

CITY OF MIAMI



CIVIL SERVICE RULES & REGULATIONS

Ordinance No. 8977, Effective August 24, 1979

Volume 6, No. 12 as amended 07/2014

PAGE LEFT BLANK INTENTIONALLY

Table of Contents

| | | |
|---------|---|----|
| RULE 1 | Definitions of Terms Used | 4 |
| RULE 2 | Organization And Duties | 9 |
| RULE 3 | Official Records | 12 |
| RULE 4 | Policy Functions Of The Board | 13 |
| RULE 5 | Application For Examinations | 14 |
| RULE 6 | Examinations | 17 |
| RULE 7 | Eligible Registers | 21 |
| RULE 8 | Appointments, Promotions & Advancements | 23 |
| RULE 9 | Probation | 31 |
| RULE 10 | Employee Organizations | 34 |
| RULE 11 | Transfers | 35 |
| RULE 12 | Layoff, Resignation And Reinstatement | 36 |
| RULE 13 | Service Ratings | 43 |
| RULE 14 | Dismissals, Suspensions, Demotions And Resignations | 44 |
| RULE 15 | Hours Of Work Attendance And Leave | 56 |
| RULE 16 | Grievances And Abuses | 71 |
| RULE 17 | Prohibited Practices | 73 |
| RULE 18 | Change Of Rules | 74 |
| RULE 19 | Regulations | 75 |

RULE 1
DEFINITIONS OF TERMS USED

Sec. 1.1. 'Civil Service' shall comprise all positions of trust, skill or employment, including all employees whether permanent or temporary, on the service of the City Miami, except as otherwise provided by the Charter of the City of Miami.

Sec. 1.2. 'Unclassified Service' comprises those positions specified in Section 62 of the City Charter, which shall be interpreted in accordance with the following:

(a) The City Manager's Assistants and Secretarial staff of the Human Resources Department determine that it is feasible to select such employees in accordance with the selection requirements of these rules. The 'Classified Service' shall be divided into three classes to be designated competitive, noncompetitive and labor.

(b) The 'Heads of Departments' shall include the Directors of all departments, agencies and offices created by City Charter, City ordinance or City budget under the direction of the City Manager.

(c) 'Assistants to Department Heads' shall include not to exceed five positions in each City Department, agency or office as authorized by the City Manager. Such positions shall be in addition to those positions specified by title in paragraph (1) (c) of Section 62 of the City Charter.

(d) Positions funded under Federal grant programs shall be unclassified only when the Director of the Human Resources Department determines that

it is not feasible to select employees for such positions in accordance with the selection requirements of these rules.

Personnel with permanent Civil Service rights appointed to unclassified positions shall retain and continue to accrue Civil Service rights in the classified position from which the appointment was made.

Sec. 1.3. 'Classified Service' comprises all positions not exempted by the Charter in accordance with these rules. The Charter shall be interpreted broadly to include employees in Federal grant programs whenever the Director of the Human Resources Department determine that it is feasible to select such employees in accordance with the selection requirements of these rules. The 'Classified Service' shall be divided into three classes to be designated competitive, noncompetitive and labor.

Sec. 1.4. 'Competitive Class' shall include all positions and employment for which it is practicable to determine the merit and fitness of applicants by competitive examinations as determined by the Director of the Human Resources Department.

Sec. 1.5. 'Noncompetitive Class' shall include all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character as may be determined by the Director of the Human Resources Department in accordance with the City Charter.

Sec. 1.6. 'Labor Class' shall include unskilled labor.

Sec. 1.7. 'Permanent Employee' means any employee in the classified service who has been regularly appointed. after serving a probationary period, to a position which normally involves continuous year-round service.

Sec. 1.8. 'Probationary Employee' means any employee in the classified service who has been regularly appointed to a position but who has not completed the required probationary period. A probationary employee has no Civil Service rights and may be returned to a former classification in which the employee held permanent status, or be discharged if in an entrance position, upon being notified in writing, but shall not be accorded a hearing before the Civil Service Board.

Sec. 1.8.b. 'Probationary Period' is that period of service which an employee must complete prior to obtaining permanent appointment.

Sec. 1.9. 'Temporary Employee' means any employee appointed for a special period, for a special project, or to replace a regular employee on leave. Temporary employees-accrue no Civil Service rights in their temporary classifications.

Sec. 1.10. 'New Position' means a position created either by (a) an authorized addition of a position to an organization unit, (b) creation of a position not previously existing, or (c) reclassification of a previous position.

Sec. 1.11. 'Eligible Register' is a list of persons who have qualified through suitable examination for employment in positions allocated to a specified class or to-a limited number of clearly defined positions within a class.

Sec. 1.12. 'Promotion' means a transfer made in accordance with these rules from a lower to a higher classification in the same Job family, involving a requirement that the employee must have first held status in the lower classification to be eligible for promotion.

Sec. 1.13. 'Advancement' means a transfer made in accordance with these rules to a classification which has a higher salary range and for which there was no requirement that the employee must have first held status in a lower classification.

Sec. 1.14. 'Demotion' is a reduction in classification and status. A demotion is used when an employee is found to be unsatisfactory in the employee's higher level or for disciplinary reasons.

Sec. 1.15. 'Return to Former Classification' is a reversion to a classification in which the employee held status prior to promotion, advancement, change in classification, or appointment to the unclassified service, due to voluntary request or other reason not involving discipline.

Sec. 1.16. 'Change in Classification' is a change to a different classification with no change in pay range or a change to a classification with a lower pay range in which the employee held no previous status. A change in classification is based on a voluntary request or other reason not involving discipline.

Sec. 1.17. 'Board' when used by itself refers to the Civil Service Board of the City of Miami.

Sec. 1.18. 'Position' is a group of current duties and responsibilities assigned or delegated by competent authority, requiring the full-time or part-time employment of one person.

Sec. 1.19. 'Age Limit' is the established limit on age. An applicant will be deemed to be within the age limit for examination if the anniversary of his/her birth date falls within one month of the date of the examination.

RULE 2

ORGANIZATION AND DUTIES

Sec. 2.1. Organizational Meeting. Immediately after appointment the Board shall elect one of its members as Chairman, then elect one of its members to serve as Chief Examiner and Secretary. The Board shall next appoint an Executive Secretary. Any three members of the Board shall constitute a quorum. Selection of the Chairman, Chief Examiner-Secretary and Executive Secretary shall be by majority vote of the Board members present.

Sec. 2.2. Duties of the Executive Secretary. It shall be the duty of the Executive Secretary to keep minutes of all meetings of the Board, to appoint other members of the staff in accordance with the provisions of these rules and the City Charter, to supervise all activities of the staff and to serve as the Chief Executive Officer of the Board. He/she shall be ex officio director of personnel for purpose of Section 65 of the City Charter.

Sec. 2.3. Duties of the Chief Examiner. It shall be the duty of the Chief Examiner to verify all minutes and records of the Board. The Chief Examiner shall provide examinations in accordance with regulations of the Board and maintain lists of eligibles of each class of the services of those meeting the requirements of said regulations. Positions in the classified service shall be filled by him/her from such eligible lists upon requisition from and after consultation with the City Manager. These Charter functions shall be interpreted in accordance with the provisions of these Rules and Regulations. The purpose of such interpretation is to assure compliance with court decrees, Federal selection guidelines, grant requirements and other governing

regulations. These functions shall be performed in accordance with the following interpretations:

(a) The phrase 'provide examinations' means to assure that examinations are prepared by the Director of Human Resources Department under the provisions of Rule 6 hereof.

(b) The phrase 'maintain lists of eligibles' means to assure that eligible registers are established by the Director of the Human Resources Department under the provisions of Rule 7 hereof.

(c) The phrase stating that positions 'shall be filled by him/her' means the Chief Examiner shall assure that positions are filled in accordance with the provisions of Rule 8 hereof. The Chief Examiner bears ultimate responsibility to assure that these functions are performed in accordance with the Rules and Regulations of the Board.

Sec. 2.4. Department Rules. The Director of each Department shall make the rules for the conduct of his/her department. Such rules shall be subject to the approval of the City Manager, shall be filed with the Board, and shall not be in conflict with the Civil Service Rules.

Sec. 2.5. Official Signatures. The Executive Secretary or his/her designee shall sign all vouchers involving the expenditure of funds appropriated to the Board. The Chairman of the Board and the Chief Examiner-Secretary shall sign the official minutes involving acts of the Board. The Chief Examiner or the Director of the Department of Human Resources shall sign all payrolls certifying that each person named thereon holding a position in the classified service has been appointed or employed in accordance with the provisions of the City Charter and of the rules established there-under.

Sec. 2.6. Duties. After the Chairman, Chief Examiner and Executive Secretary have been chosen, the new board will next adopt the existing rules of the Board with such amendments as it may elect to make or it may adopt an entirely new set of rules, subject to the approval of the City Commission. The Board shall perform such other functions as may be delegated by the City Commission. The salaries of the Board and its employees shall be determined by the City Commission and a sufficient sum shall be appropriated each year to carry out the Civil Service provisions of the City Charter.

Sec. 2.7. Appearance Before the Board. Anyone desiring an appearance before the Board shall confer with the Executive Secretary who will make the necessary arrangements or consult with the Board.

Sec. 2.8. Public Board Meetings. All meetings of the Board shall be open to the general public. Equipment necessary to transmit Board meetings shall be set up prior to the time scheduled for the Board to meet.

RULE 3
OFFICIAL RECORDS

Sec. 3.1. Board Minutes. The Executive Secretary shall keep a minute record of the official proceedings of the Board as required under these rules. The Board's minutes shall record all official actions of the Board.

Sec. 3.2. Personnel Records. The Director of the Department of Human Resources shall maintain official personnel records of classified employees and shall establish procedures necessary to protect the privacy and confidentiality of such records, consistent with the provision of law. The Director shall also establish a records management program for the maintenance and disposition of official personnel records consistent with the provisions of State law and local ordinances.

RULE 4
POLICY FUNCTIONS OF THE BOARD

Sec. 4.1. *Recommendatory, General.* It shall be the duty of the Civil Service Board to review and recommend new and improved personnel policies to the City Commission, the City Manager, the Director of the Department of Human Resources and other departments and agencies of the City Government. In fulfilling this responsibility, the Board may from time to time conduct public hearings and may, in its discretion, take testimony under oath from City officials, residents of the City, City employees and their representatives, and experts in the field of personnel administration. The Board may place its findings and recommendations in the minutes of the Board or in written reports which the Board may submit to the City Commission, the City Manager and the Director of the Human Resources Department.

Sec. 4.2. *Recommendatory, Specific.* The Chief Examiner may review any complaint of an applicant for employment or promotion and may make recommendations to the City Manager and the Director of the Department of Human Resources for resolution of such complaints in accordance with the provisions of these rules.

RULE 5

APPLICATION FOR EXAMINATIONS

Sec. 5.1. Announcement. All announcements of examinations for positions in the classified service shall be issued by the Director of the Human Resources Department and shall be posted in the Civil Service Office, in the City Employment Office and in such other places as the Director of the Human Resources Department deems advisable. This will include necessary advertising in the ethnic media and in the general press when outside advertising is desirable. The announcements shall specify the title and salary range of the classification or positions for which the examination is announced, the nature of the work to be performed, the qualifications necessary or desirable for the performance of the work; the time, place and manner of making application; whether recruitment will have a fixed or flexible closing date for receiving applications; and other pertinent information.

Sec. 5.2. Application Forms. Applications shall be made on forms prescribed by the Director of the Human Resources Department. Such forms shall require information covering training, experience, references and other pertinent information. The categorization of persons on the basis of race, color or national origin with respect to their identification for certification for employment or promotion under this Section must be established at the time of application. The ethnic category marked on the application form at the close of recruitment must remain in force for the duration of the register. Each application must be signed by the person applying. Such forms shall comply with Federal requirements.

EFFECT OF AMENDMENT - Prior to the Amendment of this section, which became effective May 9, 2002, Section 5.2 did not require that the categorization of race, color or national origin be established at the time of application for all classified positions.

Sec. 5.3. Residence. All applicants must be residents of the City of Miami, Florida, except when the Director of the Human Resources Department determines that prior recruitment experience or other relevant factors make broader recruitment necessary In order to attract qualified applicants or to comply with Federal requirements or court orders. Preference in certification may be given to residents of the City or of specific neighborhoods when such preference will serve the best interests of the City or will assist in achieving compliance with applicable law or regulation. Employees must maintain residence in accordance with requirements established by the City Manager.

Sec. 5.4. Disqualification. The Director of the Human Resources Department shall reject an application which does not indicate on its face that the applicant possesses the minimum qualifications required for the position or who fails to file by the announced closing date for receiving applications, unless prior to such date an extension has been publicly posted. Applications also shall be rejected if the applicant is physically unfit for the performance of the duties of the position to which he/she seeks appointment; is addicted to the habitual excessive use of drugs or intoxicating liquor; has made any false statement of any material fact, or practiced, or attempted to practice any deception or fraud in his/her application. Applications may be rejected if the applicant has been convicted of a crime or is guilty of any disgraceful conduct. Whenever an

application is rejected, notice of such rejection with statement of reason shall be mailed to the applicant by the Director of the Human Resources Department; provided, however, that applications more than two years old may be destroyed without notification, of otherwise authorized by law.

Supp. #11,5-02

RULE 6

EXAMINATIONS

Sec. 6.1. Open Examinations. All open examinations shall be open to all persons who possess the minimum qualification requirements as established by the Director of the Human Resources Department. Such examinations may be competitive or noncompetitive and may be restricted to employees in the service of the City or to applicants who meet eligibility criteria for grant programs.

Sec. 6.2. Promotional Examinations. Advancement within the Classified Service shall be through promotional examinations which shall be open to all employees who meet the necessary requirements and who are serving in an appropriate class as determined by the Director of the Human Resources Department. Promotional examinations may be competitive or noncompetitive and may be limited to a single department or subdivision thereof. While vacancies in higher positions shall, as far as practicable, be filled by promotion or advancement from lower positions, the Director of the Human Resources Department, on recommendation of the City Manager, may direct that such positions shall be filled by examinations open not only to City employees, but also to other qualified persons.

Sec. 6.3. Contents of Examinations. All selection procedures shall be practical in character, and shall relate directly to those matters which will fairly determine the relative capacity of the person examined to discharge the particular duties of the classification or position to which appointment is sought. Examinations may be assembled or unassembled and may include

written, oral, physical, medical or performance tests, apprenticeship or on-the-job training programs, or any combination of these or other recognized selection procedures. They may take into consideration reasonable factors such as education, experience, aptitude, knowledge, character, physical fitness or any other qualifications which in the judgment of the Director of the Human Resources Department enter into the determination of relative fitness of applicants.

Sec. 6.4. Veteran's Preference. In certification for appointment, in appointment, in reemployment, and in promotion, preference shall be given In accordance with the State of Florida Statutes, as amended.

Veteran's preference in retention shall be given in accordance with the provisions of Rule 12 hereof.

Sec. 6.5. Method of Rating. Sound measurement techniques and procedures shall be used in rating the results of examinations and determining the relative ranking of candidates. In all examinations, the minimum rating by which eligibility may be achieved shall be established by the Director of the Human Resources Department, who may also determine a minimum rating or standard for progression to successive steps in a total selection procedure.

Sec. 6.6. Rating of Examination Results. Passing grades for each examination shall be established by the Director of the Human Resources Department. The names of applicants receiving a passing grade shall be entered on the appropriate eligible register and a copy shall be submitted to the Chief Examiner.

Sec. 6.7. Seniority.

(a) Credit for seniority shall be given only for actual service in the classification in the Police or Fire Service from which promotion is sought whether such service has been continuous or not. This shall not apply in reemployment. Seniority shall be computed as of the date of original appointment according to the table shown in subsection 6.7(d) hereof.

(b) In Fire Department promotional examinations, the number of points earned under subsection 6.7.(d) hereof shall be added to the standard minimum passing score and shall have a weight of two out of ten in determining the final grade excluding veteran's preference, if due.

(c) Seniority for Police Sergeant, Police Lieutenant, and Police Captain: The promotional examinations prepared and administered by an independent testing agency, as required by Court Order in Case 071-1887-Civ-CA ¹ / shall compute seniority in accordance with sub-section 6.7(e) hereof. The number of points earned shall be multiplied by two and divided by ten, with the product then added to the examination score to adjust the grade earned. Upon release from the subject Court Order, promotional examinations listed in this subsection shall be computed as outlined in subsections 6.7(a), (b) and (d) hereof.

| | |
|--|-----|
| (d) For the first 6 months | 0 |
| For each full month of the second 6 months | 1/3 |
| For each second full year | 2 |
| For the third full year | 2 |
| For the fourth full year | 2 |
| For the fifth full year | 2 |
| For the sixth full year | 2 |
| For the seventh full year | 2 |
| For the eighth full year | 3 |
| For the ninth full year | 3 |
| For the tenth full year | 3 |

| | |
|--|-----|
| For each additional year after 10 years | 1/2 |
| Maximum fourteen (14) years | 1/2 |
| (e) For the first 6 months | 0 |
| For each full month of the second 6 months | 1/2 |
| For the second full year | 3 |
| For the fourth full year | 2 |
| For the fifth full year | 2 |
| For the sixth full year | 2 |
| For the seventh full year | 2 |
| For the eighth full year | 2 |
| For the ninth full year | 2 |
| For the tenth full year | 2 |
| For each additional year after 10 years | 1/2 |
| Maximum fourteen (14) years | 1/2 |

1/ Franklin G. Cohen, et al., v. City of Miami, et al., District Court, Southern District of Florida, Case #71-1887-CIV-CA.

RULE 7 ELIGIBLE REGISTERS

Sec. 7.1. Promotional and Open Registers. The Director of the Human Resources Department shall establish and maintain such promotional and open registers for the various classes or positions as he/she deems necessary or desirable to meet the needs of the service.

Sec. 7.2. Order of Names on Registers. Names of eligibles shall be placed on competitive registers in the order of their final earned rating. In case of ties in the final ratings, names shall be placed on the registers in alphabetical order, when one such eligible candidate is certified, all such eligible candidates with tied scores shall be certified for interviews. Names of eligible shall be placed on noncompetitive registers as determined by the Director of the Human Resources Department. In the case of open continuous or intermittent recruitment, names of eligibles shall be added to noncompetitive registers as determined by the Director of the Human Resources Department.

Sec. 7.3. Duration of Registers. The term of eligibility of each register and of the names appearing thereon shall be fixed by the Director of the Human Resources Department at not less than one year nor more than two years. Whenever, for economic purposes, the City Manager by memorandum delays the filling of a promotional vacancy, the life of the subject register and all other promotional registers affected thereby shall be extended for a period of time equal to that time occasioned by the delay. Any register that has been in effect for more than one year may be abolished or extended at any time by the Director of the Human Resources Department. For the purpose of this rule the

life of an eligible register begins on the date the register is established.
(Ordinance No. 10163)

EFFECT OF AMENDMENT - Prior to the Amendment of this section, which became effective October 7, 1986, Section 7.3 did not provide for the duration of eligible registers affected by a promotional freeze as ordered by the City Manager.

Sec. 7.4. Availability of Eligibles. It shall be the responsibility of eligibles to notify the Director of the Human Resources Department in writing of any change of address or other change affecting availability for employment.

Sec. 7.5. Removal from Register. The name of any person appearing on a register may be removed by the Director of the Human Resources Department if the eligible requests in writing that his/her name be removed or if he/she cannot be located by postal authorities or other means of ordinary communication within five days following the date of notification. The name of any eligible may also be removed if the name has been certified for appointment three separate times and has not been appointed, or if the eligible has waived appointment twice in the same class of position. Any cause specified in these rules for the rejection of applications may likewise be cause for the removal of the name of an eligible from the register on which it appears.

Supp. #3, 10-86

RULE 8
APPOINTMENTS, PROMOTIONS & ADVANCEMENTS

Sec. 8.1. From Eligible Register. Except as otherwise provided in these Rules, every vacancy in the classified service shall be filled by appointment from the appropriate eligible register. Appointments shall be made to, or employment shall be given in, all positions in the classified service by selection of persons certified by the Director of the Human Resources Department.

Sec. 8.2. Request for Certification (Requisition). Whenever the City Manager shall request certification from the Director of the Human Resources Department for appointment to, or employment in, any position in the classified service, he/she shall specify the title and duties for such position, so that certification may be made from the appropriate eligible register, or when necessary, a proper eligible register may be prepared as the result of an examination held for that purpose.

Sec. 8.3. Certification from Open Competitive Registers.

The Director of the Human Resources Department shall certify from the appropriate eligible register the five persons who stand the highest thereon. Eligibles not selected shall be returned to the register in accordance with their relative grades. Only under unusual and exceptional conditions satisfactory to the Board shall the names of eligibles be passed over. (Ordinance No. 11667)

EFFECT OF AMENDMENT - Prior to the amendment of this section, which

became effective July 3, 1998, Section 8.3 was divided into subsection (a) which outlined the certification process for open competitive registers for positions other than Police Officer, and subsection (b) which outlined the process for certification and selection for the position of Police Officer.

Sec. 8.4. Certification from Promotional Competitive Registers.

The Director of the Human Resources Department shall certify from the appropriate register for each vacancy the names of the five persons who stand highest thereon. Only under unusual conditions, satisfactory to the Board, shall the names of eligibles be passed over.

Sec. 8.5. Certification from Noncompetitive Registers. The Director of the Human Resources Department shall certify a list of candidates which may be limited to those whom he/she deems most qualified.

Sec. 8.6. Certification from Labor Registers. The Director of the Human Resources Department shall certify from an established eligible register a list of candidates which may be limited to those he/she deems most qualified.

EFFECT OF AMENDMENT - Ordinance No. 11844, effective October 12, 1999 deleted Section 8.7. Additional Certification, in its entirety. Section 8.7 was previously amended by Ordinance No. 10282, effective June 11, 1987, which represented Supp. #4, 6-87. Supp. #4, 6-87, Supp. #9, 10-99

Sec. 8.7. Appointments. Appointments, promotions and advancements shall be made from a list of names certified by the Director of the Human

Resources Department except as otherwise provided in these Rules or approved by the Board.

Sec. 8.8. Temporary Appointments in the Absence of Eligible Registers. In the absence of an eligible register and whenever there are urgent reasons for filling a vacant position in the classified service, the Director of the Human Resources Department may refer from the applicants who have applied for the subject classification those he/she deems most qualified.

Applicants not coming from eligible registers shall meet the minimum requirements for competition in the examination for the position being filled. A temporary appointment may be authorized by the Director of the Department of Human Resources for a specified period of not more than ninety days, or to replace an employee on leave of absence, or to fill a temporary position established for a period of less than one year. The appointee may hold the position until an eligible register is established.

Sec. 8.9. Temporary Promotions. An emergency, interim or temporary promotion from a lower to a higher classification made necessary by reason of illness, disability or other cause for absence of the regular employee may be authorized by the Director of the Human Resources Department, upon written request, with full information from the Director of the department of the involved employee. Said promotion will terminate with the return of the regular employee or upon appointment from an eligible register. No seniority rights in the higher classification shall accrue to said employee.

Sec. 8.10. Method of Qualifying Incumbents of Classified Positions Allocated

to New Or Higher Levels. Whenever an occupied position has been allocated to a new or different class, the incumbent thereof shall be qualified for the new class in one of the following manners:

(a) If the incumbent has been performing satisfactorily at the new or higher level for a period of four years or more and has held permanent status in the previous classification, he/she shall receive the new or higher classification with permanent status, without further examination; or

(b) If the incumbent has been performing satisfactorily at the new or higher level for a period of two years or more and less than four years, and has held permanent status in the previous classifications, he/she shall be given a qualifying examination, the scope of which shall be at the same level of difficulty as normally given for the same or like classification, and if successful therein, he/she shall receive the new or higher classification with permanent status.

(c) In the event the incumbent does not qualify under (a) or (b) above, he/she shall be processed in accordance with the layoff procedures, and the position filled from the appropriate eligible register.

Sec. 8.11. Reorganization. Whenever a department is being reorganized, pursuant to a survey approved by the City Commission or when amendments to the City Charter become necessary, a Department Director, during the transitional period of reorganization, shall have a right to detail personnel within a department to duties of a higher responsibility, with or without salary adjustment, for a period not to exceed 120 days and subject to review every 60 days by the Director of the Human Resources Department, which period may be renewed at the discretion of the Department Director for additional periods of 120 days or until the next general election, whichever comes first.

Employees so detailed shall not accrue any Civil Service status while performing these duties during the transitional period of reorganization but shall continue to accrue Civil Service rights in their permanent Civil Service classification.

Sec. 8.12. Notice in Writing. Immediate notice in writing shall be given by the Department Director to the Director of the Human Resources Department of all appointments (permanent and temporary), transfers, promotions, resignation, suspensions and vacancies from any cause, and the date thereof and a record of same shall be kept by the Director of the Human Resources Department. Whenever a new position is created or an old one abolished or consolidated with another of different classification, the Department Director interested shall immediately report same in writing to the Director of the Human Resources Department.

1/ United States of America v. City of Miami, etc., et al., District Court, Southern District of Florida, Case #75-3096 -CIV-JE. Supp. #4, 6-87

Sec. 8.13. Change of Status to Unclassified Service. Any employee of the City of Miami who holds permanent Civil Service status and is appointed or assigned as a Director of a Department or to any other position in the unclassified service, shall be returned to the rank from which said employee has been promoted under personal request of the employee or when said unclassified service employment ceases, or when said employee is removed from said unclassified service employment. Seniority credits in the permanent Civil Service classification held by such employees shall accrue to the said employee while assigned to such unclassified service employment. A

probationary employee, who has been appointed to a position in the unclassified service, may accrue Civil Service credits with the approval of the Civil Service Board upon completion of the normal probationary period. Application for such rights must be requested by the probationary employee and approved by the Director of the Department in which he/she held his/her classified position. Such unclassified employment shall not bar employees, holding permanent Civil Service status, from qualifying for promotional examination to the classification next higher to their permanent Civil Service classification.

Sec. 8.14. Police Promotions. Eligibility to take the promotional examination for Sergeant of Police shall be limited to those employees holding permanent status as Police Officer, and who also meet the following time-in-grade and educational requirements:

36 months - High School or equivalent

32 months - Associate Degree

28 months - Bachelors Degree

24 months - Masters, Doctors or Law Degree

All of the above-mentioned time-in-grade shall be actual continuous satisfactory service in the classification of Police Officer.

All of the college degrees mentioned above shall be from accredited college or universities and shall be in the fields of:

Police Science, Police Administration, Public Administration,

Business Administration, Criminology, Psychology, Sociology,

Law or such similar or related fields as approved by the City Manager

and the Director of the Human Resources Department.

Employees with two years of actual continuous satisfactory service in the classification of Sergeant of Police shall be considered eligible to take a competitive promotional examination for Lieutenant of Police. Employees with two years of actual continuous satisfactory service in the classification of Lieutenant of Police shall be considered eligible to take a competitive promotional examination for Captain of Police. Any person promoted to these classifications may be assigned anywhere in the Police Department without the consent of the person so promoted. Personnel who were not promoted to these classifications, but received them as a result of reclassification from the old classification of Police Sergeant, Police Detective, Police Lieutenant, Police Detective Sergeant, Police Detective Lieutenant, and Police Captain shall-not be interchanged between any former uniform or detective positions except with the approval of the persons concerned.

Only employees qualified as set forth in the preceding subsections hereof and in the other pertinent sections of these Civil Service Rules and Regulations shall be eligible to hold such promotional positions.

Sec. 8.15. Fire Promotions. Employees with four years of actual continuous satisfactory service in the classification of Firefighter shall be considered eligible to take a competitive promotional examination for Fire Lieutenant. Employees with two years of actual continuous satisfactory service in the classification of Fire Lieutenant shall be considered eligible to take a competitive promotional examination for Fire Captain. Employees with two years of actual continuous satisfactory service in the classification of Fire Captain shall be considered eligible to take a competitive promotional examination for Chief Fire Officer.

Only employees qualified as set forth in the preceding subsections hereof and in the other pertinent sections of these Civil Service Rules and Regulations shall be eligible to hold such promotional positions.

Sec. 8.16. Promotions Upon Retirement. Any officer of the Police Division or uniformed member of the fire Division may, upon retirement, be promoted without examination, to the next higher rank in the service. This promotion is to be based entirely upon the recommendation of the Directors of the Fire and Police Departments, and is an honorary promotion, carrying no Civil Service rights or status.

Sec. 8.17. Accordance with Collective Bargaining Agreement. Notwithstanding the provisions of this rule, employees in a bargaining unit may be appointed, promoted, or advanced in accordance with provisions of the appropriate labor agreement.

RULE 9

PROBATION

Sec. 9.1. Definition. A 'Probationary Employee' is an employee initially employee in a classified position, or an employee who is in the classified service, but who has been promoted, advanced, demoted or changed in classification and who has not completed the probationary period provided in subsections 9.2 and 9.3 hereof.

Sec. 9.2. Incomplete Action. No initial appointment, advancement, promotion, demotion or change in classification in the classified service shall be deemed complete until a probation period of actual service in the position to which appointed, advanced, promoted, or change in classification shall have been completed.

Sec. 9.3. Length of Probation. The required period or probationary services shall be as follows:

Upon the initial appointment or advancement to the position of Police Officer, the period of probationary service shall be not less than eighteen months nor more than twenty-four months. (Ordinance 11822)

Upon the initial appointment or advancement to the position of Identification Technician I or Firefighter, the period of probationary service shall be twelve months.

Upon the initial appointment, advancement, or change in classification to any other position, the period of probationary service shall be not less than six months nor more than twelve months.

EFFECT OF AMENDMENT - Prior to the Amendment of this section, which became effective July 27, 1999, the probationary period for Police Officers was eighteen months.

Sec. 9.4. Automatic Return. Said probationary employee may be returned to his/her former classification or, in the event he/she holds no permanent status in any class, may be discharged or reduced in rank at any time prior to the expiration of the probationary period upon receipt by said probationary employee of a written notice of discharge or reduction in rank from the Director of the Department, approved by the Director of the Human Resources Department.

Sec. 9.5. Automatic Reduction. No employee, serving a probationary period in a position to which he/she has been promoted, shall be discharged within such probationary period but shall only be reduced to the classification in which he/she has permanent Civil Service status. Such employee shall first be given an opportunity to fill any vacant position in the subject classification and, if there is no such vacancy in that classification, he/she shall be permitted to replace, City-wide, that person with the lowest layoff score in that classification, layoff score to be computed in the manner described in Rule 12, subsection 12.1 (3) (c) hereof.

Sec. 9.6. Lack of Extension. No probationary period shall be extended beyond the time limit set forth in this rule, except upon approval of the Board.

Sec. 9.7. Possible Retention. A probationer who is dismissed from an entrance position may submit a statement in writing to the Director of the

Human Resources Department in which case his/her statement and that of the Director of the Department concerned shall be reviewed. If, in the opinion of the Director of the Human Resources Department, it is in the best interest of the City to permit the individual another opportunity for employment, said individual's name shall be returned to the eligible register of the classification concerned, in its original position on the said eligible register.

Sec. 9.8. Automatic Appointment, Condition Subsequent. When an employee is appointed from an eligible register to a permanently budgeted entrance or promotional positions of a temporary nature, to replace a permanent employee on leave of absence without pay or a permanent employee who is serving on a special project or when an employee is appointed from an eligible register to a position funded by special grants, he/she will be appointed in probationary status unless the Department Director, in writing, recommends against it, and the Director of the Human Resources Department approves the concerned Department Director's recommendation.

Supp. #8, 07-99

RULE 10
EMPLOYEE ORGANIZATIONS

Sec. 10.1. Rights. Right of Employees to Affiliate with any Employee or Labor Organization in accordance with the June 3, 1959 Act by the Legislature of the State of Florida: Classified City employees are assured the right and freedom of association, self-organization and the right to join or to continue as members of any employee or labor organization complying with the above mentioned act and shall have the right to present to the Board proposals relative to the Rules and Regulations or other matters which come under the jurisdiction of the Board through representatives of their own choosing. No such employee shall be discharged, or discriminated against because of his/her exercise of such right, nor shall any person or group of persons, directly or indirectly, by intimidation or coercion, compel or attempt to compel any employee to join or refrain from joining an employee or a labor organization.

Sec. 10.2. Limitation. Denial of the Right to Strike: Any classified employee who participates in any strike or who asserts the right to strike, or who is a member of an organization of government employees that asserts the right to strike against the City, knowing that such organization asserts such right, is subject to dismissal or suspension from the classified service, or to demotion to a lower rank, if in a promotional position.

RULE 11

TRANSFERS

Sec. 11.1. Interdepartmental Transfers. Any employee in the classified service who has served the required probationary period may be transferred from a position in one department to a position of the same class in another department upon approval of the Directors of the two Departments concerned and with the consent of the employee to be transferred, without having to serve an additional probationary period. Nothing herein shall be construed to interfere with the right of the City Manager to assign or reassign employees within a given class among the various departments as he/she deems in the best interests of the service, irrespective of consent of employee assigned. The Board may also authorize the transfer of an employee from one class to another in the same salary range when the minimum qualifications are equivalent.

Notwithstanding the provisions of this rule, employees in a bargaining unit may be appointed, promoted, or advanced in accordance with provisions of the appropriate labor agreement.

Sec. 11.2. Assignment to other Work. Any employee in the classified service may be assigned to work other than that described in the description of the classification of the position held for a period not exceeding thirty working days in any one calendar year without permission of the Board. No person shall be employed for more than thirty working days on duties other than those described or implied by the class specification unless said employee has been qualified therefore by examination and is appointed in accordance with these

Rules; or unless said employee has received an emergency, interim or temporary promotion in accordance with these Rules; or unless said employee has been detailed under a reorganization plan In accordance with these Rules; or unless approved by the Board. Assignments of employees in the Department of Fire and the Department of Police to perform the same duties in various districts, and to assist each other, and similar changes in other departments of the location of the employment and not of the position held, but where there is no change in salary, are not to be construed as transfers but as routine details.

Notwithstanding the provisions of this rule, employees in a bargaining unit may be assigned to work out of their classification in accordance with provisions of the appropriate labor agreement.

RULE 12
LAYOFF, RESIGNATION AND REINSTATEMENT

Sec. 12.1. Layoff Procedures. Whenever it becomes necessary to reduce the number of employees within a given classification in any department through lack of work funds or other causes or when a position is abolished, employees shall be laid off as follows:

- (1) Duration, emergency or temporary employees.
- (2) Probationary Employees.
- (3) Permanent Employees.

(a) Layoff shall first be restricted to the classification in which there is a surplus of employees within the department. The person who is found to have the lowest layoff score within the department and classification shall be entitled to fill any existing vacancy in such classification in any department of the City. Should there be no vacancy, the employee with the lowest layoff score shall be entitled to replace the employee with the lowest layoff score City-wide. That employee in turn will have the same rights starting within his/her department to replace another employee, providing that they held a permanent status in some lower subordinate classification.

(b) Employees in a department, division, section, etc., whose functions are to be transferred to any other government Agency shall have the right to elect to remain with the City, provided they hold permanent status in a classification that is utilized in any other department and further provided that they have sufficient seniority in the classification held or previous classifications. Employees subject to any other government transfer shall be

processed in the same manner as outlined in this rule.

(c) The order of layoff of permanent employees shall be determined by a layoff score computed in the following manner: A credit for seniority computed at the rate of one-tenth of one point (.1) shall be given to all employees in the particular classification for each full month service within his/her particular classification in which his/her, efficiency rating has been reported as other than unsatisfactory, provided, however, that in the case of veterans, one point (1.0) or ten months of seniority shall be added to the total layoff score. No seniority credits for the purpose of determining the layoff score shall be granted for those months within a service rating period wherein an employee's service had been reported as unsatisfactory. A tie in said score shall be broken in favor of the employee with the longest service rating reported as other than unsatisfactory. Should a tie still exist, it shall be decided in favor of the employee who filed the first work application with the City. The employee with the lowest layoff score shall then be laid off. The Civil Service Board or Executive Secretary may refer the employee laid off to a vacancy in a lower entrance level which has similar requirements. It shall not be binding on a Department Director to accept the employee referred to a like or similar classification.

(d) If the said employee has progressed in continuous and uninterrupted service through and holds permanent classification in each of several job classifications in the same job family, he/she shall hold job seniority in any one of the several job classifications as follows:

(i) In the highest job classification, only seniority actually

accrued in that classification shall apply.

(ii) In any lower Job classification, all seniority accrued in said lower classification, together with all seniority accrued in the several higher classifications, shall comprise the total seniority in the aforesaid lower job classification.

No employee shall have any right or title in a job classification in which he/she was never employed and held a permanent appointment in said classification except as provided in Rule 12.7 hereof.

(e) Any employee holding a permanent or probationary status, in one job classification and elevated to a higher position for the good of the service on a temporary or probationary status shall continue to accrue seniority in the former classification vacated.

(f) Employees who have 'advanced' not in the same job family will maintain seniority in their previous status as of the date they advanced from that status but they will not accrue further seniority in their previous status.

Sec. 12.2. Layoff Registers. The names of Police Officers who have completed at least twelve months but less than eighteen months of probationary service and the names of the persons who held permanent status in the classified service which have been abolished or have become unnecessary shall be placed on an appropriate 'Layoff' register in the order of their layoff score, the highest being first, for a period not to exceed thirty-six months during which time said persons may be certified for reemployment. Such employees shall be reemployed with seniority accrued prior to the layoff

but will not accrue seniority during the period of layoff. Layoff registers shall take priority over all registers including promotional.

Reemployment shall be subject to (such person's passing) a satisfactory physical examination by the City Physician. This rule shall be applied to all layoff registers.

Sec. 12.3. Layoff of Probationary Employees. The names of persons who hold probationary status in the classified service, in positions which have been abolished or have become unnecessary, shall be placed on the current eligible register of their classification in the order of their earned score provided, however, the Police Officers who have completed at least twelve months but less than eighteen months of probationary service shall be eligible for reemployment in accordance with subsection 2 hereof and shall be required to serve the balance of their probation upon reemployment.

Sec. 12.4. Resignations. Any employee who resigns with a satisfactory record of service may apply to his or her employing Department to be placed on a re-employment list. If the Director of the employing department endorses the request, said Director may submit the request to the Civil Service Board.

If the request is approved by the Civil Service Board, the Director of Human Resources shall certify the name together with other names certified under Rule 8.

Subject to the provisions of existing labor agreements, in computing sick leave, vacation, and promotions, no credit shall be given for service rendered

prior to reappointment. The Civil Service Board shall only grant previous seniority credit for the purpose of meeting the time-in-grade requirement necessary for taking a promotional examination. The granting of such previous seniority credit shall not be used for augmenting the examination score or any other scores. Any such former employee who had not completed the probationary period will be required to serve a full probationary period as provided in Rule 9.

Eligibility for re-employment shall be limited to two years following approval by the Civil Service Board; provided, however, that in the case of Police and Fire jobs requiring state certification, re-employment shall be limited to two years following the effective date of resignation. (Ordinance No. 9184)

EFFECT OF AMENDMENT - Prior to the Amendment of this section, which became effective November 9, 1980, Section 12.4 stated that any former employee who resigned from the classified service would not be eligible for reinstatement and such former employees, upon application for employment, would be processed in the same manner as any other applicant.

Sec. 12.5. Declining of Positions Offered Under This Rule. Should an employee, laid off under this rule, who is eligible for immediate placement, decline to accept the opportunity, his or her name shall be placed on the appropriate 'layoff' register in the order of his or her layoff score. A refusal of the subject employee to be selected from the layoff register shall result in his or her removal from that register. He/she therefore forfeits any future rights for consideration in the subject classification.

Sec. 12.6. Entrance Certification. The Director of the Department of Human Resources may at his/her discretion, certify for vacancies in entrance positions individuals on layoff registers of like or similar classifications.

Sec. 12.7. Physical Inability, Transfer options. Any employee who has been determined by the City Physician to be physically unable to continue in his/her present classification, providing that the subject employee is in accordance with the reassignment, may be transferred by the City Manager to any vacant entrance level classification if, in the Manager's judgment, the employee can fulfill the duties of the new classification.

An employee who has been determined by the Retirement Board to be disabled in the line-of-duty, and who cannot perform the duties of his/her regular classification, may, if he/she so elects, subject to the approval of the Director of the Human Resources Department and the City Physician, be transferred by the City Manager to any vacant entrance level position for which said employee meets the minimum requirements. Both of the above actions would be without further written examinations, or having to serve an additional probationary period.

Supp. #1, 11-80

Sec. 12.8. Accordance with Collective Bargaining Agreement.

Notwithstanding the provisions of this rule, employees in a bargaining unit may be laid-off, considered to have resigned or be reinstated in accordance with provisions of the appropriate labor agreement.

RULE 13
SERVICE RATINGS

Sec. 13 1. Reports Required. Service ratings relative to the ability and conduct of employees in the classified service shall be made by the Department Director on forms prescribed by the Director of the Human Resources Department.

Sec. 13.2. Unsatisfactory Ratings. Whenever it shall appear from the reports of efficiency that the conduct and/or efficiency of any employee has fallen below an acceptable level, that employee shall be called before the Board to show cause why he/she should not be removed and if, upon hearing, no reason is shown satisfactory to the Board, he/she shall be removed, suspended, or reduced in grade, as the board shall determine.

Sec. 13.3. Conduct of Hearings. Whenever it becomes necessary to call before the Board any employee whose conduct and/or efficiency has fallen below an accepted level, the hearing shall be scheduled as soon as practical. Both the employee and the Department Director shall be notified, reasonably in advance, of the time and place of hearing, and shall have the right to present witnesses and give evidence in accordance with the Rules and Regulations as established by the Board. The Board, after hearing, shall make its decision which shall be final and which shall be duly recorded in the permanent records of the department and Board. The Executive Secretary shall, in writing, properly notify the employee of the Board's decision.

RULE 14

DISMISSALS, SUSPENSIONS, DEMOTIONS AND RESIGNATIONS

Sec. 14.1. Power of Suspension, Removal, Fine or Demotion.

(a) Any officer or employee in the classified service may be removed, fined, laid off, or reduced in grade by the City Manager or by the Director of the Department in which he/she is employed, for any cause which will promote the efficiency of the service; but he/she must be furnished with a written statement of the reasons therefore within five days from the date of the removal, suspension, fine, layoff, or reduction In grade, and be allowed a reasonable time for answering such reasons in writing, which shall be made a part of the records of the Board; and he/she may be suspended from the date when such written statement of reason is furnished him/her. No trial or examination of witnesses shall be required in such case except at the discretion of the City Manager or the Department Director. Any employee in the classified service who deems that he/she has been suspended, removed, fined, reduced in grade or demoted without just cause may, within fifteen days of such action by the Department Director, request in writing a hearing before the Civil Service Board, to determine the reasonableness of the action. The Board shall, within thirty days after appeal of the employee disciplined, proceed to hear such appeal. After hearing and considering the evidence for and against the employee, the Board shall report in writing to the City Manager its findings and recommendations. The City Manager shall then sustain, reverse, or modify the action of the Department Director.

Any member of the Civil Service Board and the Director of Personnel may administer an oath to witnesses appearing before said Board or said Director

in an investigation, disciplinary or appeal proceedings, and shall have the power to issue witness subpoenas and to compel the attendance of witnesses.

(b) The Civil Service Board shall also have the right to remove or reduce any official or employee in the classified service upon written charges of misconduct preferred by any citizen, but only after reasonable notice to the accused and full hearing.

Sec. 14.2. Grounds for Dismissal, Suspension and Demotion. The following are declared to constitute a breach of duty and to be grounds for dismissal or suspension from the classified service or grounds for demotion, though charges may be based upon causes other than those enumerated; viz, that any employee who has been guilty of conduct unbecoming any employee of the City of Miami, who:

(a) Has been convicted of a felony, or of a misdemeanor or offense against the dignity of the City; or

(b) Has been guilty of misuse of sick leave privilege or excessive tardiness or absenteeism without good cause; or

(c) Has willfully, wantonly, or through culpable negligence, been guilty of brutality or cruelty to an inmate or prisoner of a City institution or to a person in custody; or

(d) Has willfully violated any of the provisions of the Civil Service law or rules of the Board; or

(e) Has violated any lawful and reasonable official regulation or order, or failed to obey any lawful or reasonable direction made and given by his/her superior, where such violation or failure to obey amounts to:

(1) an act of insubordination; or
(2) a serious breach of proper discipline; or
(3) resulted, or reasonably might be expected to result, in loss or injury to the City or to the public or to the prisoners or wards of the City; or

(f) Has been under the influence of alcoholic beverages, on duty or off, his/her conduct while under said influence, bringing reproach upon the City of Miami; or has been under the influence of drugs, narcotics, barbiturates or central nervous system stimulants as defined in Section 893, Florida Statutes, on duty or off, his/her conduct while under said influence, bringing reproach upon the City of Miami; or

(g) Has contracted a venereal disease and refuses to seek treatment therefore, or a physical ailment or defect, which incapacitates the employee for properly performing the duties of the position held; or

(h) Has been guilty of actions which amount to insubordination or disgraceful conduct, whether committed on duty or off; or

(i) Has been wantonly offensive in conduct or language toward the public or City officers or employees; or

(j) Has solicited the vote of a member of the City Commission for or against a proposed ordinance or resolution or a proposed item in a budget, or an appropriation ordinance concerning the employee's department, where such solicitation is charged and established to have been made elsewhere than at a public hearing of the City Commission or a committee thereof, unless the employee is an authorized representative and is presenting the opinion of an organization of City employees; or

(k) Is incompetent, negligent, or inefficient in the performance of the duties of the position held; or

- (l) Is careless or negligent of the property of the City of Miami; or
- (m) Has used, or threatened, or attempted to use political influence in securing promotion, leaves of absence, transfer, change in pay, change in character of work, or revision of examination grade; or
- (n) Has guided or in any manner has been concerned in assessing, soliciting, or collecting money from any officer or employee in the service of the City of Miami for the purpose of making a gift to a public officer; or
- (o) Has been induced, has induced, or has attempted to induce an officer or employee in the service of the City of Miami to commit an unlawful act, or to act in violation of a lawful and reasonable departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his/her work or in connection with it for his/her personal use from any citizen, when said contribution is made with the hope or expectation of receiving a favor or better treatment than is accorded to other citizens; or
- (p) Has intentionally falsified a time record or failed to report absence from duty to superiors; or if, after employment, it is found that an employee has made a false statement in the application for employment or has given false information on his/her pre-employment medical examination; or
- (q) Has been absent from duty without leave, or has failed to report for work after the leave of absence has expired, or after the said leave of absence has been disapproved or revoked and cancelled; or
- (r) Is antagonistic toward superiors and fellow employees, criticizing orders, rules and policies, and whose conduct interferes with the proper cooperation of employees and impairs the efficiency of the public service; or
- (s) Has been refused a surety bond by the surety company then carrying the City fidelity bonds on all City employees when such bond is applied for as

qualifications for employment, or has been refused continuance of coverage under such surety bonds; or

(t) Has accepted or received any gift, reward, present, donation, gratuity, or other thing of value for the performance of any duty imposed upon him/her by virtue of his/her office aside from his/her official capacity. Provided, however, that this rule and regulation does not apply in cases of meritorious service rendered by a member of a classified service of the Civil Service of the City of Miami when a member of said service has been specially authorized by the City Manager in each instance to receive such reward, gift, present, donation, gratuity, or other thing of value and when a permanent record shall be kept in each such instance in the office of the City Manager; or

(u) Has, without the permission of the City Manager and/or the Chief of the Police Department, been found to have in his/her possession and using any recording instrument or device to secretly record conversations without the knowledge or consent of the person or persons whose conversation may be recorded; or

(v) Has participated in any strike or has asserted the-right to strike against the City or who is a member of an organization of government employees that asserts the right to strike against the City, knowing that such organization asserts such right; or

(w) Has, in his/her official capacity, solicited or recommended attorneys to persons or employees involved in accidents, in injuries sustained by employees in the course of their employment, in property damage, or in any litigation involving the City of Miami.

NOTE: Nothing contained in any of these rules shall interfere with the right and duty of the City Manager, the Department Directors, Chiefs of Police and

Fire Departments, or a citizen, to file charges on any grounds which he/she considers justifiable against any employee.

EFFECT OF AMENDMENT - Prior to the Amendment of this section, which became effective December 12, 1996, Section 14.2, subsection (e), did not provide for the separation of each provision of subsection (e) into clearly distinguished charges. Supp. #5, 12-96

Sec. 14.3. Appeal to Board. When any employee in the classified service with permanent Civil Service status, who has been suspended, reduced in rank, or dismissed, appeals to the Board, the appeal must be made in writing within fifteen days from the effective date of the suspension, reduction, or dismissal, and the Board within thirty days shall proceed to hear such appeal. The Board recognizing the disciplinary authority of the administrative head and ready at all times to improve the relationship between employer and employee, shall make its findings in writing to the City Manager for his/her consideration, who shall enter an order affirming, reversing, or modifying the disciplinary action of the Department Director. Whenever formal charges are brought against any employee in the classified service before the Board, no Individual member of the Board shall discuss the case with the employee concerned, or his/her authorized agent, or any witness prior to the hearing.

Sec. 14.4. Appeal Proceedings. The concept of administrative law under which the Board holds appeal proceedings is this: that the matter at issue is the appellant's fitness to hold employment in the classified service of the City of Miami, based upon the charges presently before them; that therefore the rules of criminal and civil proceedings shall not apply in hearings before the

Board.

(a) The Board shall give the written notice of the time and place of hearing the appeal to the appellant, to the City Manager, and to the Director of the Department.

(b) The proceedings shall be as informal as is compatible with the essential requirements of law.

(c) The admission of evidence shall be governed by the Board's rulings, with the advice of the Board's counsel, if such be available. Strict rules of evidence, as in courts of law, shall not apply. Evidence is to be admitted at the discretion of the Board and pertinent information considered for the purpose of substantial justice for all parties.

(d) The appellant may be represented by counsel; the Director of the Department may be represented by the City Attorney or other counsel.

(e) Admissible as evidence shall be written statements made by the appellants and others, transcripts of oral statements made by the appellants and others, and hearsay evidence, for whatever these may be worth. This shall not be considered a limitation-as to the admission of other types of evidence, or as to the consideration by the Board of any and all pertinent information.

(f) Appellants and all other classified employees of the City may be required to testify. Refusal to testify shall be grounds for dismissal. Admissions against interest may be admitted as evidence. A plea of self-incrimination by a witness shall constitute grounds for dismissal.

(g) The Board shall be free to make its determination of appellant's innocence or guilt in keeping with the public interest, based solely on the Board's reasonable interpretation of all the pertinent information available. The

Board shall not be bound by a presumption of the appellant's innocence or guilt; such presumption does not prevail in administrative law. The findings of the Board shall be based on competent substantial evidence before it.

(h) In considering the appellant's fitness to hold employment in the classified service of the City of Miami, the Board shall not be bound by the strict letter of the charges as drawn. The Board may allow the charges to be amended at any time, as long the amendment is material to the charges. In general, the Board in its findings shall be guided, not by technicalities, but by the substance of the information developed in its hearings.

(i) The Board has full power to prescribe the manner of conduct of its hearings.

(j) After due consideration of the evidence and other pertinent information, the Board shall render its findings to the appellant and to the City Manager.

Sec. 14.5. Order of Proof. The Board shall hear the evidence upon the charges and specifications as filed with it by the Director of the Department. The order of proof shall be as follows:

(a) The Director of the Department or his/her appointed representative shall present his/her evidence in support of the charges.

(b) The appellant shall then produce such evidence as he/she may wish to offer in his/her defense. The Director of the Department may offer rebuttal evidence, and the Board at its discretion may hear arguments.

Sec. 14.6 Resignation Before Appeal. The acceptance by a Department Director of the resignation of an employee suspended, reduced in rank or dismissed, before final action on the part of the Board, shall be considered a

withdrawal of the charges and the separation of the employee concerned shall be recorded as a resignation, and the proceedings shall be dismissed without judgment. A copy of the dismissal charge shall remain in the personnel file of the employee and a notation shall be made on the copy of the dismissal charge to the effect that charges were withdrawn pursuant to subsection 6 of Rule 14 hereof.

Sec. 14.7. Failure of Parties to Appear. If the employee notified shall fail to appear at the time fixed for the hearing, the Board shall hear the evidence and render judgment thereon. If the Department Director shall fail to appear, and if no evidence be offered in support of the charges made, the Board may render judgment as by default or may hear evidence offered by the removed employee and render judgment thereon, and the Board shall forthwith notify the City Manager, the Department Director and the removed employee of its decision.

Sec. 14.8. Disqualification for Reappointment. Any employee who is dismissed for misconduct or delinquency, or who resigns while not in good standing, shall be disqualified from taking any examination for at least two years thereafter, unless in the judgment of the Board the said charges will not affect the employee's usefulness in some other occupation.

Sec. 14.9. Physical Incapacitation. The City Manager shall provide periodic, uniform medical examinations for all employees in the classified service for the purpose of determining the employee's physical ability to perform his/her duties of the position held.

The frequency of examination for various age groups and classifications shall be determined by the City Manager.

The City Physician shall conduct and pass upon all medical examinations required under the provisions of this rule and shall report in writing his/her findings, conclusions, and recommendations to the Director of the Department in which the employee is hired, with copies to the employee, the City Manager and Civil Service Board. The City Physician's report shall indicate whether or not the employee is capable of performing his/her duties of the position held. Any employee holding permanent status in the classified service who deems that he/she has been retired or removed from the payroll without just cause may, within fifteen days of such action by the Department Director, request in writing a hearing before the Civil Service Board to determine the reasonableness of the action.

If In considering testimony during such hearing, the Board deems it necessary or advisable to seek additional professional opinion as to the continued employability of the employee, the Board may require said employee to submit to a medical examination by another qualified physician or physicians. Such examination shall be made without benefit of the City Physician's findings, and the report thereof shall include the opinion of the physician or physicians conducting the reexamination as to the employee's future employability, based upon the findings of the examination. All examinations shall be without cost to the employee.

The Board shall then, in consideration of all testimony offered, render its recommendation to the City Manager who, after consideration, shall enter an order affirming, reversing, or modifying the recommendation of the Board. Should it be determined that the employee is unable to continue in the performance of his/her duties, the Director of the Department in which the employee is employed shall dismiss the said employee. Employees so dismissed, because of physical incapacitation, and who are not under the retirement system or plan, shall be granted as severance pay an amount equal to 120 work hours if their employment has been for ten years or less, or 240 work hours if their employment has been in excess of ten years. (The above services are not required to be continuous).

When an employee, because of a non service-connected disability, becomes physically incapacitated for the performance of the duties of a particular classification, the City Manager, with the consent of the Board, may transfer said employee to a vacant position in the same or lower classification within the employee's capabilities, provided, however, that the City Physician shall certify to the Civil Service Board the employee's physical ability to perform in the new position.

See. 14.10. Reduction in Pay or Position. Hearings on appeal from employees, reduced in pay or position, laid off, or suspended by the Department Director, shall be conducted generally in the same manner as hearings on appeal from orders of discharge.

Sec. 14.11. Resignation. Any employee in the classified service who desires to resign shall do so in writing to the Director of the Department in which

he/she is employed. The Department Director shall thereupon report such resignation to the Civil Service Board. An employee who resigns relinquishes all rights recognized under Civil Service status.

Sec. 14.12. Dismissal.

(a) Should any officer or employee in the classified service of the City of Miami appear before a Grand Jury or Juries and refuse to sign an immunity waiver in advance of testimony before such Grand Jury or Juries and/or refuse to testify fully on all matters concerning the property, government, or affairs of the City, that such conduct shall constitute a breach of duty and that said employee shall be dismissed from the classified service of the City of Miami.

(b) Failure of a City employee to maintain duly established standards of physical fitness shall be grounds for dismissal.

(c) No City employee shall be excused on plea of 'self-incrimination' or for any other reason, from giving information which may bear on his/her own fitness to hold a job; he/she shall be dismissed for refusing to give such information.

Sec. 14.13. Accordance with Collective Bargaining Agreement.

Notwithstanding the provisions of this rule, employees in a bargaining unit may be laid off, considered to have resigned or be reinstated in accordance with provisions of the appropriate labor agreement.

RULE 15
HOURS OF WORK, ATTENDANCE AND LEAVE

Sec. 15.1. Hours of Work. The City Manager shall prescribe by regulation the actual hours of employment for any or all employees in the City service whenever such action, in his/her opinion, is in the best interests of the City service.

Sec. 15.2. Vacation with Pay.

(a) Employees are allowed vacation with pay after completion of six months of actual continuous service.

(b) Calculated on actual service in the previous calendar year, the vacation with pay schedule is as follows:

(1) When working five days per week, the vacation is ten working days per annum.

(2) When working five and one-half days per week, the vacation is fourteen working days per annum.

(3) When working six days per week, the vacation is eighteen working days per annum.

(4) When working seven days per week, which time includes Sundays or holidays, or both, vacation is twenty-one days per annum.

(5) Fire Fighters, when working a 49.8 hour week, vacation is 10 hours per month.

(Where employees have not qualified by a full years' employment for the entire annual vacation, vacation time earned shall be on the basis of 10/12 days for each month worked on a 5-day per week schedule; 11/12 days on a

5 1/2 day per week schedule; 18/12 days on a 6-day per week schedule; 21/12 days on a 7-day per week schedule and 10 hours per month for Fire Fighters working a 49.8 hour week).

(c) Extra Vacation for Years of Service: Extra vacation days for years of service shall be allowed upon the completion of the required years of actual continuous service as shown below:

- (1) Permanent employees after completion of six years of service shall be allowed one extra working day of vacation annually and Fire Fighters on a 49.8 hour week shall be allowed 10 hours.
- (2) After completion of seven years, two working days of vacation or 20 hours for Fire Fighters.
- (3) After completion of eight years, three working days of vacation or 30 hours for Fire Fighters.
- (4) After completion of nine years, four working days of vacation or 40 hours for Fire Fighters.
- (5) After completion of ten years, five working days of vacation or 50 hours for Fire Fighters.
- (6) Each year thereafter employees will be allowed one-half working days of vacation or 5 hours for Fire Fighters.

(d) Classified Employees who have been designated as Managerial and/or Confidential by the Public Employees Relations Commission will also be allowed vacation with pay after completion of 6 months actual continuous service.

(e) Calculated on actual service in the previous calendar year, the vacation with pay schedule is as follows:

SUPPORT STAFF

| YEARS OF SERVICE | VACATION HOURS |
|------------------|----------------|
| 1 | 88 |
| 2 | 96 |
| 3 | 96 |
| 4 | 104 |
| 5 | 112 |
| 6 | 120 |
| 7 | 128 |
| 8 | 136 |

Each year thereafter, Support Staff employees will be granted an additional 4 hours of vacation time. No additional vacation time will be granted to Support Staff after 31 years of service.

PROFESSIONAL

| YEARS OF SERVICE | VACATION HOURS |
|------------------|----------------|
| 1 | 104 |
| 2 | 112 |
| 3 | 120 |
| 4 | 128 |
| 5 | 136 |

Each year thereafter, but ending with the 13th year of service, Professional employees will be granted an additional 8 hours of vacation.

After the 17th year of service and the 22nd year of service, Professional employees will be granted 24 additional hours of vacation time respectively.

After the 27th year of service, an additional 8 hours of vacation will be

granted. No additional vacation time will be granted to Professional employees after 28 years of service. (Ordinance No. 11933)

EFFECT OF AMENDMENT - Prior to the Amendment of this section, which became effective June 8, 2000, Managerial and/or Confidential employees accrued extra vacation for years of service in accordance with subsection 15.2 (c) hereof.

(f) If the only break in an employee's service has been a layoff, the extra vacation time shall cover the period worked during the years of service. If a person enters the employ of the City prior to the 15th of the month, it shall be considered as a full month of service.

(g) If the only break in an employee's service occurred due to an employee being required to resign in order to accept employment in the Police or Fire Department, as reflected by the employee's personnel file, then both periods of service shall be counted in computing vacation time.

(h) Schedule of Vacations with Pay: Vacation with pay shall be taken at the convenience of the Department Director. It is generally intended that vacations will be taken within the calendar year in which they are due. Employees may, however, accumulate a total of not more than 10 days of vacation or six tours of duty, to be carried over for future use. Vacation carryovers in excess of ten days or six tours of duty must have the prior approval of the Department Director, the City Manager, and the Executive Secretary. Supp. #10, 6-00

Sec. 15.3. Sick Leave with Pay. Care and discretion shall be exercised by the Department Directors to prevent the abuse of these liberal sick leave

privileges. Absences on account of trivial indispositions must be discouraged. Sickness, disease, or physical disability, the result of intemperate habits or immoral conduct, cannot be paid for. To determine the extent of an employee's absence on sick leave, the supervisor shall visit the home of the employee. In cases where the supervisor suspects that an employee is malingering, Sick leave with pay shall not be granted. The provisions of the herein subsections concerning sick leave accrual, compensation for unused sick leave, and the conversion of sick leave to vacation time for employees in the Sanitation Employees Association Bargaining Unit shall be in accordance with the provisions of the current Labor Agreement.

(a) Amount of Sick Leave: Employees may be allowed to accrue twelve working days of sick leave with pay per calendar year. Firefighters may be allowed to accrue 10 hours of sick leave per month. Sick leave time covers working days only.

(b) New employees are allowed sick leave with pay on the basis of one day for each full month's service during the first twelve months of employment, but none may be used until the employee has successfully completed three months of service. After one year of service, said employees are considered for sick leave on the basis outlined in subsection 15.3. (a) hereof.

(c) Employees appointed to full-time positions in temporary status are eligible for sick leave, accruing from the date of their full-time temporary appointment.

(d) Employees who have been laid off and then recalled to service shall be given regular sick leave less one day for each full month they were laid off.

(e) Employees returning from military service will receive one day sick leave for each month of City service anticipated in the calendar year of their

return. Their accumulated sick leave will be determined on the basis of their annual City service, omitting military service.

(f) Sick leave with pay is automatically cumulative from year to year. Sick leave with pay in excess of twelve days in any one calendar year shall be reported on attendance record as per instructions from the Paymaster.

(g) The Department Director should not grant sick leave for any employee for time that would exceed the earned sick leave allowance mentioned below:

(1) Any employee should be allowed twelve days a year sick leave with a maximum accumulation of sixty days. Any balance of accumulated leave at the end of the current year shall be brought forward to the employee's credit for the next year. The employee shall first use up the regular sick leave allowance for the next year. Then the employee may be allowed the credit for the accumulated sick leave from the year before.

(2) When an employee has used up the accumulated sick leave allowed him/her and he/she is still unable to resume his/her duties, the excess time absent will automatically be charged to the vacation leave due him/her rather than drop him/her from the payroll. In the event, however, that an employee is unable to return to work, and has exhausted both sick leave and vacation due him/her, his/her request for advance leave must be approved by the Board and the City Manager.

(h) An employee may be granted leave of absence with pay for illness of any actual member of the employee's household under the following conditions:

- (1) Employee must have sick leave to his/her credit.
- (2) No more than four days will be granted in any calendar year.
- (3) Time absent will be charged against his/her sick leave credits.

(i) In order to receive compensation while absent on sick leave, the employee must take steps to notify the immediate supervisor of the illness within thirty minutes after time set for the beginning of the daily duties, except in the Police Department, wherein departmental rules will apply.

(1) Absentees of more than three days or two tours of duty in the Fire Department are to complete absence reports and check with the City Physician for approval before returning to work.

(2) Absentees of ten days or more are to complete absence forms, including signature of physician treating them, and check with the City Physician for approval before returning to work.

(3) Any injury, surgery, or illness of serious nature, causing any absence, shall be checked by the City Physician for approval before employee returns to work.

(j) All unused sick leave to the credit of an employee who is being retired on service retirement shall be compensated for at time of retirement by payment for each day of such unused sick leave to a maximum of 120 days.

(k) Employees with ten or more years of service who terminate employment with the City of Miami under honorable conditions shall receive cash payment equal to one-fourth of their unused accumulated sick leave as defined in these Rules and Regulations, unless the Department Director in writing recommends against it, and the Civil Service Board approves the Department Director's recommendation.

(l) Employees with fifteen or more years of service who terminate employment with the City of Miami under honorable conditions shall receive

cash payment equal to one-half of their unused accumulated sick leave as defined in these Rules and Regulations unless the Department Director in writing recommends against it, and the Civil Service Board approves the Department Director's recommendation.

(m) After the accumulation of sixty days sick leave, further accumulation shall be credited to an employee's vacation leave at a rate of one day of vacation for every two days of sick leave earned in accordance with the provisions of subsection 15.3.(a) hereof. The balance of the unused sick leave shall be credited to the employee's sick leave bank to an unlimited maximum accumulation.

Sec. 15.4. Civil Leave. Upon approval of his/her Department Director and the City Manager, any employee holding a position in the classified service shall be granted a leave of absence with pay for:

(a) Service upon any Jury other than those for which an employee has voluntarily registered for jury, duty.

(b) Appearance before a court, legislative committee, or other judicial or quasi-judicial body as a witness in an action involving the Federal Government, the State of Florida, a political subdivision thereof, or the City of Miami, in response to a subpoena or other direction by proper authority.

(c) Attendance in court in connection with an Employee's Official Duty: Such attendance shall include the time required in going to the court and returning to the employee's place of duty. Any absence, however, whether voluntary or in response to a legal order to appear and testify in private litigation, not as an officer or employee of the City but as an individual, shall be taken as annual leave, as leave of absence without pay, or as a deduction from authorized accumulated overtime.

Sec. 15.5. Personal Leave.

(a) National Holidays. The following and any other days designated by the City Commission or under its authority are holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Armistice Day, Thanksgiving Day, and Christmas Day. Compensatory time off shall be allowed for work done on these days. When a holiday falls on the regularly assigned day off for an employee, such employee shall be compensated by another day off. In order to be eligible for holiday pay, the employee must be 'in 'with pay' status on the working day preceding and the working day following the subject holiday.

(b) Religious Holidays. There is no official observance of religious holidays, except such as may also be National holidays. It is the policy of the City to permit absence from work to those employees who desire to spend certain holidays in religious devotion. Whenever circumstances permit, work schedules should be arranged so as to provide substituted work time (compensatory time). Where no such arrangements can be made, the absence will be charged against vacation leave to the employee's credit. If the employee has no vacation to his/her credit, his/her absence will be charged as leave without pay with no prejudice to his/her standing.

(c) Conventions or Conferences. Attendance at a convention or at meetings of like character, for the purpose of professional improvement pertaining to the individual's particular area of operation as a public employee, shall not be considered as leave from duty but shall be noted on the payroll as 'Professional Improvement' leave, and said absence must be authorized by the City Manager.

(d) Employees participating in promotional examinations, or open competitive City Civil Service examinations for their present jobs prior to the establishment of a register will be granted time off without charge against leave for the time necessary to complete the examination. Employees participating in examinations for classification for which the pay range is the same or less than their present classification will not be granted leave with pay in accordance with this subsection.

(e) Blood Donors. Employees who volunteer as blood donor to contribute to the John Elliot Blood Bank^{1/} will be authorized the absence necessary to accomplish this purpose. Particular care will be taken to see the employees take sufficient time from their duties to recuperate. Except in unusual circumstances, a maximum of 4 hours authorized absence should be allowed.

(f) Medical Examination. Employees will be excused for the purpose of taking a Medical Examination to determine the physical fitness for employment in the service of the City. This shall apply to both entrance and promotion examinations at the discretion of the Board.

(g) Death-in Family. Any employee may, in case of death in the immediate family, be authorized a maximum of four days leave with pay. The immediate family is defined as father, mother, sister, brother, husband, wife, child, father-in-law, and mother-in-law, step-father and/or step-mother, if they have raised the employee from infancy, regardless of place of residence, and may include any other person who is an actual member of the employee's household. The Circumstances of the employee's personal leave shall be endorsed by the Department Director and submitted by letter, to the Board.

(h) Terminal Leave with Pay. Any employee, upon retiring from City Service, or separating under honorable conditions, who has served for a

period of twenty-five years or more, shall be granted, at the time of his/her service retirement or Honorable separation, an additional month's pay, in addition to his/her regularly-earned pay, vacation pay and other legal benefits.

Sec. 15.6. Leave of Absence Without Pay. The Director of a Department, with the approval of the City Manager, may grant leaves of absence without pay for the following causes, and not otherwise; viz, that the employee:

(a) Has a temporary physical disability provided, however, that no such leave shall be initially given for a period to exceed ninety days. The period of leave may be extended with the approval of the City Manager.

(b) Requests for leave of absence for the purpose of entering upon a course of training or study or to engage in an investigation calculated to improve the quality of the employee's service, but no leave shall be granted for a period to exceed six months, with the right to extend for another six months, if approved by the City Manager and the Department Director.

(c) Has a good reason other than mentioned above, which shall be sufficient to warrant granting said leave, provided, however, that said leave shall not exceed ninety days, and provided further, that the said employee shall understand the acceptance of another position or engaging in other employment while on said leave shall be deemed a resignation from the service of the City of Miami. Any vacancy from said cause shall be filled by a temporary employee for the duration of not more than ninety days. Leave of absence during the required probationary period of service of an employee shall extend the said probationary period the length of time used during the said leave of absence.

(d) In no case shall leave of absence be given within ninety days of the employee's appointment, neither shall leave of absence be granted within six

months after the return of the employee from a leave of fifteen days or more, except in the case of physical disability. At the expiration of a leave of absence, the employee shall be returned to the position vacated when said leave of absence was granted.

(e) Whenever leave of absence without pay is granted, it shall be promptly reported in writing to the Board.

Sec. 15.7. Permanent Employees.

(a) Whenever an employee in permanent status shall enter into the military Service of the United States Government and, upon application to the Civil Service Board, he/she shall be given a leave of absence without pay from the service of the City of Miami during the period of such military service not to exceed four years, unless such service shall be extended by law, no loss of Civil Service rights shall operate against him/her as a result thereof, and he/she shall be given credit for the time spent in the Armed Forces of the United States in actual service rendered in the employ of the City of Miami, as though said employment had not been interrupted by the military leave of absence, with the exception that military service time will not be counted toward time-in-grade needed for eligibility for promotional examinations provided such employee shall offer himself/herself for reemployment with the City within ninety days after discharge from such military service, unless such time shall be extended for reasons of health or physical unfitness after application to and approval of the Civil Service Board; and provided further, however, that the benefits extended under the provisions of this Rule shall not include any employee who has received a dishonorable discharge from the service. In instances in which the discharge from the military service shall be other than honorable or dishonorable, the reasons for such discharge shall be

subject to review by the Board, and it is hereby vested with the power to consent to, or to refuse reemployment to any employee receiving such discharge.

(b) Probationary Employees. The provisions concerning permanent employees shall also apply to probationary employees, provided, however, that said service credit shall not accrue to the veteran who was In probationary status at the time of entrance into the military service of the United States Government until said veteran shall have satisfactorily completed his/her probationary period after return as an employee of the City of Miami.

Sec. 15.8. Peace Corps. Whenever any employee with permanent status shall enter into the Peace Corps of the United States Government, upon application to the Civil Service Board, he/she shall be given a leave of absence, without pay, from the service of the City of Miami, not to exceed two years, unless the Civil Service Board extends the time. Employees granted such leave shall be given credit for the time in the service of the Peace Corps as actual service rendered in the employ of the City of Miami, and providing further that said employee shall offer himself or herself for reemployment with the City of Miami within ninety days after discharge from such Peace Corps service, unless such time shall be extended for reasons of health or physical unfitness after application to and approval of the Civil Service Board.

Sec. 15.9. Military Training Leave.

(a) All employees of the City of Miami who are either Reserve Officers or Enlisted Personnel in the Florida Defense Force, the National Guard, Naval Militia, Marine Corps, Unorganized Militia, U.S. Army Reserve, U.S. Naval,

U.S. Marine Corps Reserve, U.S. Coast Guard Reserve, U.S. Air Force Reserve, or Officers or Enlisted Personnel in any other class of the Militia, shall be entitled to leave of absence from their respective duties without loss of pay, time, efficiency rating, or Civil Service Seniority Credits on all days during which they shall be engaged in field or Coast Guard defense exercises or other training ordered under the provisions of the U.S. Military or Naval Training Regulations or under the provisions of the Florida Defense Force or the National Guard; provided that leaves of absence granted as a matter of legal right under the provisions of this subsection shall not exceed the provisions cited in Florida State Statute 115.07.

(b) Requests for military leave shall be made as early as possible but at least two weeks prior to the date such leave is desired.

(c) Employees who take the military leave provided in subsection 15.9. hereof shall be credited with that time on their seniority status, in the City of Miami Civil Service records.

EFFECT OF AMENDMENT - Prior to the amendment of this section, which became effective June 14, 2014, Section 15.9(a) allowed for up to 17 days of Military Training Leave.

Sec. 15.10. Failure to Return from Leave. Any employee who fails to report for duty at the expiration of a leave of absence, without the consent of the Director of the Department. shall automatically be removed from the rolls. Personnel records will indicate 'Separation - Failure to Return from Leave'.

Sec. 15.11. Records of Absence from Duty.

(a) All branches of the service are required to maintain a permanent record of every absence from duty of employees.

(b) The payroll clerk, or other responsible employee, shall be charged with maintaining accurate attendance records, on which tardiness of the employee shall also be noted. Said record shall be open to inspection by the representative of the Board. Absences, irregular attendance of any kind, and tardiness, shall be taken into consideration when making the efficiency or service rating of employees, and when said conditions are persistently indulged in, they shall justify disciplinary action against the employee. It shall be the duty of supervisors to report promptly to the Board all absences from duty without pay and cause of same. Failure to make said report shall be cause for disciplinary action against the supervisor by the City Manager, the Department Director and/or the Board.

(c) All absences of one-half day or more shall be reported to the Department of Finance on the attendance records on forms provided for the purpose. Time off allowed for overtime worked by an employee at the request of the Department Director shall not be regarded as absence from duty and shall be noted on the attendance record as earned time off. Overtime must be kept to the minimum. When overtime becomes necessary, unless paid for in cash, it may be repaid in the form of time off, to be taken as soon as practical.

Sec. 15.12. Accordance with Collective Bargaining Agreement.

Notwithstanding the provisions of this rule, employees in a bargaining unit may be compensated for unused sick leave converted to vacation time and be given time off with pay in accordance with provisions of the appropriate labor agreement.

RULE 16
GRIEVANCES AND ABUSES

Sec. 16.1. Investigation by the Board. Whenever the Board has reason to believe that these Rules and Regulations have been violated by the abuse of power in recommending or making an appointment to any position, or in a layoff, demotion, suspension, or removal without justification, or in any other manner, it shall be the duty of the Board to investigate. If, in making this investigation, the Board shall find that said violations were contrary to the intent and spirit of these Rules and Regulations, it shall make a report thereof to the Director of the Department involved and to the City Manager.

Sec. 16.2. Complaint by Employee. Any employee who is aggrieved by reason of what he/she considers a violation of Civil Service rules to his/her detriment, or who has a grievance concerning his/her employment under the rules, and who desires redress, shall notify the Executive Secretary in writing, stating the nature of his/her grievance and requesting a hearing by the Board.

(a) Upon receipt of such notice, the Executive Secretary shall promptly inform the Board, and the Board shall schedule the matter for a hearing within thirty days of the date of receipt of the notice by the Executive Secretary, who shall notify the employee of the time, date, and place of hearing.

(b) If the Board so desires, it may make a preliminary investigation of the matter before the hearing.

(c) The employee shall appear before the Board at the scheduled time and place, and shall present pertinent information to the Board concerning his/her grievance.

(d) The Board shall consider the matter, and promptly present its findings and recommendations to the City Manager for his/her consideration of a proper remedy, if a remedy is necessary.

RULE 17
PROHIBITED PRACTICES

Sec. 17.1 Practices, Penalties. Except as required by statute or by a court of competent jurisdiction, no person in the classified service or seeking admission thereto shall be favored or discriminated against in any way because of his/her race, color, national origin, marital status or political or religious opinions or affiliations, nor because of age or sex, or physical or mental handicap as prohibited by statute. No person shall willfully or corruptly make or cause to be made any false statement, certificate, mark, rating or report in regard to any test, certification, promotion, demotion, removal or appointment held or made under the provision of these rules or in any manner commit or attempt to commit any fraud preventing the impartial execution of the provisions of these Rules and Regulations. No person shall either directly or indirectly solicit, pay, render, receive, or give any money, service or other valuable thing to any person for, or on account of, or in connection with any test, appointment, promotion, demotion, layoff, or dismissal. Any person who violates the provisions of this rule, besides the legal penalties provided, shall be ineligible for appointment or employment in a classified position for such period as may be determined by the Board, and any classified employee of the City found guilty of violating this rule by the Board may be dismissed, suspended or demoted as the Board may determine. (Ordinance No. 10051)

EFFECT OF AMENDMENT - Prior to the Amendment of this section, which became effective October 24, 1985, Section 17.1 did not include provisions protecting the physical or mentally handicapped.

Supp. 2, 10-85

RULE 18
CHANGE OF RULES

Sec. 18.1. Procedure. These rules may be amended, repealed, or supplemented by the Board at any time, and new rules adopted, provided that no such amendment, repeal, or supplement shall be adopted in less than fifteen days after its proposal and that it shall not become operative until approved by the City Commission.

RULE 19

REGULATIONS

Sec. 19.1. Repealer. Any act or resolution of the Board that may Subsequently be found to be not in accordance with these Rules and Regulations shall, immediately upon discovery of such nonconformity, be declared null and void and of no effect. The Board shall have the power to correct by proper resolution any error of whatever nature, immediately upon the discovery of same.

All previous ordinances and rules for admission to the classified service of the City of Miami, tenure of employment and promotion therein, and to any branch thereof, and for appointment of examiners thereunder, are hereby annulled and repealed.

Sec. 19.2. Procedure. In all questions coming before the Board, a majority vote shall control. Three members shall constitute a quorum.

Sec. 19.3. Transition. All persons in the employ of the City holding positions in the classified service at the time of adoption and approval of these rules shall, unless their position be abolished, retain same until discharged, reduced, promoted, laid off, or transferred, in accordance herewith. (This is not to be interpreted to mean those employees who have been put to work in contradiction to these Rules and Regulations).

Sec. 19.4. Severability. If any rule or parts of rules should be declared unconstitutional or of no force in any Court, the same shall not affect the remaining rules, which shall be in full force and effect.