on this list for a period not to exceed one (1) year from the date of approval by the Board unless the list is depleted or extended by action of the Board.

b. Promotional Lists. Such lists shall contain the names and final scores, in rank order, of Classified Employees attaining qualifying scores on promotional competitive examinations and the names of former Classified Employees placed thereon by the reinstatement process found in Rule 10.4. Duration of such lists shall be for one (1) year from the date of approval by the Board unless the list is depleted or extended by action of the Board.

c. Layoff Lists. Such lists shall contain the names of former Regular Employees who separated from various Classes because of a lack of either work and/or funds, whose Positions were abolished as a result of reorganization, or for some other just reason. The names of such former employees shall be placed on a layoff list in the order of seniority. The duration of a layoff list shall be for a period of two (2) years. When there are two (2) or more Regular Employees who are equal in seniority, they shall be placed on the layoff list in the order of their efficiency rating.

## **10.2 AMENDMENTS TO ELIGIBILITY LISTS**

The Director may order recruitment for a new Eligibility List when:

- a. Nine (9) or fewer names remain on an Eligibility List, or
- b. An existing list will provide inadequate Eligible Candidates to meet a specific employment need.

## **10.3 REMOVAL OF NAMES FROM ELIGIBILITY LISTS**

Candidates shall be removed from Eligibility Lists:

- a. Upon employment in the classification for which that Eligibility List exists;
- b. Upon disqualification pursuant to Rule 9.5;

- c. One (1) year from the date they are placed on the Eligibility List;
- d. Upon the expiration date of the Eligibility List; or
- e. Upon refusal by the Eligible Candidate of three (3) or more interviews and/or employment offers.

#### 10.4 REINSTATEMENT

Any former Regular Employee separated from the Classified Service in Good Standing may, within two (2) years from the date of separation, apply to the Director to have his or her name placed on the appropriate Eligibility List for a Position in the same Class or Grade as the Position formerly held. Such request shall be made in writing to the Director, who shall submit his or her recommendation to the Board for final approval. Upon approval by the Board, the name of the former employee shall be placed at the bottom of the appropriate Eligibility List for the duration of such list. Any person appointed in accordance with this Rule 10.4 shall re-enter the Classified Service at the beginning Pay Step for the Class, unless determined otherwise by the Board, and shall serve a Probationary Period of one (1) year. In addition to the foregoing conditions, the applicant for reinstatement must meet the requirements for the Position for which reinstatement is applied. Nothing in this Rule 10.4 shall be construed to interfere with any reinstatement rights under state or federal law, and to the extent this Rule is inconsistent with such state or federal laws, the provisions regarding reinstatement in such laws shall control.

#### 10.5 CERTIFICATION

A "rank" shall include the name or names of all applicants from an Eligibility List having the same final score.

a. Based on the receipt of an authorized requisition from an Appointing Authority, the Director shall certify and/or refer the name of Eligible Candidates from the appropriate Eligibility Lists in the following priority and manner:

i. First, if there are any former Regular Employees from the Appointing Authority on the layoff list for the Position to be filled, the Board shall certify one name from the layoff list, in order of seniority, for each vacancy to be filled, and none other.

ii. Second, if there are no former Regular Employees from the Appointing Authority on the layoff list for the Position to be filled, the Board shall certify the top ten (10) ranking names from the layoff list, regardless of the Appointing Authority from which those Regular Employees were laid off.

iii. Third, to the extent there is a promotional list available, the Board shall select for Certification, in rank order, Classified Employees from the promotional list who are then employed by the Appointing Authority seeking to fill the Position(s). If the list so generated does not include ten (10) ranks, the Board shall certify ranks from the Appointing Authority plus additional ranks from other Appointing Authorities as necessary in order to certify ten (10) ranks from the promotional list.

iv. Fourth, the Board shall select for Certification, in rank order, candidates from the open competitive list.

b. In general, all entry level Positions to be filled from open competitive lists shall be filled by the rule of ten (10) ranks, with one additional rank for each vacancy past the first vacancy (for example, if there are two vacancies, the Board shall certify 11 ranks). If the requested list of Eligible Candidates is for the entry-level Position of Police Officer, Deputy Sheriff, or Firefighter, the Appointing Authority may request the Certification of the names of five (5) different Eligible Candidates for each vacancy. If an Appointing Authority elects to request the Certification of the names of five (5) different Eligible Candidates, the Board will be notified of such election in writing by the same methodology used to request the Certification of Eligible Candidates for other vacancies as set out in these Rules.

c. The names of Eligible Candidates certified to an Appointing Authority from promotional or open competitive lists shall be provided to the Appointing Authority in random order.

d. If an Appointing Authority adopts a comprehensive affirmative action plan consistent with existing federal law, the object of which is to employ into entry-level positions members of protected classes, the Director shall decide the number of eligible protected classes, and the number of eligible candidates to be certified.

#### **10.6 BYPASSING OF NAMES ON ELIGIBILITY LISTS**

a. A Classified Employee who has been suspended for a period of ten (10) working days or more shall not be certified from a promotional list for a period of twelve (12) months following the conclusion of such suspension.

b. Before being certified, an Eligible Candidate may waive, in writing, Certification rights for a period not to exceed six (6) months. Such written request shall set forth in detail the reasons for such request. All such requests must be approved by the Director, taking into consideration the needs of the Classified Service and interest of the Eligible Candidate. During the period for which waiver is granted, such Eligible Candidates will not be certified or considered for appointment.

c. Under no circumstances other than those cited above, or those cited in Rule 9.5 regarding disqualification, or those cited in Rule 10.3 regarding removal from the list, shall any Eligible Candidate be bypassed for Certification.

#### **10.7 SUPPLEMENTAL CERTIFICATIONS**

If at least one rank of Eligible Candidates is completely eliminated from a Certification list, through offers of employment that are declined, through disqualification of formerly Eligible Candidates, or otherwise, the Appointing Authority to whom the list was certified may request a supplemental Certification. A request for supplemental Certification shall be made in writing to the Director. Upon receipt of a request for supplemental Certification, the Director shall verify that at least one rank of Eligible Candidates has been completely eliminated from the original Certification list, and shall certify a new number of ranks sufficient to provide the Appointing Authority with a total of ten (10) ranks of Eligible Candidates.



## **RULE 11: APPOINTMENTS, PROMOTIONS, DEMOTIONS, TRANSFERS, AND ASSIGNMENTS**

### **11.1 REQUISITION FOR VACANT POSITION**

Any Appointing Authority desiring to fill a vacant Position, shall submit a written request to the Director. The request shall provide, at a minimum, a statement of the duties that the Position performs and any additional information known about the Position.

### **11.2 PREPARATION OF CERTIFICATION LISTS**

a. The Director shall review a requisition under Rule 11.1 and prepare a Certification list within a reasonable period of time.

b. The Appointing Authority may make an appointment from the Certification list or, in accordance with Rule 9.5, request disqualification of one or more individuals. Individuals who are currently employed in any jurisdiction within the Classified Service may not be appointed to a Position in another jurisdiction unless the existing employment is ended.

c. The Appointing Authority then has ten (10) days from issuance of the Certification list to make an appointment or provide the Director with written notification that the requisition has been withdrawn and the reasons for the withdrawal. Within ten (10) days after an appointment is made, the Appointing Authority shall provide the Director, in writing, a statement of reasons for the selection.

### **11.3 TYPES OF APPOINTMENTS**

Unless explicitly provided for in these Rules, all Appointments to the Classified Service shall be from an Eligibility List and shall be one (1) of the following types:

a. Full-time Appointment. Appointment to a Full-time Position that requires or is likely to require, uninterrupted employment for a period of more than six (6) months. Candidates for appointment shall meet the requirements set by the Director.

b. Part-Time Appointment. These appointments may be granted for work that requires the service of an employee for less than the number of hours of a Full-time Appointment. Candidates for part-time appointment shall meet the requirements set by the Director.

c. Provisional Appointment. In the absence of an appropriate Eligibility List, the Board may authorize, by unanimous approval (*i.e.*, all three (3) members), the filling of a vacancy by provisional appointment. Any such candidate for provisional appointment must meet all education, experience and related requirements set forth by the Director. Provisional appointments shall be for a period of not more than four (4) months, and no provisional appointment shall be continued for more than ten (10) days after the establishment of any Eligibility List for the class. Any provisional appointee who fails to qualify by competitive examination shall be removed from the provisional appointment after the appropriate Eligibility

*Not in Eligibility Act*

List is certified. The provisional appointment of any individual shall not confer on the appointee any rights of status, appeal or related rights set forth under these Rules.

d. Seasonal Appointments. These appointments may be granted for work seasonal in nature. No such appointment shall extend beyond four (4) months or the work season in question. All candidates to be considered for seasonal appointments shall meet the requirements set by the Director.

e. Students or Interns. Student appointments have the purpose of affording students of public administration and other professional areas an opportunity to gain actual work experience in the public service. Such appointments are viewed as intermittent employment for a definite period of time, not to exceed six (6) months of Full-time work in any twelve (12) month period. Candidates for appointment as students or interns shall meet the requirements set by the Director.

f. Temporary Appointments. Temporary appointments may be granted in extenuating circumstances, not to exceed six (6) months in duration. Candidates for temporary appointments shall meet the requirements recommended by the Director and approved by the Board.

g. Emergency Appointments. Upon receipt of request from an Appointing Authority citing emergency condition(s), the Director may authorize an emergency appointment not to exceed thirty (30) days. The manner of appointment and rate of compensation shall be set by the Director. An emergency as used herein means an unforeseen condition which is likely to cause loss of life, loss or damage to property, the stoppage of service or serious inconvenience to the public. Candidates for emergency appointments shall meet the requirements recommended by the Director and approved by the Board.

h. Federally Funded Positions. Positions created in the Classified Service through any federally financed public employment program convey no rights of tenure or permanency. Employment made available pursuant to such statutes shall terminate at cessation of such federal funding. If an Appointing Authority accepts and utilizes federal funds for the creation of public employment opportunities, Classified Employees occupying such Positions, when budgeted on a full time basis for twelve (12) months, shall be entitled to earn and use sick and vacation leave upon the satisfactory completion of twelve (12) months of continuing employment. Should the applicable federal regulations controlling the use of such funds prescribe unusual or exceptional prerequisites for employment in said program, the Director, subject to approval of the Board, may prescribe the manner in which the Position shall be filled and related conditions of employment.

i. Wartime Appointments. During a war or emergency period, the Director, with the Board's approval, may authorize temporary appointments to Positions for which there are no appropriate Eligibility Lists. Such appointments shall not confer any status or seniority in the Classified Service for any rights under these Rules to persons so appointed. Such appointments shall not continue for a period longer than the duration of the war or emergency period plus six (6) months. A Classified Employee appointed to a higher classification pursuant to this rule shall not obtain any rights or claims to the higher classification but shall retain all rights previously accrued, so seniority shall accrue as if the wartime appointment had not occurred. Candidates for wartime appointments shall meet the requirements set by the Director.

j. Other Types Of Appointments Made Permanent. An Eligible Candidate who has been temporarily appointed to a seasonal or part-time Position from an Eligibility List and who at the time of said appointment was a ranking Eligible Candidate at the time of Certification, willing to accept the appointment under the conditions and for the period stated, may be permanently appointed to said Position irrespective of the number of higher ranking Eligible Candidates available for permanent appointment. Such appointment can be made only when:

i. The Position is a newly created Position and the fact that the said Position would become permanent was not known to the Appointing Authority at the time the temporary, part-time, or seasonal appointment was made;

ii. The incumbent has worked the stipulated time period for which initial appointment was made; and

iii. All permanent appointments arising out of the foregoing provision must be recommended by the Director and approved by the Board.

#### **11.4 USE OF INDEPENDENT CONTRACTORS**

a. Prohibition on Use of Independent Contractors. No Appointing Authority shall retain the services of an Independent Contractor except as provided in this Rule 11.4.

b. Request. Prior to retaining the services of an Independent Contractor, an Appointing Authority shall submit a written request to the Director, along with a copy of any proposed contract(s) or general description of the services to be provided by the Independent Contractor, along with a detailed description as to why the services of the Independent Contractor are necessary. Upon receipt of the request, the Director shall forward the request to the Board for its approval. The Board may grant such request with or without conditions, restrictions, or limitations. The Board shall consider the following factors in reaching its decision on any request made by Appointing Authority:

i. Whether competent persons are available for appointment under the Act or these Rules for performance of the type of work performed, or to be performed, by the Independent Contractor at issue;

ii. Whether the type of work at issue is such as may reasonably be expected to be continuous for an indefinite time, or whether it is recurrent or sporadic in nature;

iii. Whether the work performed, or to be performed, is customarily and generally given to Independent Contractors; and

iv. Whether the Appointing Authority at issue has the physical facilities to perform the work for which the Independent Contractor is to be retained.

c. Definition. For purposes of this Rule 11.4, the term "Independent Contractor" shall mean any person or business entity, not appointed in accordance with these Rules or the Act. The term "Independent Contractor," shall not include any person or business entity retained by an Appointing Authority for the construction of viaducts, bridges, street improvements, sewers, canals, public buildings, or public utilities.

## **11.5 DOCUMENTATION OF APPOINTMENTS**

Personnel action forms relating to any and all employment matters requiring special action and/or approval by the Director and/or the Board under these rules shall be received prior to the effective date of the action in order to assure that there is ample time for review to determine the correctness of the action. Personnel action forms relating to all appointments recognized in these Rules shall be submitted and received in the offices of the Board no later than the pay period following the effective date of the action.

## **11.6 PROBATIONARY STATUS OF APPOINTMENTS**

a. General Rule. Any employment in a Position, whether through an initial appointment or Promotion, shall be subject to the completion of a satisfactory Probationary Period.

b. Following Initial Appointment. A Classified Employee in his or her Probationary Period following an initial appointment may be dismissed, demoted, or suspended for more than five (5) days without the right to grieve under Rule 15 or appeal or under Rule 12.

c. Following Promotion. A Classified Employee who is demoted during the Probationary Period immediately following his or her promotion shall have the option of returning to the Position held prior to the promotion, if still vacant. If the Position is filled, the Director shall determine the manner in which the employee shall be retained in the Classified Service, being closely guided by the provisions in these Rules governing layoffs and reductions in force. The demoted employee shall have the further option of electing to separate from the Classified Service and to have his or her name retained on the layoff list for the Position for a period not to exceed two (2) years.

## **11.7 PROMOTIONS**

Vacancies in Positions above the lowest rank in any category in the Classified Service shall be filled as far as practicable by the Promotion of employees in the Classified Service.

## **11.8 DEMOTIONS**

An employee may be demoted for any of the following reasons:

a. When an employee would otherwise be laid off because his or her Position is being abolished, re-classified 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 does not possess the necessary qualifications to render satisfactory service in the Position he or she holds;

c. When an employee is removed during probation;

d. When an employee voluntarily requests such demotion; or

e. When an employee is demoted for disciplinary reasons or for cause.

All demotions must receive the approval of the Director and the Appointing Authority. If the employee is demoted against his or her will (other than during a probationary period), he or she may appeal to the Board as provided in Rule 12.

### 11.9 INTERGOVERNMENTAL CAREER TRANSFERS

Any person holding permanent status in the State of Alabama Merit System, or holding similar status in the civil service of the federal government, may be appointed without examination to a Position in the same or a similar Class in the Classified Service, provided that any such appointment shall be recommended by the Director and approved by the Board. Individuals making career transfers to jurisdictions under the supervision of the Board shall be afforded all seniority and sick leave accrued with the government prior to the transfer. The Appointing Authority may elect to recognize vacation leave accrued with the government prior to the transfer. Employees transferred under this Rule enter the Classified Service as Regular Employees.

### 11.10 RE-ASSIGNMENT

An Appointing Authority may at any time, upon written approval of the Director, assign a Classified Employee under his or her jurisdiction from one Position to another in the same Class regardless of the shift, location, hours of work, or other consideration as long as the work-week basis remains the same. Such transfers shall be made with the retention of all rights of seniority, vacation, sick leave, and overtime as the employee may have accrued.

### 11.11 TRANSFERS

The Director may, in the circumstances described in this Rule, authorize the transfer of a Regular Employee to another Appointing Authority, provided both Appointing Authorities consent. Transfers may be authorized where: (1) an employee seeks transfer in the same class; (2) an employee seeks transfer from one class to another class for which the employee is on the Eligibility List for the class into which the employee seeks to be transferred, provided that such transfer would not constitute a Promotion as defined in these Rules; or (3) an employee seeks transfer from one class to a class previously held by the employee. Prior to the consent of the Appointing Authorities, and as a condition precedent to authorization by the Director, the Appointing Authority that desires the prospective transferee must submit to the Director a written requisition under Rule 11.1. The Director shall then certify the names of Eligible Candidates and the transferee to such Appointing Authority in accordance with Rule 10. All transfers must be consistent with this Rule and the objectives and purposes of the Act. Individuals who are currently employed in any jurisdiction within the Classified Service may not be appointed to a Position with another Appointing Authority unless the existing employment is ended. The Appointing Authority who receives the transferee may elect to recognize vacation leave accrued with the prior Appointing Authority. The transferee shall retain all sick leave and seniority within the Classified Service.

## 11.12 ASSIGNMENTS

Upon immediate notification to the Director, an Appointing Authority may assign any Classified Employee under its jurisdiction to any duties so long as such duties are within the same Class. No Classified Employee may be assigned duties of a different Class for a period in excess of thirty (30) consecutive days, or more than ninety (90) days in a twelve (12)-month period, without the approval of the Director. If a Classified Employee reasonably believes that an Appointing Authority has assigned him or her to a Position in a Class different from the one in which he or she previously worked, the Classified Employee shall, within ten (10) days such assignment becomes effective, notify the Director in writing and request an investigation. The Director shall then notify the Classified Employee of the results of his or her investigation within ten (10) days.

## 11.13 REDUCTION IN FORCE

*No appeal or grievance right has in sections 7-5A*

If it becomes necessary to reduce staff, the following procedure shall govern the layoff:

- a. The reason for such reduction in force shall be reported in writing and shall identify the number and classes affected.
- b. The Director shall determine in consultation with the Appointing Authorities the organizational units to be affected by the layoff.
- c. If such reduction is departmental, then the reduction in force shall be made by laying off the employee(s) in the classification(s) to be affected in the following order: provisional, temporary, seasonal, part-time, probationary, and Regular Employees on the basis of their relative seniority. If there are two (2) or more Classified Employees who would be affected by the layoff, and have equal seniority, the Classified Employee who stands lowest on the efficiency or performance ratings last regularly filed with the Director, shall be laid off first.
- d. If such reduction is of a general nature, and/or throughout the Appointing Authority, the Director, after consultation with the Appointing Authority, shall determine the manner of layoff, taking into consideration the number and Classes of Positions to be reduced. In all instances, seniority shall govern except in the cases of two or more Classified Employees having equal seniority; in this event, efficiency or performance ratings shall be applied as provided in subsection (c) of this Rule.
- e. When an employee is laid off in a department which has other Classes or Pay Grades lower than the Class or Pay Grade from which he or she is laid off, the employee shall have the option of working in any other lower Class or Pay Grade in the same Department, provided the Director finds that he or she is qualified to perform the duties of such lower Class or Pay Grade, such option being subject, however, to subsections (f), (g), and (h) following.
- f. Should the Appointing Authority reduce the number of Classified Employees in the Class or Pay Grade into which a Classified Employee moves under Rule 11.13(e), the reduction shall be made consistent with Rule 11.13, except that the movement of an employee under Rule 11.13(e) shall not result in the layoff of any Regular Employee with more seniority in the department.

g. The duties performed by the Classified Employee or Employees so laid off may be assigned to any other Regular Employee or Employees in the department or office who, in the opinion of the Director, are qualified to perform such duties regardless of the specific Class or Pay Grade to which such Classified Employees are allocated.

h. Any Classified Employee to be affected by layoffs shall be given a minimum of fifteen (15) days notice.

i. Any Classified Employee laid off pursuant to this Rule shall be placed upon the appropriate Layoff List and shall be treated in accordance with Rules 10.1(c) and 10.5.

#### 11.14 RETIREMENT

To the extent consistent state and federal law, an Appointing Authority may adopt a mandatory retirement age of not less than seventy (70) years for Classified Employees serving in the capacity of firefighter or law enforcement officer.

### RULE 12: DISCIPLINARY ACTIONS AND APPEALS

*For cause - spells out  
appeal procedure.*

#### 12.1 DISCIPLINARY POLICY

The tenure of every Classified Employee shall be conditioned upon his or her satisfactory conduct and efficient performance of assigned duties and responsibilities. A Regular full-time employee who has been dismissed, demoted, or suspended for more than (5) days for cause, or for any other reason deemed to be in the best interest of the public service shall have the right of appeal as set forth in the following provisions. A suspension of five (5) scheduled working days or less is not appealable to the Board. A Regular full-time employee may appeal a single suspension of more than five (5) days or multiple suspensions which together exceed ten (10) working days in a twelve (12) month period.

#### 12.2 DEFINITION OF "FOR CAUSE"

The following reasons shall constitute "for cause:"

- a. Absent without leave;
- b. Commission of a criminal offense;
- c. Conduct unbecoming a Classified Employee;
- d. Conviction of a criminal offense or of a misdemeanor involving moral turpitude;
- e. Disorderly or immoral conduct;
- f. Abuse of leave policies;
- g. Incompetence or inefficiency;
- h. Insubordination;
- i. Reporting to or engaging in work while under the influence of alcohol or a controlled substance;

- j. Neglect of duty;
- k. Negligence or willful damage to public property or waste of public supplies or equipment;
- l. Violation of any rule or regulation of the Appointing Authority, or failure to comply with instructions made and given by a superior officer or supervisor;
- m. Willful violation of any of the provisions of the Act or of these Rules;
- n. Refusal of a Classified Employee to cooperate in any internal investigation conducted by the Board, the Director, or an Appointing Authority;
- o. Inability to perform the essential functions of the job with or without reasonable accommodation; or
- p. For any other reason deemed to be in the best interest of the public service and consistent with these Rules.

### 12.3 NOTICE AND SERVICE

a. Notice. Notice of termination, suspension for more than five (5) days, or demotion shall be in writing and shall set forth:

- i. The factual basis for the action to be taken;
- ii. The date termination, suspension, or demotion is to become effective; and
- iii. Any other information deemed appropriate.

b. Service on Employee. The notice shall be served on the employee with a copy to the Director. Service may be in person or by U.S. Mail, or both. Provided, if service is by U.S. Mail, deposit of the notification in the U.S. Mail no later than the effective date of the action shall constitute service. Evidence of such timely mail deposit shall include any form of mail receipt or a sworn affidavit of the server.

c. Service on the Director. A copy of the written notice shall be served on the Director within three (3) business days of the effective date of the action. Provided, if service is by U. S. Mail, it should be mailed to the Director at the same time as to the employee. Deposit of the copy in the U. S. Mail within three (3) business days of the effective date of the action addressed to the Director at the Board offices shall constitute service. Evidence of such timely mail deposit service shall include any form of mail receipt or a sworn affidavit of the server.

d. Failure to Serve. A failure to satisfy the service requirements herein may be grounds for dismissal of the charge, upon appeal by the employee. Provided, the Board may waive such failure upon a showing of good faith effort or other good cause as the Board may determine.

### 12.4 APPEAL PROCEDURE

An employee shall have the right to appeal his or her termination, suspension, or demotion, but only in accordance with these Rules. An employee desiring to appeal shall within



ten (10) calendar days after notice thereof, file with the Director, in duplicate, a written answer to the charges and request a hearing.

a. Content. Only a Regular Employee or his or her designated representative may file an appeal. Appeals may be in any format, including letter form, but they must contain the following information:

i. The name, address, and telephone number of the person filing the appeal, and the name and address of the Appointing Authority that took the action being appealed;

ii. A description of the action the Appointing Authority took and its effective date;

iii. A concise statement of the reasons why the employee believes the action by the Appointing Authority is wrong; and

iv. The signature of the employee or his or her representative.

b. Service. Within five (5) days of receipt of the appeal, the Director shall mail a copy of the appeal to each party to the proceeding other than the employee.

## **12.5 LIMITS ON APPEAL RIGHTS AND REVIEW BY APPOINTING AUTHORITY**

A suspension of five (5) scheduled working days or less shall not be appealed to the Board. Any Regular Employee suspended without right to hearing before the Board may obtain a review of his or her suspension by the Appointing Authority by filing with the Appointing Authority not more than ten (10) days thereafter a written answer to such charges and a request for such review. A hearing shall be held thereon not more than twenty (20) days thereafter to determine whether such suspension should be rescinded. At any such hearing such Regular Employee may be represented by counsel and present relevant testimony. The Appointing Authority may authorize a representative to conduct such hearing and submit within five (5) days thereafter a finding of facts and law together with recommendations to the Appointing Authority. Within a period of ten (10) days after such hearing the Appointing Authority may rescind all or any part of such suspension. A suspended Regular Employee shall be entitled to full salary for any period of suspension rescinded hereunder.

## **12.6 HEARING**

a. Scheduling of Hearing. The Board shall order a Public Hearing of the appeal to be held no later than thirty (30) days after the notice of appeal has been served, unless agreed to earlier or later by the parties. A request by either party to continue a hearing must be received by the Board at least seventy-two (72) hours prior to the time set for the hearing. Requests for continuance shall not be interposed for delay and will be granted only for good cause.

b. Conducting Hearing by Board or by Appointment of Hearing Officer. The hearing may be before the Board or a Hearing Officer appointed by the Board. If the matter is heard by a Hearing Officer appointed by the Board, he or she shall take testimony offered in support and denial of such charges and submit to the Board, within five (5) days, a report and recommendation, which shall contain findings of fact and conclusions therefrom upon all material issues presented at the hearing.

c. Scope of Hearing. The hearing shall be for the purpose of determining whether the employee, by reason of his or her act or acts as charged and his or her record of service, merits retention in the Classified Service or should be removed therefrom, or otherwise disciplined.

d. Rules of Evidence. Neither the Board, nor any Hearing Officer acting on its behalf, shall be bound to technical rules of evidence but shall diligently seek all of the information and evidence bearing on the merits of the case.

e. Legal Representation. Counsel may represent either party at interest.

## **12.7 DECISION BY THE BOARD**

The Board, at the first regular or special meeting following the hearing, shall issue its decision, which shall be in writing. If a Hearing Officer conducted the hearing, the Board shall consider his or her report and modify, alter, set aside or affirm said report and certify its findings to the Appointing Authority who shall forthwith put the same into effect. If the Board presides over the hearing, it shall render its own opinion and decision and certify its findings to the Appointing Authority who shall forthwith put the same into effect.

## **12.8 WITNESSES**

It shall be the duty of the Director to subpoena witnesses other than character witnesses, for or against the employee upon written request and affidavit that their testimony is necessary. Employees in the Classified Service shall be required to attend and testify without subpoena.

## **12.9 SUBPOENAS**

a. Requests for Subpoenas. Parties who wish to obtain subpoenas requiring the attendance and testimony of witnesses, or subpoenas requiring the production of documents or other evidence should file their requests with the Director in writing, within a reasonable time before the hearing.

b. Petition to Revoke Subpoenas. Any person to whom a subpoena is directed, or any party, may file a petition to revoke or limit the subpoena. The motion must be filed with the Director, and it must include the reasons why compliance with the subpoena should not be required or the reasons why the scope of the subpoena should be limited. The Director shall then immediately render a decision whether to quash the subpoena.

## **12.10 RECORD OF TESTIMONY**

All hearings held pursuant to this Rule shall be recorded by a competent stenographer or by recording device, but same shall not be transcribed except upon order of the Board following written request by either party. The Board may charge any party requesting a written transcript the reasonable costs associated therewith.

## 12.11 CITIZEN COMPLAINTS

a. Definition of Complaint. Any person who desires to file a complaint against a Classified Employee shall file such complaint in writing and shall recite therein the specific allegations against the Classified Employee. Only written complaints concerning conduct that is job-related and/or occurs in the line and scope of a Classified Employee's Position shall be heard. Furthermore, no complaint shall be heard under this Rule where the complaint relates to matters that are grievable under Rule 15.

b. Review by Director. The Director shall review the complaint and make a determination as to whether there are substantial grounds to support the citizen complaint. The complainant may appeal an adverse decision of the Director to the Board in writing within ten (10) calendar days of notification thereof. The employee shall be sent a copy of the letter notifying the complainant of an adverse decision.

c. Service of Complaint. Should the Director find that substantial grounds exist to support the citizen complaint, the Director shall serve a copy on the accused employee. The accused Classified Employee shall, within five (5) calendar days after service, file a written answer. Failure on the part of the accused employee to file such answer shall be deemed an admission of the truth of such charges without further investigation or hearing on the part of the Board. Upon receipt of the accused Classified Employee's answer, the Director shall forward the charge and the Classified Employee's answer to the Board for its review. Upon receipt, the Board shall review the response and the complaint and determine whether a formal hearing shall be conducted or if the complaint shall be dismissed.

d. Hearing. Any hearing of a citizen complaint and decision therefrom shall be conducted in accordance with this Rule 12. The charging party has the burden of proof with respect to the allegations made against the classified employee.

## 12.12 CHARGES FILED BY THE DIRECTOR

An employee in the Classified Service may also be terminated, demoted, or suspended upon charges made by the Director. Such charges shall be prosecuted in a manner consistent with this Rule 12.

## 12.13 VACATION FORFEITED

Any employee who is terminated for cause shall forfeit all vacation allowances.

## 12.14 CONFIRMATION OF COMPLIANCE

The Appointing Authority shall immediately comply with all decisions and orders of the Board rendered in accordance with this Rule 12 and shall within ten (10) days deliver written confirmation of compliance with said decisions and orders to the Board. If the Appointing Authority fails to comply with a Board order, the Board may file an appropriate action in the Circuit Court for Jefferson County seeking equitable relief.

## **12.15 JUDICIAL REVIEW**

a. Review By Circuit Court, Generally. Any decision rendered by the Board in accordance with this Rule 12, shall be final, subject to appeal by either party to the Circuit Court of Jefferson County to review questions of law and the questions of whether the decision or order of the Board is supported by substantial and legal evidence. On such appeal the Circuit Court shall review the record and shall affirm, reverse, remand or render said cause. The decision of the Board shall be controlling until reversed on appeal as provided herein.

b. Review By Circuit Court, Filing Procedure. The appeal shall be perfected by filing with the Director and the Clerk of the Circuit Court of Jefferson County, a statement in writing, signed by the party appealing, to the effect that said party appeals from the decision or order of the Board to the Circuit Court, which statement shall be filed within ten (10) calendar days from the announcement of the decision or order of the Board. The Party appealing must also pay any filing fees required by the Clerk of Circuit Court Jefferson County, along with any security for costs, in an amount and form, as approved by any Judge of the Circuit Court.

## **RULE 13: ATTENDANCE AND LEAVE**

### **13.1 HOURS OF WORK**

The hours of work shall be fixed by the governing body of the Appointing Authority.

### **13.2 TYPES OF LEAVE**

The following types of leave are recognized: holiday, vacation, sick, injury with pay, compensatory leave for overtime hours, family and medical, uniformed service, jury, special meetings and examinations, leave without pay, and administrative leave.

### **13.3 OTHER LEAVE RIGHTS NOT AFFECTED**

This Rule 13 shall not be interpreted to curtail any right that an employee may have under any applicable State or Federal law, including, but not limited to, the Family and Medical Leave Act, the Americans with Disabilities Act, and the Uniformed Services Employment and Reemployment Rights Act. To the extent that this or any Rule conflicts with any applicable State or Federal law, the State or Federal law shall apply.

### **13.4 ATTENDANCE AND LEAVE REPORTING**

The Director shall maintain attendance and leave records on all Classified Employees. Each Appointing Authority shall report employee absences to the Board on forms prescribed by the Director. These forms shall be forwarded immediately to the Board upon the employee's return to duty, or at the close of the payroll period if the employee has not returned to duty.

### **13.5 FAILURE TO REPORT ABSENCES**

If an Appointing Authority or department head fails to report the absence of a Classified Employee and the employee is paid in excess of the amount due, the Appointing Authority shall be liable for the overpayment.

### **13.6 ABSENCE WITHOUT LEAVE**

An employee who is absent from work for any reason other than those recognized in this Rule 13, or who abuses the leave recognized in this Rule 13, may be subject to discipline under Rule 12.

### **13.7 SEASONAL, TEMPORARY, AND PART-TIME EMPLOYEES**

Except as required by State or Federal law, seasonal, temporary, and part-time employees shall not accrue vacation leave or sick leave.

### **13.8 NO ADVANCE LEAVE**

Vacation leave, sick leave, and Compensatory Time shall not be used in advance of being earned. If a Classified Employee has insufficient leave to cover a period of absence, no allowance shall be posted in advance or in anticipation of future leave credits. In such cases, payroll deductions for the time lost shall be made for the pay period in which the absence occurred.

### **13.9 HOLIDAY LEAVE**

Each Appointing Authority shall fix the paid holidays that its Classified Employees shall observe. Unless an Appointing Authority has an established policy to the contrary, which has been approved by the Board, compensation for holiday time shall be governed by the following rules:

a. If an employee is required to work on a recognized holiday, the employee shall be awarded eight (8) hours pay at his regular hourly rate or eight (8) hours of Compensatory Time, in addition to the employee's regular pay for the day.

b. If a recognized holiday falls on an employee's regularly scheduled off-day and the employee takes the full day off, the employee shall be awarded eight (8) hours pay at his regular hourly rate or eight (8) hours of Compensatory Time. If a recognized holiday falls on an employee's regularly scheduled off-day and the employee takes only part of the day off, the employee shall be paid for the hours worked, plus either eight (8) hours pay at his regular hourly rate or eight (8) hours of Compensatory Time.

c. If a holiday falls on an employee's regularly scheduled ten (10) hour work day and the employee takes the full day off, two (2) hours shall be charged against the employee's accrued vacation leave or Compensatory Time.

**13.10 VACATION LEAVE<sup>2</sup>**

a. Accrual of Vacation Leave. All full-time Classified Employees shall accrue paid vacation leave. Vacation leave shall accrue at the following rates:

Years of Service Completed	Hours of Vacation Time Accrued per Month
Less than 12	8
At least 12, but less than 25	12
25 or more	16

An employee shall not accrue vacation leave during any month in which, for more than fifteen (15) days of the month, the employee is on a leave of absence without pay, is suspended, or is otherwise in a non-pay status.

b. Accumulation of Vacation Leave. Vacation leave accrued but not used may be accumulated during the calendar year with no maximum amount. However, no more than 320 hours of accrued vacation leave may be carried forward from one calendar year to the next, unless the Director, based on extenuating circumstances, decides otherwise.

c. Use of Vacation Leave. A Regular Employee may use accrued vacation leave for any purpose. The Appointing Authority or department head shall determine the timing of vacation leave with due consideration to the employee's seniority, length of service, and the employee's request(s). If a vacation has not been allowed a Regular Employee during a full calendar year, then the employee may demand a vacation as of right, not to exceed twelve (12) work days. Except as provided in Rule 13.20, vacation leave must be taken as leave rather than as a cash payment.

d. Forfeiture of Vacation Leave. Except as provided in subsections i and ii, an employee shall not be required to forfeit his or her accumulated vacation leave.

i. Dismissal for Cause. An employee who is dismissed for cause, as defined in Rule 12, shall forfeit any accumulated vacation leave.

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<sup>2</sup> Pursuant to 1989 Ala. Acts 765, the provisions of Rule 13.10 (and the corresponding provisions of Section 19 of the Enabling Act), relating to accrual, accumulation, use, disposition, and forfeiture of annual vacation leave, are applicable at the option of each Appointing Authority. The Board strongly encourages Appointing Authorities to abide by these Rules, which are intended to implement Section 19 of the Enabling Act. If an Appointing Authority elects not to apply this Rule or any part thereof, it must so notify the Board in writing, and must provide a copy of the rule(s) to be applied by the Appointing Authority in lieu of this Rule.

ii. Resignation in Bad Standing. If an employee resigns from the Classified Service other than in Good Standing, the Appointing Authority may require the employee to forfeit all or part of his or her accrued vacation leave. If the Appointing Authority so decides, it shall endorse this decision on the personnel action forms separating the employee from the service.

### 13.11 SICK LEAVE<sup>3</sup>

a. Accrual of Sick Leave. All Regular Employees shall accrue paid sick leave at the rate of eight (8) hours per month of service. A Regular Employee shall not accrue sick leave during any month in which, for more than fifteen (15) days of the month, the employee is on a leave of absence without pay, a suspension, or is otherwise in a non-pay status.

b. Accumulation of Sick Leave. Sick leave may be accumulated and carried forward from year to year with no maximum amount.

c. Use of Sick Leave. A Regular Employee, may use accrued sick leave. An employee may be granted sick leave with pay for any of the following reasons:

i. Personal illness of the employee, including inability to work due to pregnancy, childbirth, or related medical conditions.

ii. Personal physician and dental appointments.

iii. For the employee to receive treatment, care and/or counseling, as either an inpatient or outpatient, for substance abuse at a duly licensed treatment facility.

iv. For any other reason, directly related to the health and wellness of the employee, which, in the judgment of the Appointing Authority, constitutes good and sufficient justification for the use of sick leave.

d. Use of Sick Leave for Family Illnesses, etc. A Regular Employee may use up to twelve (12) days per calendar year of accrued sick leave with pay for an illness or death in the employee's immediate family that necessitates the employee's absence from work. For purposes of this Rule, the phrase "immediate family" includes the employee's spouse, children, parents, grandparents, siblings, and legal guardians, as well as the employee's spouse's "immediate family."

If an employee uses sick leave for an illness in the employee's immediate family, the Appointing Authority may require appropriate documentation to substantiate the necessity for the use of leave.

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<sup>3</sup> Pursuant to 1989 Ala. Acts 765, the provisions of Rule 13.11 (and the corresponding provisions of Section 19 of the Enabling Act), relating to accrual, accumulation, use, disposition, and forfeiture of sick leave, are applicable at the option of each Appointing Authority. The Board strongly encourages Appointing Authorities to abide by these Rules, which are intended to implement Section 19 of the Enabling Act. If an Appointing Authority elects not to apply this Rule or any part thereof, it must so notify the Board in writing, and must provide a copy of the rule(s) to be applied by the Appointing Authority in lieu of this Rule.

In addition to the employee's right under this subsection d., the Appointing Authority may allow its employees to use any or all accrued sick leave with pay, concurrently with any leave granted under the Family and Medical Leave Act.

e. Documentation Required for Use of Sick Leave. The Appointing Authority may require a doctor's certificate or other written evidence to substantiate the need for sick leave.

f. Forfeiture of Sick Leave. Except as provided in Rule 13.20, sick leave must be taken as leave rather than as a cash payment, and all accumulated sick leave shall be forfeited upon separation from the Classified Service.

g. Abuse of Sick Leave. Any employee who makes improper use of sick leave may be subject to disciplinary action under Rule 12.

### **13.12 PAID INJURY LEAVE**

a. General Rule. A Classified Employee who becomes unable to perform the essential functions of his or her job, with or without reasonable accommodation, because of an accident or exposure to disease arising out of and in the course of employment in the Classified Service, may be granted up to 180 days of paid injury leave. In applying the terms "accident," "exposure to disease," and "arising out of and in the course of employment," the Board and the Appointing Authorities shall be closely guided by the use of these terms in the Alabama Workers' Compensation Act.

b. Procedural Requirements. In order to be entitled to Paid Injury Leave, the employee must comply with the steps set forth below in paragraphs i. and ii.

i. Written Notice. Within five (5) calendar days of the accident, the last exposure to the hazardous condition, or the employee's identification of the disability as job-related, the employee must give written notice to the Appointing Authority. The Appointing Authority shall forward a copy of the written notice to the Director within five (5) calendar days of receipt of the written notice from the employee.

ii. Application for Leave and Supporting Certification. The employee shall submit a written application for paid injury leave, with the supporting certification described below, to his or her immediate supervisor, who shall transmit the request to the department head. The application shall contain a statement by the employee setting forth the details of the accident and/or the basis for the belief that the disabling condition arose out of and in the scope of employment. The application must also be supported by the certification of a medical doctor or chiropractor. The certification shall include: (a) the nature and extent of the disabling condition; (b) an affirmation of the doctor's or chiropractor's belief that the disabling condition arose out of and in the course of employment, and that the injury or disease would not have occurred but for the employee's job; and (c) the probable or actual period of disability.

c. Initial Decision by Department Head. Within ten (10) calendar days of the receipt of the application and the supporting certification, the department head shall endorse his or her allowance or disallowance of paid injury leave, in whole or in part, on the application.

d. Appeal. An employee whose request for paid injury leave is denied, in whole or in part, shall have the right to appeal the denial. The department head's decision must first be



appealed to the Appointing Authority, by making a written appeal to the Appointing Authority within ten (10) calendar days of the employee's receipt of the department head's decision. The Appointing Authority shall notify the employee of its decision within ten (10) calendar days of receiving the employee's appeal. The employee may appeal the Appointing Authority's decision to the Board, by making a written appeal to the Board within ten (10) calendar days of the employee's receipt of the Appointing Authority's decision.

e. Restrictions on Paid Injury Leave. The following restrictions shall apply to paid injury leave:

i. Paid injury leave may be granted only if the disabling condition was caused without the fault or gross negligence of the employee. The phrase, "fault or gross negligence," as used in this Rule, includes: (a) an act or omission rising above mere inattention and demonstrating a lack of ordinary and reasonable care; (b) intoxication by alcohol or a controlled substance; or (c) violation of a written safety policy. Where the fault or gross negligence consists of violation of a written safety policy, a copy of the policy shall (a) be posted, (b) be given or made available to each employee, and (c) be titled "REQUIRED SAFETY RULES."

ii. No further or additional paid injury leave is allowed where the requested leave would occur more than twenty-four (24) months after the last period of paid injury leave for the same disabling condition.

iii. Paid injury leave shall not be allowed for a mental, psychological, psychiatric, or emotional disorder, unless the disorder (a) is produced or proximately caused by a physical injury to the body, and (b) satisfies the "arising out of and in the course of employment" standard set out above.

iv. If the Appointing Authority provides worker's compensation benefits in accordance with the Worker's Compensation Act, the paid leave authorized under this Rule shall not exceed the difference between the employee's regular rate of pay and the worker's compensation benefit. Merit pay changes and across-the-board pay changes may adjust the rate of regular pay during the disability period.

v. The leave authorized under this Rule must be taken as paid leave; lump-sum and/or commuted payments of injury leave with pay are prohibited.

f. Return to Work. If an employee is unable to resume his or her job duties at the end of a period of paid injury leave, further absences may be charged against the employee's accrued sick leave, vacation leave, and/or Compensatory Time.<sup>4</sup> When the employee is also

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<sup>4</sup> Pursuant to 1989 Ala. Acts 765, the provisions of Rules 13.10 and 13.11 (and the corresponding provisions of Section 19 of the Enabling Act), relating to accrual, accumulation, use, disposition, and forfeiture of vacation and sick leave, are applicable at the option of each Appointing Authority. Thus, it is also within the discretion of the Appointing Authority to require accrued sick and vacation leave to run concurrently with any paid injury leave granted under this Rule 13.12. If an Appointing Authority requires sick and vacation leave to run concurrently with paid injury leave, it must so notify the Board in writing, and must provide a copy of the rule(s) to be applied by the Appointing Authority in lieu of this Rule 13.12.f.

receiving worker's compensation payments, only the amount of leave equivalent to the difference between the employee's regular rate of pay and the worker's compensation benefit shall be charged against the employee's accrued leave. If, at the end of a period of paid injury leave, the employee is unable to perform the essential functions of his or her job with or without reasonable accommodation, and the employee has exhausted all other available forms of paid leave, the employee may (a) retire from the service, if eligible; (b) request a leave of absence without pay in accordance with Rules 13.19 or 13.21; or (c) be terminated from the Classified Service.

### 13.13 COMPENSATORY TIME IN LIEU OF OVERTIME COMPENSATION

a. **Obligation of Appointing Authority.** It shall be the responsibility of each Appointing Authority to determine which of its employees are subject to the overtime and minimum wage provisions of the Fair Labor Standards Act ("FLSA"). If an employee is not exempt from the FLSA, the employee shall be compensated in compliance with the FLSA.

b. **Agreement Between Appointing Authority and Employee: General Requirements.** The Appointing Authority and its employee or employees may enter into an agreement that overtime hours will be compensated through the award of Compensatory Time in lieu of monetary compensation. The agreement must be reached prior to the performance of any work to be compensated through Compensatory Time. An agreement may provide that Compensatory Time in lieu of cash payment may be restricted to certain hours of work only. In addition, agreements may provide for any combination of Compensatory Time and overtime payment in cash (e.g., one hour Compensatory Time credit plus one-half the employee's regular hourly rate in cash for each overtime hour) as long as the FLSA's principle of "time and a half" is maintained. If an Appointing Authority reaches agreements with individual employees with respect to Compensatory Time, the agreement must be in writing, but the writing requirement may be satisfied by a written notice to the employee or a clear statement in a personnel handbook coupled with the employee's lack of protest or disagreement.

c. **Accrual of Compensatory Time In Lieu of Overtime Compensation.** Where an agreement as described in the previous paragraph exists with respect to an employee, the employee shall be awarded one and one-half hours of Compensatory Time for each overtime hour worked (or, if the agreement so provides, a combination of cash payment and Compensatory Time that maintains the "time and a half" principle).

d. **Accumulation of Compensatory Time In Lieu of Overtime Compensation.** Compensatory Time in lieu of overtime compensation may be accumulated up to a maximum of 240 hours under Federal law (480 hours for employees engaged in public safety, emergency response, or seasonal activities). The agreement between the Appointing Authority and the employee may set a lower maximum for accrual of Compensatory Time hours. If an employee accrues the applicable maximum number of hours of Compensatory Time in lieu of overtime compensation, the employee shall be paid the overtime compensation required by the FLSA in cash for any further overtime hours worked. Accrued Compensatory Time may be carried forward from year to year without limitation.

e. **Use of Compensatory Time In Lieu of Overtime Compensation.** An employee may request the use of accrued Compensatory Time. The Appointing Authority shall allow the

employee to use such Compensatory Time within a reasonable time after the request, if the employee's absence would not unduly disrupt the operations of the Appointing Authority or department.

f. Payment for Compensatory Time upon Separation. An employee who separates from the Classified Service shall be paid for any accrued Compensatory Time in accordance with the FLSA.

### **13.14 UNIFORMED SERVICE LEAVE AND RE-EMPLOYMENT**

a. Description of Leave. Appointing Authorities shall grant unpaid leave to any Classified Employee for uniformed service.

b. Pre-Service Notice Procedure. In order to be eligible for uniformed leave, a Classified Employee (or appropriate uniformed officer) eligible for military leave shall, as soon as is practicable, give advance written or verbal notice to his or her immediate supervisor, department head, or the Director, unless such notice is precluded by military necessity or circumstances under which the giving of notice is otherwise impracticable or unreasonable.

c. Post-Service Notice Requirements. Upon completion of uniformed service, a Classified Employee shall notify his or her Appointing Authority of his or her intent to return to the Classified Service as follows:

i. Service for Period Less than 31 Days. If a Classified Employee's period of uniformed service was less than thirty-one (31) days, he or she shall notify his or her Appointing Authority no later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service, allowing for an eight (8)-hour period of safe transportation of the Classified Employee from the place of that service to his or her residence. If it is impossible or unreasonable for a Classified Employee to contact his or her Appointing Authority, through no fault of the Classified Employee, then the Classified Employee need only contact his or her Appointing Authority as soon as possible following the expiration of the eight-hour travel period mentioned above.

ii. Service for Period More than 30 Days but Less than 181 Days. If a Classified Employee's period of uniformed service was for a period more than thirty (30) days but less than 181 days, he or she shall be required to submit an application for re-employment with the Director no later than fourteen (14) days after the completion of the uniformed service, or if submitting such application within such period is impossible or unreasonable through no fault of the Classified Employee, the next first full calendar day when submission of such application becomes possible.

iii. Service for Period More than 180 Days. If a Classified Employee's period of uniformed service exceeds 180 days, he or she shall be required to submit an application for re-employment with the Director no later than ninety (90) days after the completion of the uniformed service.

iv. Certification Requirements. Any Classified Employee required to submit an application in accordance with Rules 13.14.c.ii. or 13.14.c.iii. shall provide, in addition to such application, documentation to establish that (a) the Classified Employee's application is timely; (b) the Classified Employee has not exceeded the service limitations set forth in this Rule

13.14.g.i.; and (c) the Classified Employee's entitlement to the benefits have not been terminated as a result of Rule 13.14.g.i.

d. Re-employment. Upon completion of his or her period of service in the uniformed services, a Classified Employee shall be promptly re-employed as follows:

i. Service less than ninety-one (91) days. If a Classified Employee's period of service was less than ninety-one (91) days, the Appointing Authority shall place the Classified Employee in the Position in which the Classified Employee would have been employed if his or her employment in the Classified Service had not been interrupted by uniformed service, provided such Classified Employee is qualified to perform the duties of such Position. If the Classified Employee is unable to perform the duties of such Position, however, an Appointing Authority may place the Classified Employee in the Position he or she held on the date of the commencement of his or her uniformed service.

ii. Service for more than ninety (90) days. If a Classified Employee's period of service was for more than 90 days, the Appointing Authority shall place the Classified Employee in the Position in which the Classified Employee would have been employed if his or her employment in the Classified Service had not been interrupted by military service, or a position of like seniority, status and pay, provided the Classified Employee is qualified to perform such Position. If the Classified Employee is not qualified to perform the duties of the Position he or she would have held but for uniformed leave, the Appointing Authority shall place the Classified Employee in the Position in which he or she held on the date of commencement of the uniformed leave, or if such position is no longer available, a Position of like seniority, status or pay.

iii. Re-employment into Nearest Approximate Position. If the Classified Employee is not qualified to perform the duties of the Position he or she would otherwise hold but for uniformed service, or not qualified for the position he or she held prior to uniformed service, and the Classified Employee cannot become qualified despite reasonable efforts by his or Appointing Authority, then such Appointing Authority shall re-employ the Classified Employee into a Position that is the nearest approximation to the position held by the Classified Employee at the time of the commencement of the uniformed service.

iv. Tie Breakers. If two (2) or more Classified Employees are entitled to re-employment in the same Position, the one who left the Position first shall have prior right to re-employment. If an Appointing Authority cannot re-employ a Classified Employee into a position pursuant to this Rule 13.14.c.iv, such Appointing Authority shall re-employ a Classified Employee into another Position of similar status and pay.

v. Failure to Provide Adequate Notice. If a Classified Employee fails to report or apply for re-employment within the appropriate period specified in this Rule 13.14.c. he or she shall not automatically forfeit his or her entitlement to re-employment, but shall be subject to the conduct rules, established policy, and general practices of the Appointing Authority pertaining to explanations and discipline with respect to absence from scheduled work.

e. Re-Employment Rights. Any Classified Employee re-employed in accordance with this Rule 13.14 shall be entitled to any seniority and other rights and benefits determined by seniority that the Classified Employee had on the date of the commencement of uniformed

service plus any additional seniority and rights and benefits that such Classified Employee would have attained if he or she had remained continuously employed. A Classified Employee on uniformed services leave shall be deemed to be on an unpaid leave of absence, and unless a Classified Employee provides written notice of his or her intent not to return to work for the Appointing Authority, such Classified Employee shall be entitled to such other rights and benefits not determined by seniority as are generally provided by the Appointing Authority to Classified Employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

f. Special Re-Employment Rights for Disabled Veterans. In the case of a Classified Employee who has a disability incurred in, or aggravated during, uniformed service, and who (after reasonable efforts by the Appointing Authority to accommodate the disability) is not qualified for the Position in which he or she would have been employed if continuous employment had not been interrupted by such service, the Appointing Authority shall re-employ the Classified Employee into any other Position that is equivalent in seniority, status, and pay, the duties of which the Classified Employee is qualified to perform or would become qualified to perform with reasonable efforts by the Appointing Authority, or if such Position is not available, in a position which is the nearest approximation to such Position referred in terms of seniority, status, and pay consistent with circumstances of each Classified Employee's case.

g. Circumstances when re-employment is not required. An Appointing Authority is not required to re-employ a Classified Employee following uniformed service if:

i. The cumulative length of the Classified Employee's absence from work and all previous absences from work by reason of uniformed service exceeds five (5) years, unless an additional period of service is required by the Federal or State government. The five (5) year cumulative total does not include inactive duty training (drills), annual training, involuntary recall or retention on voluntary or involuntary active duty in support of war, national emergency, or certain operational missions or training or retraining requirements;

ii. The Classified Employee fails to provide pre-leave notice in accordance with this Rule 13.14.b.;

iii. The Classified Employee fails to report to his or her Appointing Authority, or fails to submit an application to such Appointing Authority, as the case may be, in accordance with the notice provisions of this Rule 13.14.c.;

iv. The Classified Employee has been separated from the uniformed services because of a dishonorable or bad conduct discharge, or in the case of a commissioned officer in the uniformed services, has been separated from the uniformed services because of a sentence of a general court-martial, in commutation of a sentence of a general court-martial in time of war by order of the President, dropped from the rolls because he or she has been absent without authority for at least three months, or confined to imprisonment by a court-martial;

v. The Appointing Authority's circumstances have changed to such a degree that re-employment would be impossible or unreasonable;

vi. In the case of a Classified Employee who has suffered a disability incurred in, or aggravated by, uniformed service, re-employment would impose an undue hardship on the Appointing Authority; or

vii. The Position to which a Classified Employee seeks re-employment was for a brief, nonrecurring period and there was no reasonable expectation that such employment would continue indefinitely or for a significant period.

h. Use of Paid Leave. Any person whose employment with an Appointing Authority is interrupted by a period of uniformed service shall be permitted, upon request of that person, to use during such period of service, any vacation, annual, or similar leave with pay accrued by the person before the commencement of such uniformed service. No Appointing Authority may require any such Classified Employee to use vacation, annual, or similar leave during such period of service.

i. Health Care Benefits. If a Classified Employee on uniformed leave has coverage under a health plan, such plan shall permit the Classified Employee to continue such coverage at a rate not to exceed 102% of the full premium under the plan. Notwithstanding the foregoing, if the Classified Employee is on uniformed leave for less than thirty-one (31) days, he or she shall be required to pay no more than the share normally paid by such Classified Employee when not on uniformed leave. The maximum period of health plan coverage of a Classified Employee shall be the lesser of the eighteen (18)-month period beginning on the date on which the Classified Employee's absence begins, or the day after the date on which the person fails to apply for re-employment.

j. Temporary Assignments. An Appointing Authority may make a temporary assignment to replace a Classified Employee on uniformed service leave. Such temporary assignment shall be explicitly informed that he or she is a temporary assignment and that his or her employment in the Classified Service will end upon the return of the Classified Employee from uniformed leave.

k. Definitions. For purposes of this Rule 13.14, the following terms shall have the following meanings assigned to them:

i. "Health plan" shall mean an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

ii. "Qualified," with respect to a Position, shall mean having the ability to perform the essential tasks of the position.

iii. "Reasonable efforts," in the case of actions required of an Appointing Authority, shall mean actions, including training provided by an Appointing Authority, that do not place an undue hardship on the Appointing Authority.

iv. "Undue hardship," shall have the same meaning as set forth in 38 U.S.C. § 4303(15).

v. "Uniformed service" shall mean the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, full-time National Guard duty, a period for which a person is absent

from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing military funeral honors.

### **13.15 TEMPORARY LEAVE FOR NATIONAL GUARD AND ARMED FORCES RESERVE TRAINING AND ACTIVE SERVICE**

a. In Service of the United States. Any Classified Employee who, by reason of membership in the Alabama National Guard or any other reserve component of the armed forces of the United States, is ordered by appropriate authority to field or coast defense, or to attend a training period, or to service ordered under the provisions of the National Defense Act, or under the federal laws governing the United States Reserves, shall be entitled to a leave of absence. The first 168 hours of leave under this subsection per calendar year shall be paid leave. Nothing in this Rule 13.15.a., however, prohibits an Appointing Authority from providing paid leave in excess of 168 hours.

b. In Service of the State of Alabama.<sup>5</sup> In addition to the leave provided in subsection (a), any Classified Employee who, by reason of membership in the Alabama National Guard or any other reserve component of the armed forces of the United States, is called by the Governor to duty in the active service of the State, shall be entitled to a leave of absence. The first 168 hours of leave under this subsection per calendar year shall be paid leave. Nothing in this Rule 13.15.b., however, prohibits an Appointing Authority from providing paid leave in excess of 168 hours.

c. Seniority and Benefits During Leave. Any period of leave authorized by subsections a. and/or b. shall be provided without loss of service time, efficiency rating, annual vacation, and sick leave.

### **13.16 JURY AND OTHER JUDICIAL LEAVE**

a. Leave for Jury Service. Upon submission of a request with appropriate documentation, an employee who is summoned for jury duty shall be granted leave with pay for the time spent in jury service.

b. Leave when Employee Subpoenaed. Upon submission of a request with appropriate documentation, an employee subpoenaed as a witness in a judicial proceeding shall be granted leave with pay for such time away from work as is necessary to comply with the subpoena, provided that the employee is not a party to the judicial proceeding.

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<sup>5</sup> Note: While not specifically required by this Rule or any other Rule of the Personnel Board of Jefferson County, 2002 Ala. Acts 430, § 6 (Ala.Code § 31-12-6 (1975)) provides that a public employer *may* provide an employee the difference between his or her regular salary and the lower active duty military pay during any period of active service. The Board encourages Appointing Authorities, as resources permit, to extend this benefit to Classified Employees.

### **13.17 LEAVE FOR SPECIAL MEETINGS AND EXAMINATIONS**

Whenever it is deemed in the best interest of the Classified Service, an employee may be granted leave with pay by the Appointing Authority to attend professional or technical institutes, conferences, or such other meetings. Leave with pay shall be granted to an employee for the purpose of taking examinations administered by the Board.

### **13.18 FAMILY AND MEDICAL LEAVE**

An employee entitled to Family and Medical Leave shall be entitled to receive leave, under such conditions and in such amounts, as provided under the Family and Medical Leave Act. In the discretion of the Appointing Authority, the leave may be run concurrently with other paid or unpaid leave as afforded under these Rules.

### **13.19 LEAVE OF ABSENCE WITHOUT PAY**

a. Eligibility For and Types of Unpaid Leave of Absence: A request for a leave of absence without pay shall be submitted in writing to the employee's department head and shall state the purpose of the leave, and the dates the leave is to begin and end. Upon recommendation of the department head and approval of the Appointing Authority, such leave may be allowed in the following circumstances and amounts:

i. Extended Medical/Disability Leave of Absence: An employee who has exhausted all other available forms of leave, and is unable to perform the essential functions of his or her job with or without reasonable accommodation, may be granted an unpaid leave of absence of up to one (1) year. To obtain leave under this subsection, the employee must make a written request to the Appointing Authority, supported by a certificate from a licensed physician. The certificate shall include (a) a general statement of the employee's condition, (b) a certification that the employee is unable to perform the essential functions of his or her job with or without reasonable accommodation, and (c) the probable period of such incapacitation. The leave authorized under this subsection shall be for no more than one (1) year. If, during a period of leave under this subsection, the employee becomes capable of performing the essential functions of his or her job with or without reasonable accommodation, the employee shall so notify the Appointing Authority, supported by a certification from a licensed physician affirming the employee's ability to perform the essential functions of his or her job with or without reasonable accommodation.

ii. Career Development Leave: A Regular Employee who desires to engage in a course of study which will contribute materially to the employee's value to the Classified Service may be granted an unpaid leave of absence not exceeding one (1) year.

iii. Personal Leave: A Regular Employee may be granted a leave of absence for not more than one (1) year for any personal reason considered sufficient by the employee's department head, subject to the final approval of the Appointing Authority.

b. Appeal. An employee whose request for leave of absence without pay is denied, in whole or in part, shall have the right to appeal the denial. The department head's decision must first be appealed to the Appointing Authority, by making a written appeal to the Appointing Authority within ten (10) calendar days of the employee's receipt of the department head's



decision. The Appointing authority shall notify the employee of its decision within ten (10) calendar days of receiving the employee's appeal. The employee may appeal the Appointing Authority's decision to the Board, by making a written appeal to the Board within ten (10) calendar days of the employee's receipt of the Appointing Authority's decision.

c. Effect of Unpaid Leave Status. Except as required by State or Federal law, any period of leave of absence without pay shall not be considered in calculating an employee's seniority status or any other benefits that are dependent upon an employee's length of service.

### **13.20 DISPOSITION OF LEAVE UPON RESIGNATION OR RETIREMENT**

A Regular Employee with permanent status who wishes to resign or retire from the Classified Service in Good Standing shall provide written notice to the Appointing Authority not less than fifteen (15) days prior to the effective date of the resignation or retirement. The Appointing Authority may, with the approval of the Director, reduce the length of advance notice required. A Regular Employee separating or retiring from the service in Good Standing shall receive terminal pay for his accrued vacation, up to a maximum of 320 hours. In addition, a Regular Employee who resigns or retires from the service in Good Standing after five (5) years of service may, subject to the approval of the Appointing Authority, receive terminal pay for 50% of the first 480 hours of accrued sick leave. If a Regular Employee with at least five (5) years of service is separated from the service through a reduction in force and is subsequently rehired from a Layoff List, that portion of the employee's accrued sick leave beyond the accrued sick leave included in a terminal pay calculation shall be reinstated.

### **13.21 ADMINISTRATIVE LEAVE**

a. General Rule. An Appointing Authority may place an employee on administrative leave, with or without pay. An employee placed on administrative leave, either with or without pay, shall not attend work and shall not perform his or her regular job duties. Administrative leave records must be created and maintained as required by Rule 13.4.

b. Administrative Leave With Pay. While on administrative leave with pay, an employee shall be entitled to all compensation, service time, and benefits earned and accruing to his or her Class. Administrative leave with pay may be authorized as follows:

i. Up to Five (5) Days Authorized by Appointing Authority. On its own initiative, an Appointing Authority may place an employee on administrative leave with pay for a period of time not to exceed five (5) working days. Prior to placing an employee on administrative leave with pay, the Appointing Authority must forward to the Director a written statement of the reason(s) for the action.

ii. Up to Ten (10) Additional Days Authorized by the Director. Should an Appointing Authority desire to keep an employee on administrative leave with pay for more than five (5) working days, an Appointing Authority must, in advance, forward a written request to the Director setting forth the reasons justifying the extension of administrative leave with pay. The Director may extend administrative leave with pay for up to ten (10) additional working days in addition to the five (5) days authorized by the preceding paragraph. The approval of the

Director must be obtained prior to the extension of any period of administrative leave with pay beyond the five (5) days authorized by the preceding paragraph.

iii. Up to Thirty (30) Additional Days Authorized by the Board. Should an Appointing Authority desire to keep an employee in the status of administrative leave with pay beyond the fifteen (15) days authorized by the preceding paragraphs, the request shall be presented to the Board in writing and shall include the reasons for the request. The Director shall submit a written recommendation to the Board. The Board shall either approve or deny said request, in writing. The Board may extend administrative leave with pay for up to thirty (30) additional working days in addition to the fifteen (15) days authorized by the preceding paragraphs.

c. Administrative Leave Without Pay. An Appointing Authority may place an employee on administrative leave without pay for a period of up to one (1) year for any reason deemed to be in the best interest of the service. A Regular Employee who is involuntarily placed on administrative leave without pay for a period exceeding five (5) working days may appeal to the Board under Rule 12.

### **13.22 REASONABLE ACCOMMODATIONS UNDER THE AMERICANS WITH DISABILITIES ACT**

Appointing Authorities are expected to comply with the Americans with Disabilities Act. Any employee who believes that he or she needs a reasonable accommodation in order to perform the essential functions of his or her Position should notify the Appointing Authority of the need.

### **13.23 FITNESS FOR DUTY EXAMINATIONS**

An Appointing Authority may require an employee to submit to a fitness for duty examination when it is necessary to determine whether the employee is able to perform the essential functions of his or her job, with or without reasonable accommodation, without constituting a hazard to himself or herself, and without endangering the safety, health, and welfare of fellow employees and the public. A fitness for duty examination may be performed by a physician or other qualified examiner designated by the Appointing Authority or the Board.

## **RULE 14: EMPLOYEE RELATIONS, SAFETY AND TRAINING**

### **14.1 EFFICIENCY RATINGS**

The Director shall be responsible for obtaining and preserving efficiency ratings on all Classified Employees. Efficiency ratings shall reflect the performance of Classified Employees in the same Class and/or Pay Grade, so that standards of performance may be established to determine relative performance, and measure the performance of their assigned duties and demonstrated promotional potential. Efficiency ratings shall be used in making decisions related to:

- a. Promotion;
- b. Merit Increase;
- c. Transfer;
- d. Reduction in Pay;
- e. Demotion; or
- f. Dismissal.

#### **14.2 FORMS**

For purposes of the efficiency ratings required by the Enabling Act and these Rules, all Appointing Authorities must use the efficiency rating forms approved by the Director. However, this Rule does not prohibit an Appointing Authority from completing assessment or evaluation forms required by any state or federal accrediting or licensing body. In the event an Appointing Authority completes assessment or evaluation forms required by any state or federal accrediting or licensing body, completed copies of such forms shall be provided to the Director.

#### **14.3 EFFICIENCY RATING PLAN**

All Appointing Authorities shall use efficiency reviews approved by the Director. Such plan shall be based on accepted personnel administration practices in respect to the measurement of performance and promotional potential. All persons responsible for reviewing employee performance shall do so in a careful and responsible manner, conforming to all current policies established by the Board or the Director, in cooperation with the Appointing Authority.

#### **14.4 APPEAL OF EFFICIENCY RATINGS**

a. Request for Review to Department Head. Individuals responsible for completing performance ratings shall discuss such ratings with their respective Regular Employees. Regular Employees disagreeing with their rating may file a written request to meet with the Reviewing Officer and Department Head with ten (10) days after receipt of the efficiency rating. The Reviewing Officer and the Department Head will, as soon as practical, but in no event later than thirty (30) days from the date of the rating, review the rating with the Regular Employee.

b. Appeal to Director. If a Regular Employee is not satisfied with the results of his or her meeting with the Department Head, the Regular Employee may also appeal an efficiency review to the Director if the rating falls below the level necessary for a merit increase, provided the Regular Employee is otherwise eligible for an increase. The Regular Employee must file a written appeal to the Director within thirty (30) calendar days after meeting with his or her Department Head. Informal or interim ratings shall not be appealable to the Director.

#### **14.5 SAFETY**

The Director shall be responsible for developing and maintaining programs for improving safety practices and conditions affecting the safety, health and morale of employees in the public service. To this end, the Director may require the submission of reports and the investigation of

accidents and working conditions in the several agencies and departments subject to this Act and these Rules.

#### 14.6 EMPLOYEE TRAINING AND DEVELOPMENT

a. General Purpose. The Board is committed to the development of a career service in public employment through the provision of comprehensive in-service training and formalized academic programs that will provide the public with the highest quality services and maximum efficiency of operations. The Board, in conjunction with the Appointing Authorities, shall provide a coordinated system for the training and development of all Classified Employees in order to eliminate duplication of costs and efforts.

b. Responsibilities of the Board. The Board has the inherent responsibility for establishing overall policy relative to the training and development of Classified Employees. Periodic revisions of rules and policy, and the development of administrative guidelines in the area of training and development will, from time to time, be made in cooperation with Appointing Authorities and operating departments through the Training Division of the Board in the form of training directives.

i. The Training Division of the Board will be responsible for the development and execution of training programs based on the needs of the public service. This Division shall assist operating departments in determining training needs and in developing proposed training programs. Requests originating in operating departments for formalized training courses or employee participation in such courses, shall be channeled through the Training Division. This review is necessary in order to avoid duplication and cost problems.

ii. The Training Division shall be responsible for recommending policies and procedures relative to all training matters and shall identify and evaluate resources of possible use in meeting training needs, which shall include a periodic review of local and regional training resources, and the coordination of training grants. The Training Division shall further maintain a direct liaison with local educational institutions in the development of training resources. In coordination with the various operating departments, the Training Division shall plan and arrange for the conducting of on-the-job and off-the-job training programs of departmental and interdepartmental scope.

c. Responsibilities of the Appointing Authority. Each Appointing Authority shall encourage the development and concept of training in the Classified Service for their respective jurisdictions, taking into consideration the availability of funds, the priority of work to be performed, and the availability of personnel. The Appointing Authorities should organize their training in such a manner as to assure that adequate and necessary opportunities for training are provided and that unjustified training activities are not engaged in by its personnel. To expedite the accomplishment of this objective, each Appointing Authority shall cooperate with and utilize the professional assistance and guidance of the Training Division of the Board. Further, each Appointing Authority should follow the procedures set forth below:

- i. Establish a written training policy that includes:
  - a) A statement of purpose and objectives;
  - b) Centralized administrative responsibility for the training program;

c) Compilation of information to indicate individual training activities completed by employees and related data; and

d) Provision for continuous appraisal of training needs.

ii. Develop comprehensive organizational training plans. Such plans should be developed in accordance with the mission, structure and function of the organization. There should be long range and short range plans covering such areas as orientation, supervisory and technical skills.

iii. Develop a comprehensive employee handbook and comprehensive anti-harassment and anti-discrimination policies.

iv. Develop a comprehensive new-appointee orientation. Such orientation should include relevant policies and procedures, as well as the Appointing Authorities' anti-harassment and anti-discrimination policies.

v. Establish a training committee. Such committee should have representation from major functional areas of the department. The primary objective of this committee is to advise top management and the Training Division of the Board of those areas of employee training which should be placed on a priority basis. The individual assigned the overall administrative responsibility for departmental training should act as secretary to the training committee.

## **RULE 15: GRIEVANCES**

### **15.1 DEFINITION**

A grievance is a complaint by a Regular Employee or his or her representative alleging that action taken by a co-employee, supervisor or other person acting on behalf of the Regular Employee's Appointing Authority, substantially affected a term or condition of the Regular Employee's employment with an Appointing Authority. It shall be the burden of the employee to provide sufficient proof of any allegations made against management. Such proof need only be presented in summary or outline form within the statements made on the grievance forms and shall not require submission of documentation in the form of affidavits or other legal documents.

### **15.2 REQUIREMENTS FOR GRIEVANCE**

In order to be adjusted under the provisions set forth in this Rule, a grievance shall cite the details (such as dates, locations, times of day, witnesses, etc.) concerning a particular incident(s) with sufficient specificity to enable the Appointing Authority to prepare an adequate response. Any act of retaliation committed against a Regular Employee for having filed a grievance shall be eligible for adjustment under this Rule.

### **15.3 SCOPE OF GRIEVANCE**

The Director shall determine what constitutes a grievance adjustable under this Rule. The Director shall notify the grievant in writing of his or her decision. Either party to the

grievance may appeal the Director's determination to the Board within ten (10) calendar days from date of receipt.

#### 15.4 MATTERS EXCLUDED FROM GRIEVANCE PROCEDURE

In no event shall the following topics be admitted for adjustment under this Rule 15:

- a. Matters dealing with Classification, pay, compensation, examination, leave, discipline, and related actions specifically set forth in these Rules; *RL*
- b. Loss or absence of premium pay; *RL*
- c. Oral and/or written reprimand or an informal performance evaluation;
- d. Matters subject to appeal under Rule 12 of these Rules; *RL*
- e. Assignment-related matters such as changes in duties within Class, off-days, shift and vacation scheduling, except those assignments considered disciplinary. The mere allegation of assignment with a punitive motive shall not be sufficient to allow adjustment under this Rule. *RL*
- f. Matters relating to established departmental policy and rules, and accepted management practice that are applied consistently to all Classified Employees, and for which there exists no conflict with these Rules or the Act. *RL*

#### 15.5 GRIEVANCE PROCEDURE

Grievants are assured of freedom from restraint, interference, discrimination or reprisal for presenting a grievance. Counsel or other persons of his or her choosing through the grievance process may represent the grievant through the grievance process. The Grievance shall be conducted according to the following process:

- a. Step One:
  - i. The Grievance, to be properly commenced, must be submitted to the grievant's immediate supervisor within seven (7) calendar days of the incident giving rise to the grievance. A copy of the grievance must be filed with the Employee Relations Section of the Board. All such complaints shall cite with specificity the reason and nature of the complaint.
  - ii. Within seven (7) calendar days of receipt of the grievance, the grievant's immediate supervisor shall reply to the grievant in writing in a form approved by the Director. A copy of his or her reply shall be furnished to the Employee Relations Section of the Board.
  - iii. In lieu of replying, the grievant's immediate supervisor may elect to refer the complaint to his or her immediate superior within the time period of his or her reply, and must acknowledge receipt of the grievance in writing to the grievant no later than the next business day after receipt of the referred grievance. Failure to reply shall result in submission of the grievance to Step Two.
  - iv. Should the supervisor and/or his or her immediate superior not return an answer on official forms within the established time limits, the grievant may proceed to the next step within the time limit outlined below.
- b. Step Two:

If the grievant is not satisfied with Step One, the grievant may submit, within five (5) days of the answer or its due date, whichever occurs first, the grievance to the department head in which he or she works. Such departmental head shall reply to the grievant within five (5) days of receipt or referral of the grievance in writing. A copy of the reply by the department head shall be furnished to the Employee Relations Section of the Board.

c. Step Three:

i. If unresolved by the department head's answer, the grievant may submit the grievance to the Director on official forms, signed by the grievant, within five (5) calendar days of the Step II answer or its due date to one of the two procedures outlined below at the grievant's choice:

a) Option One: A Hearing Officer, next in order from a list of such local attorneys who serve as Hearing Officers for other appeal cases before the Board, provided that the Hearing Officer is willing and available to serve in this capacity.

b) Option Two: A grievance committee shall be composed of three members. One member shall either be the Citizens Supervisory Commission representative for the County employees if the grievant is employed by the County, or in all other cases the Citizens Supervisory Commission representative for the municipal employees. The Appointing Authority of the jurisdiction shall designate one member where the grievant is employed. The Appointing Authority's designation shall be made within seven (7) calendar days from the date on the letter notifying the Appointing Authority that the grievance has been set for a hearing. The third member shall be a mutually agreed upon person selected by the first two members. The third member shall be selected within seven (7) calendar days from the date of the letter designating the Appointing Authority's member. The third mutually selected member shall serve as chair of the committee. In the event one or more members fail to assume office, the Director shall designate said member(s).

ii. Hearing Procedures For Hearing Officer. The Hearing Officer shall convene a formal hearing within ten (10) days after selection. After a formal hearing, the Hearing Officer shall render findings of fact and a recommendation to the Board within ten (10) calendar days of the completion of taking testimony and evidence. The Board shall render a decision at its next occurring regular Board meeting.

iii. Hearing Procedures For Grievance Committee. The grievance committee shall convene a formal hearing within fifteen (15) days after selection and the grievance is received. After a formal hearing, the committee shall render a finding of fact and a decision concerning the grievance within ten (10) days of the completion of taking testimony and evidence. The decision shall be by simple majority. In the event the Committee's decision is less than unanimous, a dissenting opinion shall be prepared.

iv. Appeals. Either party may appeal the committee's decision to the Board within ten (10) days of the announced decision, at which time the Board shall review the record and render a final decision at the next regular Board meeting.

## **15.6 RELATED PROVISIONS**

- a. The Director shall provide such administrative services as may be necessary and shall exercise his authority to require the production of records or appearance of witnesses as may be required to carry out the provisions of this Rule 15.
- b. Nothing within the content of this Rule 15 shall be so construed as to limit an Appointing Authority's right to manage its affairs and governmental operations or to infringe on its right and responsibilities to appropriate funds and to fix budgets for the proper expenditure of public funds.
- c. Failure of the grievant to take the complaint to Step II or III within the established time limit shall be deemed to mean that the grievance has been resolved.

## **RULE 16: CERTIFICATION OF PAYROLLS**

### **16.1 PREPARATION AND SUBMISSION OF PAYROLLS**

No Appointing Authority shall make or approve any payment for personal services to any person unless approved by the Director. All payrolls shall be prepared and submitted in sufficient copies and upon forms prescribed by the Director in sufficient time for approval by the Director prior to payment of any funds or salaries. All payrolls shall be signed and verified by competent authority as authorized by the Director. If an Appointing Authority fills a vacancy with someone who is not on a Certification List, the Director shall refuse to certify its payroll, voucher, or account.

### **16.2 COMPUTATION OF PAY**

- a. Classified Employees shall be paid in accordance with the Pay Plan established by the Board for the Appointing Authority served.
- b. If employment begins or ends within a pay period, the Classified Employee shall be paid for hours worked at the Classified Employee's hourly rate of pay calculated under the official Pay Plan.
- c. Generally, Classified Employees who are entitled to overtime compensation should receive overtime pay or Compensatory Time at the rate of one and one-half times the hourly rate for hours worked in excess of forty (40) in a work week.
- d. In no case shall a new appointee be placed in pay status before the date of assumption of duties. Except in the case of disciplinary action, a Classified Employee returning from an absence of more than three work days in non-pay status shall not be placed in pay status before the date of resumption of duties. In the case of discipline, a Classified Employee may be returned to duty on a scheduled off day.

### **16.3 VERIFICATION OF PAYROLL**

Each Appointing Authority shall verify to the Director that all payrolls are accurate and correct and that the persons listed thereon are legally entitled to receive such sums. Although the



Director shall rely upon such verification in certifying payrolls, the Director specifically reserves the right to audit, sample or otherwise independently verify such payrolls.

#### **16.4 CERTIFICATION OF PAYROLLS**

It shall be unlawful for any disbursing officer to make any payment to any person, either directly or indirectly, in contravention of any provision of the Act or these Rules. All payrolls must bear the Certification of the Director prior to the disbursement or payment of funds or salaries. Any unauthorized funds disbursed shall be recoverable in accordance with Section 24 of the Act.

#### **16.5 OVERTIME PAY**

It shall be the responsibility of each Appointing Authority to determine whether a Position is subject to the provisions of the Fair Labor Standards Act (FLSA). If a Position is subject to the FLSA, then the Classified Employee occupying the Position shall be compensated in compliance with the FLSA for work performed in excess of the normal work week.

### **RULE 17: PROHIBITED ACTIVITY**

#### **17.1 PROHIBITED ACTIVITIES**

a. No person shall be appointed or promoted to, or dismissed from any Position, or in any way favored or discriminated against with respect to employment because of age, color, national origin, military/veteran status, race, religion, political affiliation or opinions, or sex.

b. No person shall seek or attempt to use any political endorsement in connection with any appointment to a Position.

c. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a Position, or an increase in pay or other advantage in employment in any such Position, for the purpose of influencing the vote or political action of any person, or for any consideration.

d. No person in the employment of any Appointing Authority, whether Classified or Unclassified, shall be denied the right to participate in city, county and state political activities to the same extent as any other citizen of the State of Alabama, including, endorsing candidates and contributing to campaigns of their own choosing.

e. All persons in the employment of any Appointing Authority shall have the right to join local political clubs and organizations and state or national political parties.

f. All persons in the employment of any Appointing Authority shall have the right to publicly support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to those of their choosing.

g. When off duty, out of uniform and acting as a private citizen, no law enforcement officer, firefighter, or peace officer shall be prohibited from engaging in city, county, or state political activity, provided such activity is otherwise in compliance with these Rules and the Act.

h. No person shall attempt to use his official authority or Position for the purpose of influencing the vote or political action of any person. Any person who violates this section may be guilty of a felony punishable by a fine not to exceed \$10,000.00 or imprisonment in the State penitentiary for a period not to exceed two (2) years or both.

i. Any Classified Employee shall be on approved leave to engage in such political action or the employee shall be on personal time before or after work and on holidays. No employee shall solicit any type of political campaign contributions from other employees who work for said Classified Employee in a subordinate capacity. No Classified Employee shall coerce or attempt to coerce any subordinate employee to work in any capacity in any political campaigns or cause.

### **17.2 CANDIDACY FOR PUBLIC OFFICE**

a. If a Classified Employee resigns his or her Position in order to run for public office, he or she shall submit a written resignation to the Appointing Authority, with a copy to the Director, stating the purpose of such resignation. Provided the Classified Employee returns to work within six (6) months from the date of his or her resignation and his or her Position has not been filled, the Classified Employee will be treated as if he or she had been on an authorized leave.

b. Any Classified Employee who qualifies to seek a political office with the Appointing Authority with which he or she is employed, shall be required to take an unpaid leave of absence pursuant to the provisions of Rule 13, or use accrued overtime or vacation time with said Appointing Authority and/or governmental entity from the date he or she qualifies to run for office until the date on which the election results are certified, or the Classified Employee is no longer a candidate, or there are no other candidates on the ballot. Any Classified Employee who violates this rule shall forfeit employment with said Appointing Authority and/or governmental entity.

### **17.3 CONFLICT OF INTEREST**

In order to avoid a conflict of interest, an Appointing Authority may require that a Classified Employee who wishes to engage in any outside work or activity for personal profit file a written request setting out the nature of such outside employment. Reasons for rejection of the request shall be limited to whether or not such employment can cause a conflict of interest or is incompatible with a Classified Employee's Position in the Classified Service.

### **17.4 DUTIES OF COUNTY AND MUNICIPAL OFFICIALS**

All elected authorities and officials subject to the Act shall aid in all proper ways in carrying into effect the provisions of the Enabling Act and these Rules and to assist in the administration and improvement of the merit system.







