

DEPARTMENT OF HUMAN RESOURCES

Amendment of Part 2, Rules of the Director of Human Resources,

Chapter 3, Filling Positions in the Civil Service

Department of Human Resources, Part 2, Rules of the Director of Human Resources, Chapter 3, Filling Positions in the Civil Service, Subchapter 3, Examination, and Subchapter 4, Certification, is amended as follows:

DEPARTMENT OF HUMAN RESOURCES

PART 2 RULES OF THE DIRECTOR OF HUMAN RESOURCES

CHAPTER 3

FILLING POSITIONS IN THE CIVIL SERVICE

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Historical Note: Chapter 3 of part 2 is based substantially on chapter 3 of part 1 of the rules of the civil service commission. [Eff Jul 01 2002]

SUBCHAPTER 1

GENERAL PROVISIONS

§3-1 Purpose.

The purpose of this chapter is to implement a civil service system of recruitment and selection of public officers and employees in accordance with merit based civil service laws which will attract, select, and retain the best qualified individuals to provide competent, efficient, loyal, and ethical service to the public in accordance with the needs of the service.

[Eff Jul 01 2002] (Auth: HRS §§76-1, 76-17) (Imp: HRS §§76-1, 76-12, 76-13)

§3-2 Appointment through the civil service system.

- (a) The director shall be responsible for recruiting applicants for open-competitive and promotional examinations and for determining the relative knowledge, skills, abilities and fitness of applicants.
- (b) The director may establish standards in determining relative knowledge, skills, abilities, fitness, and other requirements which applicants must meet to be rated in examinations.
- (c) Eligibles shall be placed on an appropriate eligible list in the manner prescribed by these rules.
- (d) A person selected from an eligible list or through a civil service recruitment

procedure, for other than a temporary appointment, will be given a probationary appointment and shall be required to serve an initial or new probationary period under the conditions prescribed in these rules.

- (e) Membership in the civil service or regular status will be acquired by a probationary employee upon satisfactory completion of an initial probationary period.
- (f) The director may determine the conditions for other types of appointments and may prescribe the methods for replacing persons holding these appointments.

- (g) No person shall be appointed, promoted, transferred, or demoted in the civil service system until the person passes the examination prescribed by the director or unless specifically exempted
 [Eff Jul 01 2002] (Auth: HRS §76-17; RCH §4-105) (Imp: HRS §76-13)

§3-3 Discretion of appointing authority in filling civil service vacancies. An appointing authority may fill any vacancy in the civil service by appointment from a civil service eligible list, or any other means as provided for by these rules or law. [Eff Jul 01 2002] (Auth: HRS §76-17; RCH §4-105) (Imp: HRS §§76-12, 76-13)

SUBCHAPTER 2

RECRUITMENT

§3-4 Citizenship and residence.
 Applicants must meet requirements under applicable state and federal laws regarding citizenship and residency.
 ([Eff Jan 20 2012] (Auth: HRS §§76-17, 76-22.5, 78-1) (Imp: HRS §78-1))

§3-5 Announcement of recruitment and examination.
 As the needs of the City require, the director shall plan and carry out recruiting programs with the following minimum provisions:

- (1) Whenever there is need for eligibles, the director shall conduct a recruitment and an examination in the manner deemed reasonable and appropriate, and post the announcements at physical or electronic locations as determined by the director. The director may delegate the recruitment and examination to the appointing authority of a department with the need for eligibles following the execution of a written delegation agreement between the department and the director provided the delegation plan has been approved by the director.
- (2) Open-competitive recruitments shall be announced in accordance with any applicable rules, regulations, and laws, as determined by the director.
- (3) Announcements shall be distributed to all applicable City departments and to other agencies and persons designated by the director.
- (4) The appointing authority shall take all reasonable measures to bring announcements to the attention of employees in the department and distribute the announcements to the various units within the department and other agencies.

[Eff Jan 20 2012] (Auth: HRS §§76-5, 76-17, 76-22.5) (Imp: HRS §78-1)

§3-6 Labor registrations.

- (a) There may be separate lists for different kinds of labor classes. The period for public notice, the period for filing applications and other procedures pertaining to labor registration shall be determined by the director.
- (b) The director may determine whether an examination is proper or necessary and may require applicants to pass tests including, but not limited to, physical abilities and reading skills related to the work to be performed. [Eff Jul 01 2002] (Auth: HRS §§76-17, 76-18, 76-22.5) (Imp: HRS §§76-12, 76-13; RCH §6-1106)

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§3-7 Content of recruitment and examination announcement.

Announcements shall contain the following information:

- (1) Title and pay range of the class;
- (2) How to apply;
- (3) Opening and closing dates and place for filing applications;
- (4) Minimum qualification requirements; and
- (5) Other information determined as necessary or desirable by the director. [Eff Jul 01 2002](Auth: HRS §§76-17, 76-18, 76-22.5) (Imp: HRS §§76-12, 76-13, 76-18, 76-22.5)

§3-8 Period of recruitment.

- (a) Recruitment for open-competitive examinations shall be for a reasonable period based on the needs of the service.
 - (b) The director may announce an open-competitive examination on a continuous basis. Continuous recruitments may close at any time. Notice that the recruitment has been closed with the reason shall be posted in the physical or electronic locations designated by the director.
 - (c) The director may extend the period for receipt of applications. Notice of the extension shall be posted in the physical or electronic locations designated by the director.
- [Eff Jan 20 2012](Auth: HRS §§76-17, 76-22.5) (Imp: HRS §§76-12, 76-13, 76-22.5)

§3-9 Acceptance of applications.

- (a) Application for examination and employment shall be made on the form and with such supplemental information as prescribed by the director.
 - (b) The director may authorize persons and agencies to distribute and accept applications.
 - (c) Applications shall be submitted by the method and time as specified in the examination announcement.
 - (d) Late applications for competitive examinations may be accepted for good reason as determined by the director or designated appointing authority.
 - (e) Applications submitted to the department of human resources or other designated agencies shall constitute official examination records. Accompanying documents may be returned to applicants at the discretion of the director or designated appointing authority.
- [Eff Jan 20 2012] (Auth: HRS §§76-17, 76-22.5) (Imp: HRS §§76-12, 76-13)

§3-10 Cancellation of recruitment and examination announcements.

- (a) If there is no need for eligibles after a recruitment and examination announcement has been published or if other circumstances warrant it, the announcement may be canceled.
 - (b) All applicants shall be notified of the cancellation.
- [Eff Jul 01 2002](Auth: HRS §§76-17, 76-22.5) (Imp: HRS §§76-12, 76-13)

§3-11 Recruitment incentives.

- (a) To enhance the recruitment of persons employed or appointed to critical-to-fill or labor shortage positions, appointing authorities with the prior approval of the director may:
 - (1) Compensate applicants for all or a portion of travel and transportation expenses; and/or

- (2) Provide a monetary incentive in the form of a pay differential, as pre-determined and approved by the director.
- (b) Recruitment incentives must be consistent with the merit principle and organizational and operational goals and objectives.
- (c) Recruitment incentives are subject to annual review.
- (d) The director may, for good reason, terminate incentives at any time.
[Eff Jul 01 2002] (Auth: HRS §§76-17, 76-23.5) (Imp: HRS §§76-12, 76-13, 76-23.5)

SUBCHAPTER 3

EXAMINATION

§3-12 Scope and character of examinations.

- (a) The director may consult with qualified persons in regard to the content of tests, rating of applicants or related test matters.
- (b) Each examination shall relate to those matters which will evaluate the applicants' knowledge, skills and abilities required to perform the duties of the class or position for which the examination is conducted.
- (c) Any accepted personnel examining technique may be used, including a verification and evaluation of education, training, and experience; tests of knowledge, skill, ability or aptitude; medical examinations, pre-employment drug testing; appraisals of personal suitability including factors such as employment history and references; inquiry into the moral character of applicants and any other matter that the director determines appropriate. [Eff Jul 01 2002] (Auth: HRS §§76-17, 76-18; RCH §6-1106) (Imp: HRS §§76-12, 76-13)

§3-13 Disqualification.

- (a) The director may, for good reason, reject any application, disqualify an applicant for any period of time, or deny/rescind the certification of eligibility. This includes, but is not limited to, denying an applicant authorization to take an examination or denying or rescinding the certification of eligibility for any of the following reasons:
 - (1) Failure to meet the minimum qualification requirements or other public employment requirements for admission to the examination by the closing date for receipt of applications, except as provided otherwise in the examination announcement;
 - (2) Submission of defective or incomplete application;
 - (3) Refusal or failure to furnish documents required to verify any statements made in the application;
 - (4) Deception, fraud or false statements in the application, examination or appointment process;
 - (5) Failure to meet medical requirements to perform the essential job functions of the class or position;
 - (6) Illegal use of drugs;
 - (7) Conviction of any controlled substance-related offense during the three-year period immediately preceding the date of the application for employment;
 - (8) Conviction of a criminal offense which affects the applicant's suitability to properly perform the duties and responsibilities of the class or position and investigation indicates that the applicant has not been sufficiently rehabilitated to warrant public trust;

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- (9) A record of misconduct which is detrimental to the proper performance of the duties and responsibilities of the class or position;
 - (10) Conviction of any act, attempt, or conspiracy to overthrow the State or the federal government by force or violence.
 - (11) For other good reason as determined by the director.
 - (b) The director may conduct investigations to determine an applicant's qualifications and suitability for employment in the civil service. If the investigation discloses that the person is ineligible for the position, the director shall take appropriate corrective action, which may include denying authorization to take the examination, removing the person's name from the list of eligibles, rescinding the certification of eligibility, barring an applicant from civil service employment for a specific period of time, or any combination thereof.
 - (c) The director shall notify any applicant whose application is rejected, specifying the reasons for the rejection.
 - (d) An applicant may request an administrative review of an examination rating in accordance with section 3-18, Administrative review of examination results. A request for administrative review shall not delay, prevent or invalidate the certification of names from the eligible list nor the appointment of a person from the list.
- [Eff Jan 20 2012](Auth: HRS §§76-17, 76-18, 76-29, 78-2.6, 831-3.1) (Imp: HRS §§76-12, 76-13, 78-2.6, 831-3.1; RCH §6-1106)

§3-14 Kinds of examinations.

- (a) Promotional examinations.
 - (1) Promotional examinations conducted by the department of human resources may be either intra-departmental or inter-departmental at the discretion of the director.
 - (2) The director may authorize an appointing authority to make promotions by internal departmental competitive examination provided the following conditions are met:
 - (A) The employee to be promoted is a regular employee in the department and the movement is from a position in which the employee last held permanent appointment.
 - (B) The employee meets the minimum qualification requirements for the class of work and vacant position, including experience, education, licensing and other special requirements prescribed in the class specification as essential for performance of the class of work to which the employee is to be promoted.
 - (C) There is no civil service intra-departmental promotional list, or there are fewer than five available eligibles on the intra-departmental promotional list certifiable to fill the vacancy.
 - (D) The vacancy notices shall be posted ten calendar days prior to the closing date for receipt of applications. The posting shall be in accordance with the instructions of the director.
 - (E) The promotion is based on merit principles. Each promotion shall be documented. In addition it will be subject to audit by the department of human resources.
 - (F) If the promotion is to a position in a different bargaining unit, or to a position with knowledge, skills, and abilities substantially greater than required in the employee's present position, the department of human resources may conduct an appropriate examination, to determine

whether the employee is qualified.

- (G) A qualified service-injured person is not available in the department or on the civil service priority placement list.
- (b) Open-competitive examinations. Examinations shall be open-competitive at the discretion of the director. In making the determination, the director shall consider the sufficiency of competition within the civil service as well as the requirements of the class for which such examinations are being conducted.
- (c) Other examinations. The director may authorize an examination for any movement into a position which includes knowledge, skills and abilities not required in the employee's current position. [Eff Jan 20 2012] (Auth: HRS §§76-17, 76-18) (Imp: HRS §§76-12, 76-13; RCH §6-1106)

§3-15 Conduct of examinations.

- (a) Examinations shall be held at the times, places and in the manner which, in the judgment of the director, are most practical and meet the needs of the service.
- (b) Qualified applicants shall be notified of the date, time and place of the examination via ~~United States Postal Service or~~ electronic mail or other method of communication, or both. The department shall not be responsible if a notice is lost in the mail or undeliverable. Nor shall the department be responsible if the notice is sent to an applicant's former physical or electronic address through failure of the applicant to inform the department of a change of address.
- (c) No applicant shall be entitled to take an examination at a date, time, or place other than stated in the notification except as the director may authorize, or as required by law.
- (d) All reasonable precautions shall be taken to protect the confidentiality of information about applicants. [Eff Jul 01 2002; am _____] (Auth: HRS §§76-17, 76-18) (Imp: HRS §§76-12, 76-13; RCH §6-1106)

§3-16 Rating of examinations.

- (a) Appropriate testing techniques and procedures shall be used in rating examinations and determining the relative ranking of applicants. The final earned rating required to pass an examination shall be set by the director. The director may set minimum ratings for each part of an examination. Applicants may be required to obtain at least the minimum rating in each part of the examination to be rated on the remaining parts. The final earned rating of each applicant shall be determined by combining the earned ratings of each part of the examination in accordance with the weights established.
- (b) For eligible lists based on open-competitive examinations which are held on a continuous basis, eligibles shall be placed in order of their rating, regardless of the opening date of examination.
- (c) Based on factors determined by the director, applicants may be notified only as to whether or not they qualified to be on the eligible list.
- (d) Veteran's preference points are only awarded for periods and conditions authorized by law. Requirements for veteran's preference must be met at the time of application. Veterans awarded veteran's preference points will have those points used only for certification purposes in open-competitive examinations to determine whether the veteran will be certified with other eligibles.
- [Eff Jan 20 2012] (Auth: HRS §§76-17, 76-18) (Imp: HRS §§76-12, 76-13; RCH §6-1106)

§3-17 Notification of results of examination.

- (a) Applicants who participate in an examination shall be sent written notice of their test results via electronic mail or other method of communication (i.e., U.S. Mail) or both.

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- (b) The department shall not be responsible if a notice is lost in the mail, undeliverable, or sent to an applicant's former physical or electronic address through failure of the applicant to inform the department of a change of address.
- (c) The filing of an appeal by an applicant on any part of an examination shall not delay, prevent or invalidate the certification of names from the eligible list or the appointment of a person from the list.

[Eff Jan 20 2012; am] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-18 Administrative review of examination results.

- (a) An applicant may request an administrative review of an examination rating within ten calendar days from the postmark date of the original notice or the original date of the original electronic notice of examination results.
- (b) The applicant shall be notified in writing of the action taken within ten calendar days after the completion of the administrative review process. Information on filing an appeal to the Civil Service Commission shall accompany the written decision.
- (c) A request for administrative review or the filing of an appeal with the Civil Service Commission shall not delay, prevent or invalidate the certification of names from the eligible list or the appointment of a person from the list.

[Eff Jan 20 2012] (Auth: HRS §§76-17, 76-18, 76-42) (Imp: HRS §§76-12, 76-13)

§3-19 Changes in rating.

- (a) Changes in rating may be made as a result of the discovery of errors in the rating, or as a result of an administrative review.
- (b) Rating errors may be corrected throughout the life of the eligible list.
- (c) Applicants whose ratings are changed shall be notified.
- (d) Changes in rating shall not affect a certification already issued or invalidate an appointment already made from the eligible list, except that the appointment shall be voided when a person is found within the probationary period to have failed the examination.

[Eff Jul 01 2002] (Auth: HRS §§76-17, 76-18) (Imp: HRS §§76-12, 76-13)

§3-20 Custody and protection of examination materials.

- (a) To protect the confidentiality of examination questions, review of test materials prepared by the department of human resources or obtained from other governmental jurisdictions or private firms shall not be permitted.
- (b) Technical material and all examination booklets used in the preparation and rating of examinations given jointly by the department of human resources and any other organization, and examinations prepared specifically for any organization are confidential and shall remain the property of the department of human resources and in its custody when not needed for test administration or appeal purposes by the organization.
- (c) All examination material relating to a particular applicant or applicants including but not limited to reports of character and material regarding personal suitability of the applicant shall be considered confidential information. Appointing authorities or their authorized representatives may inspect the examination papers of eligibles whose names have been certified to them for appointment. To preserve the confidential character and sources of information and to protect against dissemination of unfounded or unproved allegations, reports of character, personal suitability and other confidential information shall be secured and held in strict confidence and will not be made available for review by the appointing authorities unless specifically authorized

by the director. Appointing authorities and their representatives shall not disclose the examination materials or their contents to any person.
 [Eff Jan 20 2012](Auth: HRS §§76-17, 76-18)(Imp: HRS §§76-12, 76-13)

§3-21 Records and reports of examination.

- (a) A record of each examination shall be retained for the following periods whichever is the latest: a period of one year from the date the eligible list expired; one year after the eligibility of the eligible expired in the case of a continuous recruitment examination record; two years from the date of the last personnel action resulting from an appeal, grievance or judicial proceeding involving a record; or as required by law.
- (b) The record shall contain at least the following information:
 - (1) Examination announcement;
 - (2) Number of eligible and ineligible applicants;
 - (3) Tests administered and the minimum passing scores.

[Eff Jul 01 2002](Auth: HRS §§76-17, 76-18)(Imp: HRS §§76-12, 76-13)

SUBCHAPTER 4

CERTIFICATION

§3-22 Duration of eligibility.

- (a) Open or promotional eligible list. An eligible on an open or promotional competitive eligible list shall have eligibility for employment consideration for no less than ~~[one year]~~ one month from the date the list is established or until the list is canceled or terminated. The eligibility period may be shortened or extended at the discretion of the director.
- (b) Re-employment list. A person who applies and qualifies to be on the re-employment list shall have eligibility for employment consideration for one year from the date of resignation.
- (c) Priority placement list. A person on the priority placement list shall be eligible for employment consideration for one year from the date of termination from City employment.
- (d) Registration list. Lists for labor registration classes shall be in effect for six months unless extended by the director.
- (e) Recall list. A person on a recall list for employees laid off due to lack of work or lack of funds shall have eligibility for employment consideration in accordance with the applicable collective bargaining agreement, directives, or rules, except for an employee with a limited term appointment. [Eff Jan 20 2012; am]
 (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-23 Certification of eligibles.

- (a) Upon receipt of a request for a list of eligibles, the director shall certify names from available lists of eligibles for each vacancy in accordance with this section, except for the following:
 - (1) Labor registration lists for which the director shall determine the number and manner in which registrants are certified;
 - (2) Regular employees who resigned in good standing and subsequently filed written application for reemployment will be certified in addition to the eligibles certified from an open competitive list.

- (b) The order of eligible lists to be used for certification shall be as follows:
- (1) Priority placement lists.
 - (A) Regular employees who have sustained compensable work-related injuries covered under workers' compensation and who have been found to be medically certified as permanently unable to perform the normal duties of their class are eligible for priority placement upon their written request provided they are not totally and permanently disabled and have been medically cleared for vocational rehabilitation.
 - (B) The written request for priority placement must be made by the employee within six months of being medically cleared to participate in a vocational rehabilitation program. Employees who fail to request priority placement within six months of being cleared for vocational rehabilitation, or who decline to accept such priority placement shall be considered to have waived their right to priority placement and shall be declared ineligible.
 - (C) Work-injured employees shall be placed on priority placement list(s) for class(es) of work for which they meet the minimum qualification requirements and are capable of performing the duties and which are at the same or lower salary ranges as the position in which the injury was sustained.
 - (D) When there is more than one eligible that is available and qualified for a vacancy, all eligibles shall be certified.
 - (E) Where a priority placement list is available, that list will be referred to the appointing authority and other types of lists shall not be combined with such list.
 - (F) In the case of non-regular employees who were employed temporarily, certification shall be to temporary employment which is equivalent as far as practicable to the temporary period for which the eligible was originally appointed, but shall not extend past the scheduled termination date of their original temporary appointment.
 - (2) Recall list.
 - (A) Employees who have been laid off will receive consideration for vacancies in accordance with applicable collective bargaining agreements; or for excluded employees not covered by collective bargaining, any directives or guidelines.
 - (3) Intra-departmental promotional list.
 - (A) An eligible shall be certified on the basis of the eligible's examination rating and availability for work location and duration of employment.
 - (B) If there are any employees of a department on an inter-departmental promotional list, these eligibles may be certified to the appointing authority on an intra-departmental certification.
 - (4) Inter-departmental promotional list. An eligible shall be certified on the basis of the eligible's examination rating and availability for work location and duration of employment.
 - (5) Re-employment list. Eligibles who qualify for re-employment lists shall be employees who resigned in good standing or meet other conditions as determined by the director.
 - (6) Open competitive list. An eligible shall be certified on the basis of the eligible's examination rating and availability for work location and duration of employment.

- (c) Unless the priority placement list is used, a certification of eligibles for each vacancy in a department shall consist of a number of eligibles as requested by the appointing authority who are available for the same or related class in the order in accordance with the procedures established by the director. Eligibles shall be certified in the order that they appear on the eligible list before applying veteran's preference. The director may also authorize certification under the following conditions:
- (1) an eligible whose name is restored to a list after termination of initial probation, may be excepted from certification to the department from which the person was terminated;
 - (2) if there are less than five available eligibles on the list, the director may certify names from other eligible lists for the same or related class, in order of rank;
 - (3) a certification of eligibles shall be effective for thirty calendar days after the date of certification, and may be extended by the director.
- (d) Veterans whose examination scores, after addition of applicable preference points, equal or exceed the examination score of the last eligible to be referred based on examination score, shall also be certified. In addition, when the last eligible to be referred based on examination score is one of two or more eligibles who have identical examination scores, the two or more eligibles shall also be certified.
- [Eff Jan 20 2012] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-24 Related class lists.

When there is no list of eligibles appropriate for certification for filling a particular position requiring distinctive or unique qualifications, the director may certify selectively the names of eligibles who are qualified for the particular position. The certification may be in the order of the eligible's current ranking, or of a new ranking as determined by the director, based upon the particular requirements of the position.

[Eff Jul 01 2002] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-25 Selection by the appointing authority.

- (a) The appointing authority may request to interview as many eligibles certified from an open-competitive eligible list as deemed necessary to fill the vacant position based on job related requirements and program needs upon approval of the director. Departments may, through their Administrative Services Officer or appointing authority's designee, and separate from the program recruitment level, narrow the list of eligibles by applying more specific job related requirements associated with its unique program needs. Departments shall identify and develop such job related requirements in advance of the recruitment, and shall retain such documentation for audit purposes.
- [All] Only eligibles who possess the job related requirements, including those identified by the departments based on their unique program needs, [must] will be given the opportunity for an interview.
- (b) The appointing authority shall interview all interested and available eligibles certified from the intra-departmental or inter-departmental promotional list.
- (c) The requirement to interview an eligible may be waived whenever the appointing authority has interviewed and fully assessed the eligible's qualifications for a similar position from another interview conducted during the previous [~~twelve~~] eighteen months.
- (d) All eligibles that are interviewed, but not selected shall be notified in writing.
- (e) Appointment from a certificate of eligibles may be made without regard to rank order. The selection process shall be documented and transmitted to the director for approval. [Eff Jan 20 2012; am] (Auth: HRS §§76-17, 76-18) (Imp: HRS §§76-12, 76-13, 76-18)

§3-26 Suspension, restoration and removal of names from eligible list.

- (a) The director may suspend an eligible from certification for any of the following reasons:
- (1) Failure to reply to a written inquiry relating to availability;

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- (2) Failure to meet physical or medical requirements for the position;
 - (3) Further investigation of the eligible's suitability needs to be conducted;
 - (4) Eligible is unavailable for employment;
 - (5) The eligible is appointed to a temporary position from an eligible list. The suspension shall apply to other temporary vacancies only; or
 - (6) There is other good reason as determined by the director.
- (b) The following eligibles may, upon request, have their names restored to the list of certifiable eligibles if the eligible list is still active:
- (1) A probationary employee who was terminated without delinquency or misconduct; or
 - (2) An eligible who is currently available for employment.
- (c) The name of an eligible will be removed from an eligible list under the following circumstances:
- (1) The eligible was selected from the eligible list, or a related list at the same pay range, and is serving on initial or new probationary appointment;
 - (2) The person is found to be ineligible for appointment;
 - (3) Withdrawal by the eligible;
 - (4) For good reason including but not limited, the eligible or applicant fails to demonstrate interest or availability for employment.
 - (5) Failure to report for duty within the time prescribed by the appointing authority and good reason is not shown;
 - (6) Failure to report for or complete medical examination process and good reason is not shown;
 - (7) Failure to appear for or complete a required drug screening test and good reason is not shown;
 - (8) Eligible is determined to be an illegal user of drugs.
- [Eff Jul 01 2002] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-27 Cancellation of eligible lists.

The director may cancel an eligible list for any of the following reasons:

- (1) Changes in the minimum qualification or classification standards of a class of positions;
- (2) Abolishment of the class for which the list of eligibles was established;
- (3) All eligibles are unavailable for employment.
- (4) Or for other good reasons as determined by the director.

[Eff Jan 20 2012](Auth: HRS 76-17) (Imp: HRS §§76-12, 76-13)

§3-28 Suspension, restoration and removal of eligible from priority placement list.

- (a) The director may suspend an eligible from certification on a priority placement list for any of the following reasons:
- (1) Failure to meet physical or medical requirements to qualify for the position;
 - (2) Further investigation of the eligible's suitability is needed;
 - (3) There is other good reason as determined by the director.
- (b) Priority placement eligibles shall, with the director's approval, have their names restored to the priority placement list when their probationary period was terminated without delinquency or misconduct.
- (c) The name of an eligible shall be removed from the priority placement list under the following circumstances:
- (1) The eligible is placed in a City position;

- (2) The eligible requests to be removed from the priority placement list;
 - (3) The person is found to be ineligible for appointment;
 - (4) The eligible refuses a suitable position;
 - (5) The eligible fails to report to duty within the time prescribed by the appointing authority, and good reason is not shown;
 - (6) Failure to report for or complete medical examination process and good reason is not shown;
 - (7) Failure to appear for or complete a required drug screening test and good reason is not shown;
 - (8) Eligible is determined to be an illegal user of drugs;
 - (9) The period of eligibility has expired.
 - (10) For other good reason as determined by the director.
- [Eff Jan 20 2012](Auth: HRS §76-17)(Imp: HRS §§76-12, 76-13)

SUBCHAPTER 5

MOVEMENTS WITHOUT AN ELIGIBLE LIST

§3-29 Transfers.

- (a) Intra-departmental, inter-departmental, and inter-governmental transfers may be made when the following conditions are met:
 - (1) The employee meets the minimum qualification requirements for the position to which the employee seeks movement;
 - (2) A qualified service-injured employee is not available in the department or on the civil service priority placement list;
 - (3) The employee is an initial probationary or a regular employee; and
 - (4) The transfer shall require the prior approval of the director and the appointing authorities concerned.
- (b) For inter-governmental transfers there is an additional requirement that an appropriate promotional eligible list does not exist for the vacancy and that the employee has attained permanent civil service status.
- (c) The director may require an employee seeking transfer to qualify by examination if the position to which the employee seeks transfer requires knowledge, skills and abilities not required in the employee's current position. [Eff Jan 20 2012](Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-30 Voluntary demotions.

- (a) Intra-departmental, inter-departmental and inter-governmental voluntary demotions may be made when the following conditions are met:
 - (1) The employee meets the minimum qualification requirements of the position to which the employee seeks movement;
 - (2) A qualified service-injured employee is not available in the department or on the civil service priority placement list;
 - (3) The employee to be demoted is a regular employee and the movement is from a position in which the employee last held permanent appointment; and
 - (4) The demotion shall require the prior approval of the director and the appointing authorities concerned.
- (b) Additional conditions which need to be met for inter-governmental demotions are:

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- (1) The employee must be a regular employee of the losing jurisdiction and the movement is from a position in which the employee last held permanent appointment;
 - (2) An appropriate promotional eligible list does not exist for the vacancy.
- (c) The director may require an employee seeking a voluntary demotion to qualify by examination if the position to which the employee seeks voluntary demotion requires knowledge, skills and abilities not required in the employee's current position. [Eff Jul 01 2002] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-31 Exchanges of civil service employees.

Exchanges of civil service employees of the City with employees of any state or subdivision thereof may be made subject to the following conditions:

1. Each person on exchange to the City shall have qualifications substantially equivalent to those of the City employee who is exchanged for such person.
2. The City employee on exchange shall have been an employee of the City at least three years before the beginning of the exchange period.
3. The person on exchange to the City shall hold a position in the person's state government or subdivision which is substantially equivalent to that of the City employee.
4. The City employee on exchange shall be paid the employee's regular compensation by the City, and no additional compensation.
5. The City shall not pay any traveling, transportation, board, lodging or other expenses incidental to or arising out of such exchange to any person or City employee under an exchange contract.
6. The City shall not pay any compensation to any person coming to the City under any contract of exchange; provided that in a case where the City employee on exchange becomes incapacitated or for any reason leaves the exchange position during the period of the exchange, the City may reimburse the employer of the visiting exchange person an amount not to exceed the compensation of the employee exchanged from the City, until the end of the exchange period or until such time as some adjustment satisfactory to the City is made. Contracts of exchange shall provide that the exchange state or its subdivision shall reimburse the City in a like manner.
7. The period of exchange shall not exceed twelve months.
8. The exchange shall require the prior approval of the director for the City and the affected appointing authority, and in the case of any other government employee, the appropriate governmental jurisdiction director and the affected governmental jurisdiction appointing authority.

[Eff Jul 01 2002](Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-32 Appointment of non-regular employees.

- (a) An employee filling a permanent position temporarily vacant, a temporary position or a position in an internship, apprenticeship or training program under a limited term appointment may be given a probationary appointment to the position if it later develops that the vacancy will be permanent or that the temporary position will become permanent; provided the employee was originally appointed from an appropriate eligible list and the director certifies that the action is reasonable and to the benefit of the service.

- (b) With the approval of the director, the following non-regular employees may be granted an initial probationary or limited-term appointment when the conditions provided in subsection (c) below are met:
 - (1) An employee serving an initial probationary appointment may be granted an initial probationary or a limited term appointment to another position in the same class.
 - (2) An employee serving a limited-term appointment may be granted an initial probationary appointment to another position in the same class, or a limited-term appointment to another position in the same class.
- (c) An initial probationary or a limited-term appointment of a non-regular employee to the position in which the appointment is sought may be approved when the following conditions are met:
 - (1) The appointment is to a position in the same department.
 - (2) At the time the non-regular employee was selected for the employee's current limited-term or initial probationary appointment, the employee was eligible to be certified for an initial probationary or limited-term appointment, whichever is appropriate, to the position for which appointment is now sought.
 - (3) A qualified person is not available on the priority placement list for the vacancy or position.
 - (4) There is no eligible on an appropriate eligible list which has a higher order of certification priority than an open competitive list for the vacancy or position.
 - (5) There is no eligible available on the open competitive list which was established for the specific vacancy or position.
 - (6) There is no regular employee who applied for the vacancy or position through an internal departmental competitive examination, and who is qualified but was not considered prior to any referral of qualified non-regular employees.
 - (7) The non-regular employee has not previously received an appointment under this section utilizing the same recruitment and certification conditions to effectuate the appointment.

[Eff Jan 20 2012](Auth: HRS 76-17) (Imp: HRS §§76-12, 76-13)

§3-33 Status of employees or activities acquired by the City.

Employees of activities purchased or acquired by the City who as of the date of purchase or acquisition are employed by such activities, may, by approval of the director, be given initial probationary appointments without competitive examination. Employees shall be placed in positions assigned to the appropriate classes and be paid as determined by the director. [Eff Jan 20 2012](Auth: HRS 76-17) (Imp: HRS §§76-12, 76-13)

§3-34 Status of employees upon reorganization or transfer.

- (a) Any regular civil service employee or officer whose position is transferred as a consequence of reorganization or transfer of functions mandated or caused by amendments or revisions to the City Charter, ordinance, resolution, or other state or federal law, shall be continued as a civil service employee or officer, without change in civil service status, reduction in pay range, loss of vacation or sick leave allowances, service credits or other rights and privileges.
- (b) The provisions of subsection (a) above shall not be construed to prevent any change in an employee's position or status resulting from transfers or reorganizations not mandated or caused by amendments or revisions to the City Charter, ordinance, resolution, or other state or federal law. [Eff Jul 01 2002](Auth: HRS §76-17) (Imp: HRS §§46-30, 76-12, 76-13)

§3-35 Status of exempt employees converted to civil service.

Whenever a position is no longer exempted from civil service, normal civil service recruitment procedures shall apply, unless the incumbent is to be retained without the necessity for examination by action of the appropriate legislative body.

- (a) In such case, the incumbent shall be retained, but only if the incumbent meets the minimum qualification requirements of the position.
- (b) The director shall set the compensation of incumbents upon their inclusion in the classification system in a manner that is fair and equitable in comparison to the compensation of other incumbents with comparable experience in the same or essentially similar classes.
- (c) The compensation of incumbents who are in the same bargaining unit, prior to and after their inclusion in the classification system shall be in accordance with applicable collective bargaining agreements and with the approval of the director. [Eff Jul 01 2002] (Auth: HRS §§76-16, 76-17) (Imp: HRS §§76-12, 76-13, 76-16)

SUBCHAPTER 6

TYPES OF APPOINTMENTS

§3-36 Permanent appointment.

A permanent appointment is granted an employee under any one of the following:

- (1) After successfully completing a probationary period in the position.
- (2) Upon movement to a vacant permanent position and the employee is not required to serve a new probationary period.
- (3) When specifically authorized by statute.
- (4) When an employee who has been displaced by a layoff is appointed to a position which is in the same or lower class in the same series and in the same department in which the employee was displaced; provided the appointment is made within twelve months from the effective date of the layoff action. [Eff Jul 01 2002] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-37 Probationary appointment.

All vacancies and new positions in the civil service shall be filled by probationary appointments, except as provided by these rules.

- (a) The probationary period shall be utilized as part of the examination process to determine the fitness and ability of the employee for employment in the position and civil service. An employee must meet the performance requirements of the position in order to successfully complete the probationary period.
- (b) An initial probationary period shall be required when a person who does not have regular status is appointed to a permanent civil service position, except as provided by these rules.
- (c) A new probationary period shall be required of a regular employee when the employee:
 - (1) Is promoted to a permanent position; except when the promotion is a limited term or provisional appointment.
 - (2) Is transferred to a permanent position in another class.
 - (3) Receives a voluntary demotion to a permanent position which is not in the same series.

- (4) Is in a position which is reallocated to a class in a higher pay range.
 - (5) Is required to take an examination upon the reallocation of the employee's position.
- (d) The appointing authority has the discretion to require a new probationary period where not required under subsection(c) above.
 - (e) Initial and new probationary periods shall be for a period of six months. However, this provision may be modified and the director may establish a longer initial probationary period for a class of work when a longer period is needed to adequately train and evaluate the employee. The director shall identify these classes and the duration of the probationary period in guidelines.
 - (f) The appointing authority may extend the probationary period upon written notification to the employee and the director prior to the expiration of the probationary period. Failure to inform the employee in writing of the extension shall result in the employee being granted a permanent appointment by default. The appointing authority may extend the probationary period for any of the following reasons:
 - (1) Further evaluation of the employee's ability to successfully perform the duties of the position is required. The extension shall not exceed six months or as deemed appropriate by the director.
 - (2) The employee's absence affects the appointing authority's ability to evaluate the employee's performance. The duration of the adjustment shall not exceed the period of absence or combined periods of absences.
 - (3) A final determination of the employee's suitability for employment has not been made provided the extension shall not exceed six months.
 - (4) The appointment may be affected due to a pending appeal against the selection. Upon resolution of such appeal, the appointing authority shall notify the director who will take appropriate action.
 - (g) Crediting of service as part of the employee's probationary period may be allowed under the circumstances below:
 - (1) Any part of a limited term service in a temporary position or a permanent position temporarily vacant or any part of service in a temporarily reallocated position may be credited as part of the employee's probationary period should changes subsequent to the initial date of the limited term appointment or temporary reallocation warrant the granting of a probationary appointment in the same class.
 - (2) Any part of an initial probationary period served in a position prior to transfer to a different position in the same class may be credited as part of the employee's initial probationary period.
 - (3) A probationary period is not required when an employee filling a permanent position temporarily vacant will be given a permanent appointment to the position if it later develops that the vacancy will be permanent and the employee was appointed through a civil service recruitment procedure to this vacancy. The employee must have been performing the duties of the position in a satisfactory manner for at least six months and the appointing authority certifies that the period of temporary service immediately preceded the new appointment and that the employee's duties are essentially similar to the duties to be performed for the initial probationary period for the same or related position.
 - (h) A regular employee's new probationary period may be
 - (1) terminated and the employee shall be returned to the former position or another position in the former class in the department where the employee last held a permanent appointment and shall be restored as though the

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- employee had remained in the position continuously. For compensation purposes such a release shall be considered a termination of the promotion.
- (2) A regular employee serving a new probationary period may, upon mutual agreement of the appointing authorities involved, be permitted to return to the former position or another position in the former class in the department where the employee last held a permanent appointment and shall be restored as though the employee had remained in the position continuously. For compensation purposes such a release shall be considered a termination of the promotion. [Eff Jan 20 2012] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-38 Provisional appointment.

- (a) When there is no appropriate eligible list or there are fewer than five available eligibles certifiable to fill a vacancy and public interest requires that the vacancy be filled, the director may authorize the filling of the vacancy through a provisional appointment, subject to the following conditions:
 - (1) Provisional appointment to a permanent vacancy shall continue only for such period as may be necessary to make an appointment through certification and shall not exceed 180 calendar days in a twelve-month period, except that an extension of 180 calendar days may be authorized by the director when an examination to fill such vacancy was announced and recruitment has failed to produce at least five available eligibles.
 - (2) Provisional appointment to a temporary vacancy may continue for the specific period of time needed to complete the temporary work, but not to exceed one year.
 - (3) The person selected for appointment meets the minimum qualification requirements for the class.
 - (4) A provisional appointment shall be effective for a maximum period of 30 calendar days after the certification of eligibles to fill the vacancy is made.
 - (5) The person selected for appointment may be given another provisional appointment in the same class or in another class, provided that both provisional appointments shall not exceed an aggregate of 180 calendar days in a twelve-month period, except as provided in this section. Such person may not be given another provisional appointment to any position in any class until a period of one year has elapsed from the termination of the last provisional appointment.
- (b) A regular employee may, while serving a provisional appointment be terminated or permitted to return to the former position or another position in the former class in the department where the employee last held a permanent appointment and shall be restored as though the employee had remained in the position continuously.
[Eff Jul 01 2002] (Auth: RCH §§6-1102, 6-1105, 6-1106; HRS §76-17) (Imp: §6-1106)

§3-39 Short term appointment.

Short term appointments may be made to fill positions temporarily to prevent the stoppage of essential public business. Such appointments shall not exceed ten working days, provided the director for good cause may extend such appointments for a total appointment period not to exceed thirty calendar days. [Eff Jul 01 2002](Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

§3-40 Limited term appointment.

- (a) Limited term appointments may be made to fill temporary positions or temporary vacancies in permanent positions or a position in an internship or apprenticeship program or training program under a limited term appointment.
- (b) These types of positions may be converted to initial probationary status to the allocated level of the position at the successful conclusion of the internship, apprentice program or training program.
- (c) The name of a person who is selected for a limited term appointment shall not be removed from the eligible list because of such appointment if the list used was for a permanent vacancy.
- (d) Non-regular employees granted a limited term appointment shall not be entitled to rights of a regular employee while appointed into a temporary position or temporary vacancy in a permanent position.
- (e) A regular employee granted a limited term appointment shall, upon termination of the appointment, be reinstated in the position in which the employee last held permanent appointment.
- (f) Limited term appointments may be made with the approval of the appointing authorities concerned and the director for a specific duration to fill a temporary need but not to exceed two years, provided there is no break in service. Should the need for temporary service continue beyond the two years, the appointment may be extended on a yearly basis or a shorter duration with the approval of the appointing authorities concerned and the director.
- (g) For employees originally appointed from an appropriate eligible list: An employee filling a permanent position temporarily vacant or a temporary position may be given [a] probationary appointment in the same or related position in the same class within the department if it later develops that the vacancy will be permanent or that the temporary position will become permanent and the temporary period of service immediately preceded the change to probationary status. The director must certify that the action is reasonable and to the benefit of the service.
- (h) For employees appointed from an internal departmental competitive examination: An employee filling a permanent position temporarily vacant or a temporary position may be given a probationary appointment in the same position or to another position in the same class if it later develops that the vacancy will be permanent or that the temporary position will become permanent, provided the condition of permanency is stated in the vacancy announcement, and the temporary period of service immediately preceded the change to probationary status. The director must certify that the action is reasonable and to the benefit of the service.
- (i) If the employee elects to continue on a temporary appointment through an extension of the limited term appointment, the employee shall have return rights to the position in which the employee last held permanent appointment, provided that prior to the start of the extension of the limited term appointment the employee submits a written request and receives written approval for the employee's return rights from the department head who has control of the employee's last held permanent appointment. If the department head who has control of the employee's last held permanent appointment does not give written approval for the employee's return rights, the employee shall be terminated from service at the end of the extension of the limited term appointment. The requirement for written approval of an employee's return rights shall apply to each extension of a limited term appointment made. [Eff Jan 20 2012](Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13)

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§3-41 Persons ineligible for appointment or promotion.

A person shall be ineligible for any appointment or promotion in the civil service for a specified period of time as determined appropriate by the director for reasons including, but not limited to the following:

- (1) Deception, fraud, or providing false or misleading statements of material facts in the application or examination process.
- (2) Unauthorized or improper assistance in an examination.
- (3) A determination of unsuitability for employment.

[Eff Jul 01 2002] (Auth: HRS §76-17) (Imp: HRS §§76-12, 76-13, 78-2.6, 831-3.1)