

MINUTES OF CIVIL SERVICE BOARD  
CITY OF SACRAMENTO  
REGULAR MEETING                      NOVEMBER 21, 1972

The regular meeting of the Civil Service Board was called to order by President Joseph Yew at 1:30 p.m. in the Personnel Department Conference Room.

Present: Members Alexander, Reynoso, Street, Yew.  
Absent: Member Woods.

The minutes of the meeting of November 9, 1972, were approved as presented.

PROPOSED AMENDMENT TO CIVIL SERVICE BOARD RULE 2.1, DEFINITIONS

Memorandum dated November 13, 1972, from Deputy City Attorney Thomas Haas recommending the amendment to the definition of "promotion" was presented to the Board. The amendment would define the classes of Fire Engineer and Deputy Fire Marshal as specializations and not promotions from the rank of Firefighter. Fire Engineers and Deputy Fire Marshals would be excluded from the two-year rule of Charter Section 44.

Fire Chief Wilson and Wayne Harbolt, President of Sacramento Fire Fighter Local 522, were contacted by the Personnel Department with regard to the proposed amendment, and there was no objection to its adoption.

As required by the Civil Service Board rules, this matter was held over to the next regular meeting for final action.

REQUEST THAT FIRE ENGINEERS STANLEY E. HANNA, CRAIG CARRIER, FLOYD HAMRIC, AND ROBERT LANGSTON BE PLACED AS NOS. 1 THROUGH 4 ON THE FIRE CAPTAIN PROMOTIONAL LIST

Request dated November 14, 1972, was received from Attorney John Virga for the placement of the above Fire Engineers as Nos. 1 through 4 on the to-be-established Fire Captain promotional list. It was the contention of Attorney Virga that the above men were four of the five Fire Engineers who had the required two years of service in the rank of Fire Engineer as stipulated in Charter Section 44. The Civil Service Board took action on November 9 to permit all 66 active competitors in the Fire Captain examination to continue in the examination process in spite of the language of Charter Section 44. Of the 66 active competitors, 46 were Firefighters, 18 were Fire Engineers, and two were Deputy Fire Marshals. If the language of Charter Section 44 were to be adhered to, only five of the 66 competitors would qualify for the examination. Attorney Virga requested the Board to modify its motion of December 9, which permitted all 66 competitors to continue in the Fire Captain examination process, by placing the above men as Nos. 1 through 4 on the eligible list to be established.

Mr. Street and Mr. Reynoso indicated the Board's cognizance of the possibility of the risks involved by its action on December 9; however, in light of there being only five qualifying candidates and eight vacancies to be filled, the Board's decision was to allow all 66 competitors to continue in the Fire Captain examination.

After discussion, motion was made by Mr. Street and seconded by Mr. Alexander to deny the request to place Fire Engineers Hanna, Carrier, Hamric, and Langston as Nos. 1 through 4 on the Fire Captain list. The motion was carried by the following vote:

Ayes: Members Alexander, Street, Yew.  
 Abstained: Member Reynoso.  
 Absent: Member Woods.

CITY ATTORNEY'S OPINION RE. CIVIL SERVICE RULE 15.7, REINSTATEMENT AFTER RESIGNATION

The City Attorney's interpretation of Rule 15.7 dated November 17, 1972, was presented to the Board. A history of this rule was given by the City Attorney, and the Secretary read the last two paragraphs pertinent to the Board's discussion. A copy of the City Attorney's interpretation of Rule 15.7 is made a part of these minutes.

Prior to the Board meeting of November 9, 1972, Police Chief Kinney had indicated verbally to the Personnel Director that rehiring of former Patrolman Gary Noblett could not be recommended, and a confirming memorandum dated November 17 was presented to the Board.

After discussion, it was moved by Mr. Alexander to conduct a hearing, prior to the hearing of Mr. Noblett's appeal for reinstatement as Patrolman, to determine whether Civil Service Rule 15.7 should be modified. The motion was seconded by Mr. Street and carried by the following vote:

Ayes: Members Alexander, Reynoso, Street, Yew.  
 Noes: None  
 Absent: Member Woods.

The hearing date to consider Rule 15.7 was then set for 1:00 p.m., November 24, 1972.

ADOPTION OF REVISED CLASS SPECIFICATION

Storekeeper

A copy of the proposed revised specification was provided Board members at its meeting of November 9 for consideration.

William Woska, Supervising Personnel Analyst, explained the recent transfer of administrative duties from the Central Stores to the Central Purchasing Office. The Storekeeper has been assigned new administrative responsibilities which are reflected in the revised specification.

Motion was made by Mr. Alexander, seconded by Mr. Street, and carried by unanimous vote to adopt the revised specification as prepared by Mr. Woska, a copy of which is made a part of these minutes.

PROPOSED AMENDMENT OF CLASSIFICATION PLAN

Assistant Mechanical Engineer  
 Associate Mechanical Engineer

William Woska, Supervising Personnel Analyst, explained that these are budgeted new positions. The assistant level would be filled by a non-registered engineer and, when such employee becomes a registered professional engineer in the State of California with three years of experience, the employee would then be elevated to the associate level. Specifications for these new positions were provided the Board members for their consideration.

As required, consideration of the adoption of the new classification was held over to the next regular meeting.

REENACTMENT OF CIVIL SERVICE RULE 25, EMPLOYEE GRIEVANCE POLICY

Civil Service Rule 25, as adopted in 1971, was effective through June 31, 1972. Labor Relations Counsel John Liebert had contacted the recognized employee organizations by his memorandum of September 25, 1972, to determine whether there was any disagreement to the continuance of the grievance procedure; no objection was received. It was therefore requested of the Board to reenact Rule 25 and, at the same time, to delete paragraph (h) of Section 25.5, which reads as follows:

"(h) This rule shall become effective on July 1, 1971, and shall remain in full force and effect for one year from that date, or until such earlier date as a change in City Charter provisions supersedes any of the basic provisions hereof."

As required by Civil Service Board rules, consideration of this matter was held over to the next regular meeting.

INFORMATION REPORT ON SELECTIVE CERTIFICATION

The Secretary reported that, in accordance with the policy set forth by the Board, selective certification was used to fill the EDP Programmer I position by an Asian and a Dispatcher Clerk position in the Fire Department was filled by a Spanish speaking/surname person.

A copy of the letter dated November 15, 1972, from Asa Briley, Director, San Francisco Region, U. S. Civil Service Commission, was presented to the Board for its information. The letter stated that the Commission could not give approval to a method which they consider to be illegal and contrary to the principles of merit service and that, after consideration of Mr. Danielson's letter of September 8, 1972, requesting the U. S. Civil Service Commission to reconsider its position in its interpretation of selective certification, it could not interpret the Merit System Standards to approve the Sacramento City Rule nor have the authority to waive application of the requirements of the Standards in the instance. (Reference: Minutes of 10-3-72).

AFFIRMATIVE ACTION GRANT APPLICATION UNDER CALIFORNIA WELFARE REFORM ACT OF 1971

A copy of the grant application under the California Welfare Reform Act of 1971 for the amount of approximately \$20,000 was presented to the Board for its information. Under the California Welfare Reform Act, California cities and counties may apply for grants with the objective of improving their personnel systems with regard to affirmative action with special emphasis on employment of persons on welfare. If the application is granted, the City's proposal is to use the services of Bruce Austin, full time, to review, study, and to rewrite and propose changes in the City Charter, ordinances, and the Civil Service Rules to improve the personnel system, especially relating to personnel selection, of the City of Sacramento.

REQUEST FOR HEARING TO RETAKE PORTION OF FIREFIGHTER PHYSICAL AGILITY TEST

Herbert M. Holman, Applicant

Mr. Holman's letter dated November 8, 1972, requesting the Board to allow him to retake the 1½-mile run of the Firefighter physical agility test was considered by the Board. Mr. Holman was present at the meeting. He informed the Board that he had been ill prior to the Firefighter agility test; that he had requested postponement of his participation but was denied; and that he appeared on the scheduled date and successfully completed all events up to the 1½-mile run which he failed to run in 12 minutes. Mr. Holman's concern was that he would be 34 years of age on January 1, 1973, and may not again qualify to compete in a Firefighter examination.

Mrs. Ann Duncan who was in charge of the Firefighter examination explained the steps in the physical agility test, which included the broad jump, sit-ups, chin-ups, ladder climb, and the 1½-mile run. Each step was pass/fail, and the applicant must have passed each step before being allowed to run the 1½-mile run. Mrs. Duncan stated that 599 persons had taken the physical agility test, of whom 352 passed and 247 failed.

After consideration, motion was made by Mr. Street and seconded by Mr. Alexander to deny the request of Mr. Holman to retake the 1½-mile run. The motion was carried by the following vote:

Ayes: Members Alexander, Street, Yew.  
 Noes: Member Reynoso.  
 Absent: Member Woods.

INFORMATIONAL REPORTS BY THE DIRECTOR OF PERSONNELP.P.A. Membership

The Personnel Director informed the Board that the City of Sacramento had received a 25-year certificate of membership in the Public Personnel Association.

Recruitment and Examination of Professional Librarian I, II, III, and IV by County of Sacramento

The Personnel Director reported that the City Personnel Department had been contacted by the County Civil Service Commission regarding joint recruitment and examining for professional Librarian I, II, III, and IV classes which the County planned to conduct during the latter part of November 1972. Mr. Danielson informed the Board that the County's eligible list would be presented to the Board at a later date for consideration for adoption. Mrs. Juanita Damerell of the County Civil Service Commission was present, and she expressed her hopes that the County's recruitment would produce a good list.

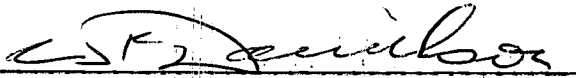
Status Report of Maintenance Man I Examination

Personnel Selection Supervisor Bruce Austin's memorandum of November 20, 1972, which explained the progress of the delayed second phase of the "continuous filing" Maintenance Man I examination, was presented to the Board. Mr. Austin reported that the physical agility test for the first group of Maintenance Man I applicants was held on January 29, 1971, followed by a performance and experience evaluation interview. An eligible register was established on March 1, 1971.

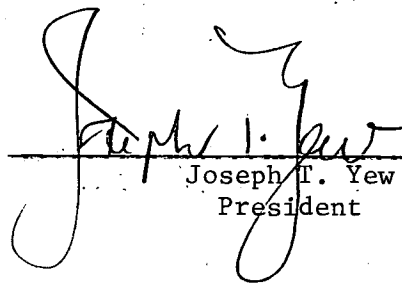
The physical agility test for the second group was given in February 1971. Due to the pressing needs to fill vacancies in the Police Department and in other departments, and as the needs for Maintenance Man I positions had been met by the establishment of the first Maintenance Man I list, completion of the second examination was held in abeyance.

In October 1972, the performance and experience evaluation interviews of the second Maintenance Man I group was activated. The question of whether to merge, on the basis of score, the remaining names on the eligible list established in March 1971 with the new list of names, or whether to establish a separate eligible list to follow the list which will expire on March 1, 1973, is to be considered at the next regular meeting.

The meeting was adjourned at 3:50 p.m.



William F. Danielson  
Secretary



Joseph T. Yew  
President



# CITY OF SACRAMENTO

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November 17, 1972

## MEMORANDUM

TO: WILLIAM DANIELSON, Personnel Officer  
FROM: JAMES P. JACKSON, City Attorney  
RE: INTERPRETATION OF CIVIL SERVICE RULE 15.7 -  
REINSTATEMENT AFTER RESIGNATION

Reference is made to John Liebert's memorandum on this subject of November 13, 1972.

The present Rule 15.7 had its origins in the Rules and Regulations which were adopted by the Civil Service Board on January 18, 1961. As adopted at that time Civil Service Rule 15.7 read as follows:

15.7 Reinstatement After Resignation. An employee who has resigned from the City service may, within one year after the date of resignation, make application to the Board to be placed on the reinstatement list for the class from which he resigned. The Board may, upon the recommendation of the head of the department from which the employee resigned, place the name of such person on the reinstatement list, but upon reinstatement, such person shall be credited with sick leave and shall receive such salary rate as the Board may determine. The Board may also require, upon reappointment, that the employee serve a six month probationary period before acquiring permanent status.

At its meeting of March 1, 1961, the Civil Service Board was requested to adopt a "clear and definite policy" with respect to reinstatement by its secretary. Thereupon the Board adopted the following policy statement:

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"Consideration will be given by the Civil Service Board of the City of Sacramento to requests for reinstatement privileges under provisions of 10.1 (c) of the Rules and Regulations (reinstatement privileges following resignation) only under the following conditions:

- (a) the applicant must take written request for such reinstatement within one (1) year from the date of resignation;
- (b) the applicant must have had a record of at least five (5) years of City service;
- (c) the applicant must have resigned in good standing; the evaluation of the employee's service in the department from which he resigned, by the department head, must indicate an above average level of performance; and the department head must have indicated that he would be willing to re-hire the applicant;
- (d) the applicant must have maintained a bona-fide city residence from the date of resignation to the date of request for reinstatement privileges; and
- (e) requests for reinstatement privileges following resignation by an applicant meeting the above conditions will be considered once and only once."

At its meeting of April 19, 1961, two alternatives were presented to the Board for its consideration in the amendment of Rule 15.7. These alternatives read as follows:

#1

Reinstatement After Resignation: An employee who has resigned from the city service may, within one year after the date of resignation, make application to the Board to be placed on the reinstatement list for the class from which he resigned. The Board may, upon the recommendation of the head of the department from which the employee resigned, place the name of such person on the reinstatement list, but upon re-appointment such

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person shall: (1) forfeit all sick leave credits accumulated on date of resignation; (2) return to the same step of the salary range occupied on date of resignation; (3) retain the same anniversary date for salary increase in the event the salary level of the employee was below Step E of the salary range on date of resignation; and (4) be required to serve a six-month probationary period prior to attaining permanent status.

#2

Reinstatement After Resignation: An employee who has resigned from the city service may, within one year after the date of resignation, make application to the Board to be placed on the reinstatement list for the class from which he resigned. The Board may, upon the recommendation of the head of the department from which the employee resigned, place the name of such person on the reinstatement list, but upon re-appointment it shall be the policy of the Board to require the employee to: (1) forfeit all sick leave credits accumulated on date of resignation; (2) return to the same step of the salary range occupied on date of resignation; (3) retain the same anniversary date for salary increases in the event the salary level of the employee was below step E of the salary range on date of resignation; and (4) serve a six-month probationary period prior to attaining permanent status. Nothing in this section shall prevent the Board from altering the above policy in a particular situation where, in the judgment of the Board, the application of this policy would create a hardship or inequity. (Emphasis in original)

At its meeting of May 3, 1961, Rule 15.7 was amended to read as follows:

"Reinstatement After Resignation. An employee who has resigned from the city service may, within one year after the date of resignation, make application to the Board to be placed on the reinstatement list for the class from which he resigned. The Board may, upon the recommendation of the head of the department from which the employee

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resigned, place the name of such person on the reinstatement list, but upon reappointment it shall be the policy of the Board to require the employee to:

- (a) forfeit all sick leave credits accumulated on date of resignation;
- (b) return to the same step of the salary range occupied on date of resignation;
- (c) retain the same anniversary date for salary increases in the event the salary level of the employee was below step E of the salary range on date of resignation; and
- (d) serve a six-month probationary period prior to attaining permanent status.

Nothing in this section shall prevent the Board from altering the above policy in a particular situation where, in the judgment of the Board, the application of this policy would create a hardship or inequity."

From the above legislative history it becomes clear that the "policy" which the Board is permitted to waive by the last sentence of Rule 15.7 is the policy which is expressed in subsections (a), (b) (c) and (d) of the Rule.

Likewise it is clear that throughout the changes in the reinstatement policy, the willingness of the department head to rehire the applicant remained essential to reinstatement pursuant to this Rule. This is also the interpretation which the Board and Personnel Department have followed since the adoption of the Rule in 1961. Such an interpretation is also consistent with the remainder of the Civil Service Rules which give the appointing authority discretion not to hire any particular individual on the basis of the rule of three.

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We have therefore concluded that the department head's favorable recommendation is a condition precedent to the Civil Service Board placing a resigned employee on the reinstatement list pursuant to Civil Service Rule 15.7.

The favorable recommendation of the department head does not appear, however, to be a condition precedent to the Board conducting a hearing. However, since the Board could not reinstate Officer Noblett without Chief of Police's favorable recommendation, the purpose of the hearing should be construed as quasi-legislative rather than quasi-judicial. Under these circumstances we would suggest the Board first conduct a hearing to determine whether Rule 15.7 should be modified, and if the Board then modifies the rule to allow the reinstatement of an individual without the recommendation of the department head, it could thereafter hold a quasi-judicial hearing to determine Officer Noblett's eligibility for reinstatement.

JPJ/ct

STOREKEEPER - 2

Desirable Qualifications:

Education:

Completion of the twelfth school grade.

Experience:

Four years of progressively responsible experience in ordering, receiving, storing, and inventory control, in a warehouse or storeroom, including two years of experience in a supervisory capacity.