

# Civil Service Commission's Recently Adopted Policies:

- Exempt Appointments
- Future Employment Restrictions

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Monthly HR Professionals' Group Meeting  
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## NOTE:

**The following presentation is intended to highlight some of the key provisions of the two recently adopted policies. It is important that you read both policies carefully.**

# Agenda

- Updates on the Commission's Policy on Exempt Appointments
  - Overview on key revisions
  - Important reminder/notes on existing policies
  
- Policy on Future Employment Restrictions
  - Why impose a restriction
  - When to impose a restriction
  - What kind of restriction to impose
  - Effective date of the restriction
  - Notice and Appeals
  - Requests to Remove/Lift a Ban
  - Roles and Responsibilities

# Policy on Exempt Appointments

- Updated Policy
  - Adopted April 7, 2014
  - Replaces all previously issued memos (1996 and 2007)
  - Available on the Commission's website under "Policies"
  - Posting and staff report explaining the revisions can be accessed on the Commission's website

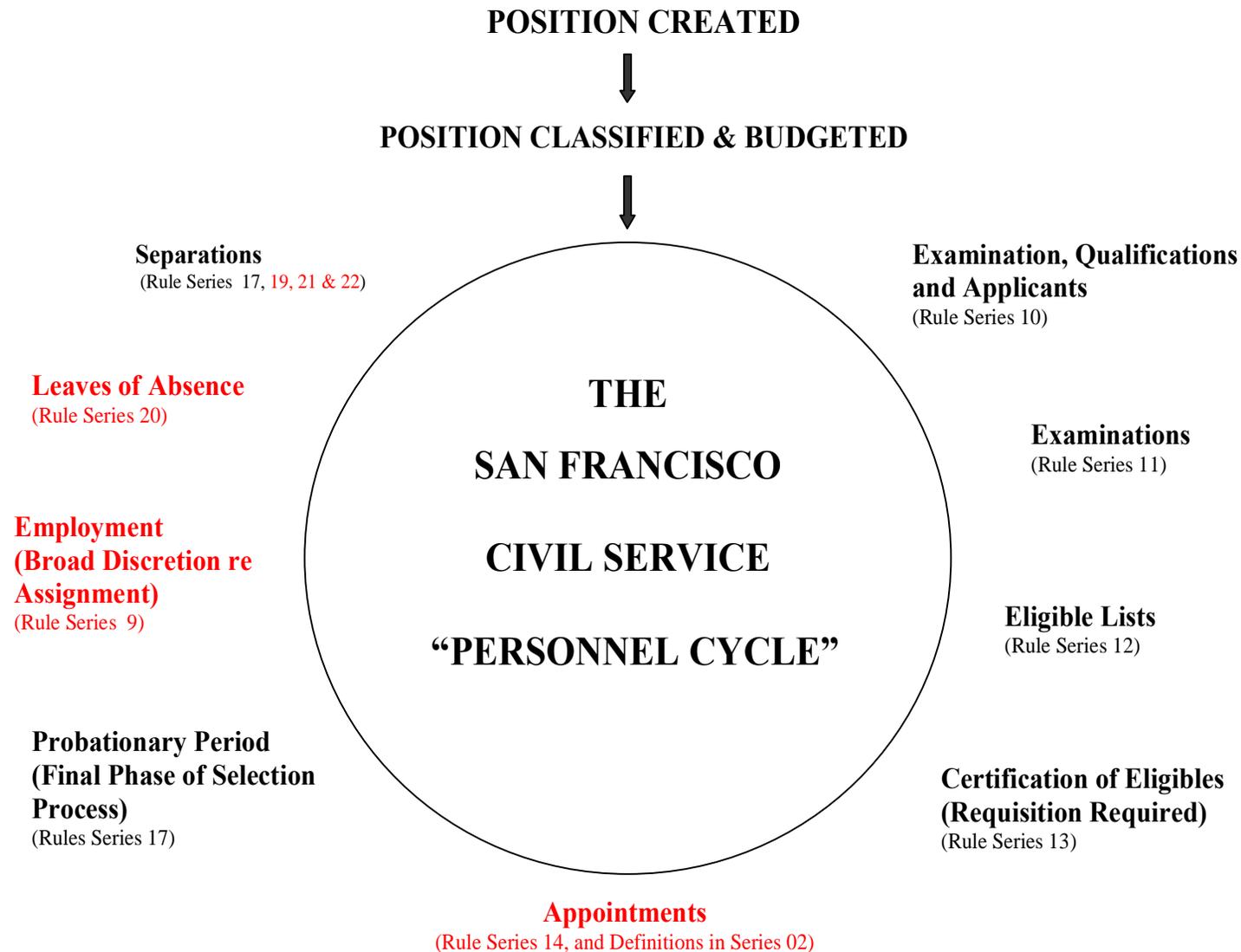
# Policy on Exempt Appointments

- Primary Revisions
  - Recognizes the Director of Transportation's authority over exempt appointments for service-critical classes/positions
  - Recognizes a fourth group of exempt appointments for MTA service-critical managerial positions under Article VIIIA of the Charter
  - Updates the definition of PEX and TEX appointments
  - Clarifies that exempt appointees may be subject to other merit system policies and Civil Service Rules

# The Civil Service Rules – 22 Series, Four Volumes

Civil Service Commission Rules 1996 Edition		Civil Service Commission - Year 2000 Edition Rules			
Rule Number and Title		Volume I Miscellaneous Classes	Volume II Uniformed Ranks of the SFPD	Volume III Uniformed Ranks of the SFFD	Volume IV MTA Service-Critical
	Rules Amendment Guide - Information on Rules changes, deletions and additions	Rule Amendment Control Sheet	Rule Amendment Control Sheet	Rule Amendment Control Sheet	Rule Amendment Control Sheet
Rule 1	Authority and Purpose	Rule 101	Rule 201	Rule 301	Rule 401
Rule 2	Definitions	Rule 102	Rule 202	Rule 302	Rule 402
Rule 3	Equal Employment Opportunity	Rule 103	Rule 203	Rule 303	Rule 403
Rule 4	Administration	Rule 104	Rule 204	Rule 304	Rule 404
Rule 5	Meetings and Hearings of the Commission	Rule 105	Rule 205	Rule 305	Rule 405
Rule 6	TWU Trust Fund	Rule 106	Blank	Blank	Rule 406
Rule 7	Rules Related to the Employee Relations Ordinance	Rule 107	Rule 207	Rule 307	Rule 407
Rule 8	Blank	Blank	Blank	Blank	Blank
Rule 9	Position Classification	Rule 109	Rule 209	Rule 309	Rule 409
Rule 10	Examination Announcements and Applicants	Rule 110	Rule 210	Rule 310	Rule 410
Rule 11	Examinations	Rule 111	Rule 211	Rule 311	Rule 411
Rule 12	Eligible Lists	Rule 112	Rule 212	Rule 312	Rule 412
Rule 13	Certification of Eligibles	Rule 113	Rule 213	Rule 313	Rule 413
Rule 14	Appointments	Rule 114	Rule 214	Rule 314	Rule 414
Rule 15	Rules Related to the Employment of Persons with Disabilities	Rule 115	Rule 215	Rule 315	Rule 415
Rule 16	Medical Examinations	Rule 116	Rule 216	Rule 316	Rule 416
Rule 17	Probationary Period	Rule 117	Rule 217	Rule 317	Rule 417
Rule 18	Conflict of Interest	Rule 118	Rule 218	Rule 318	Rule 418
Rule 19	Resignation	Rule 119	Rule 219	Rule 319	Rule 419
Rule 20	Leaves of Absence	Rule 120	Rule 220	Rule 320	Rule 420
Rule 21	Layoff	Rule 121	Rule 221	Rule 321	Rule 421
Rule 22	Employee Separation Procedures	Rule 122	Rule 222	Rule 322	Rule 422

# The Personnel Cycle and the Civil Service Rules



# Policy on Exempt Appointments

- Primary Revisions (Continued)
  - Provides that Category 16-18 exempt employees must meet the MQs for their class or position as established by the last exam announcement or class specification, whichever was issued most recently with a statement of the MQs
  - Clarifies that Category 17 exempt appointments may only be made to fill in for PCS employees who are on leave and are expected to return
  - Eliminates the displacement of Category 17 exempt employees during layoffs

# Policy on Exempt Appointments

- Primary Revisions (Continued)
  - Category 18 appointments may be made to either:
    - Special projects
    - Professional services with limited term funding
  - Departmental requests for Category 18 exemptions must be specific and provide adequate justification

# Policy on Exempt Appointments

- Important Reminders/Notes
  - Departments are responsible for verifying and documenting that an exempt appointee under Categories 16-18 meet the minimum qualifications for their positions
  - Decision of the HR Director and DoT are appealable
  - DHR and MTA have semiannual reporting requirements
  - Holdover status is not impacted by an exempt appointment (the individual is still eligible for holdover placements)
  - Individuals who are on leave from PCS appointments to accept exempt appointments are not protected from layoffs
  - Best practices

## Policy on Future Employment Restrictions

- New Policy
  - Adopted April 21, 2014
  - Available on the Commission's website under "Policies"
  - Accompanied by an amendment to Rule Series 022 – Requests to Lift a Non-Permanent Ban
  - Staff report explaining the new policy and Rule revision is available on the Commission's website

# Policy on Future Employment Restrictions

## Why impose?

- City is obligated to ensure that the selection and appointment of individuals for City employment is done in a careful and responsible manner
- Limits the possibility of the City making a hiring mistake and/or exposing itself to liability for negligent (re)hiring
- The individual does not get counted against your number of reachable eligibles under the applicable certification rule
- Establishes a historical record of the bas(es) for their separation

## When to impose?

- All negative separations must be reviewed (irrespective of the appointment type) to determine whether it would be appropriate to restrict the individual's future employment

## Policy on Future Employment Restrictions

Generally speaking, and depending on the circumstances, one or more of the following situations would likely merit a future employment restriction of some kind (not an exhaustive list):

- Egregious misconduct (malfeasance or nonfeasance) (e.g., being intoxicated in the workplace).
- Serious unethical conduct which may mar the department's reputation and/or the public's trust in the department/City (e.g., using one's City position for personal gain).
- Misappropriation of public/City/department funds or property.
- Destruction or serious misuse of public/City/department property.
- Mistreatment of persons (e.g., sexual harassment, violence in the workplace).
- Acts or conduct which presented a danger to the health and safety of the individual, his or her coworkers or members of the public.
- Significant, continued performance issues/deficiencies that would indicate that the individual would not satisfactorily perform the duties of his or her future employment with the City.

# Policy on Future Employment Restrictions

## What type of restriction to impose?

- Types: (any one or more of the following)
  - Permanent bans:
    - No future employment in the job, department or City
    - Not subject to reconsideration
    - Must specifically specify that it is a “permanent ban”
  - Conditional bans:
    - No employment unless proof of X number of years of outside satisfactory work performance/experience
    - Any other job-related condition
    - No employment for X number of years
  - Cancelling eligibility status

## Policy on Future Employment Restrictions

### What type of restriction to impose?

- Citywide versus Department-Specific
- There must be a nexus between the conduct that resulted in the separation/restriction and the:
  - Type (permanent, conditional, experience, etc.);
  - Scope/Applicability (City, department, specific jobs, etc.); and
  - Duration (indefinite, one year, five years, etc.).

# Policy on Future Employment Restrictions

## **Effective Date:**

Restrictions become effective either by action of the Commission; or, in the absence of a timely appeal.

Restrictions apply irrespective of the appointment type.

If appealed, the individual is ineligible for any employment with the City (they may still be able to participate in examinations though if it is not a permanent, unconditional ban). The same goes for any negative separation that has been appealed to the Commission.

# Policy on Future Employment Restrictions

## **Appeals:**

- Must be appealed to the Commission within 20 days.
- Staff reports are due within 60 days.
- The Commission may uphold, modify or reject the proposed restriction (see Civil Service Adviser No. 021).
- The Commission's role is not to re-adjudicate or reconsider the separation, but to determine *if the proposed restriction on future employment is appropriate*:
  - whether the circumstances surrounding the individual's negative separation merit a restriction on his or her future employment with the City/department; and
  - whether the scope, duration and type of restriction itself is appropriate under the circumstances.

# Policy on Future Employment Restrictions

## **Removing/Lifting a Restriction:**

- Non-permanent, unconditional restrictions may be removed by action of the Commission. (“Request for Reconsideration” under Civil Service Rule Series 022)
  - Departments must forward the request to DHR within 30 calendar days with a recommendation on the request
  - DHR is required to submit a staff report to the Commission within 60 calendar days with its recommendation
- Non-permanent conditional restrictions may generally be removed with the approval of the Human Resources Director (or Director of Transportation, for an MTA service-critical class or position). (“Request to Lift a Restriction” upon determination that a condition has been met)
  - Requires a response within 30 calendar days

# Policy on Future Employment Restrictions

## **Roles and Responsibilities:**

- **Appointing Officers/Departments**
  - Must provide sufficient notice of the restriction and appeal rights
  - Must sufficiently document the restriction in the system and the individuals personnel file
  - Must document the disposition of a restriction in the absence of any Commission action
  - Must ensure that any other necessary actions are undertaken to implement a restriction
- **DHR/MTA**
  - Responsible for establishing procedures to implement the policy
  - Reports to the Commission semi-annually on restrictions imposed and rescinded
  - Responsible for ensuring that any decision to lift a ban is recorded in the system
- **CSC**
  - Responsible for recording a Commission action on any restriction
  - Responsible for providing training on the policy and ensuring that departments adhere to it

# Questions?

- Advisers on exempt appointments and appeals of future employment restrictions are also available on the Commission's website.
- You may also contact the Civil Service Commission at 415-252-3247, or email the Executive Officer at [Jennifer.Johnston@sfgov.org](mailto:Jennifer.Johnston@sfgov.org).