Metropolitan Government of Nashville and Davidson County

Civil Service Rules

Current as of July 8, 2025

CIVIL SERVICE COMMISSION

PRESENT MEMBERS

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01/04/2000 - 03/31/2028

D. Billye Sanders - Vice-Chairman
12/20/2005 – 03/31/2027

Ethan Link - Commissioner
11/17/2015 - 03/31/2029

Alysia Jones - Commissioner
03/16/2021 - 03/31/2026

Quan Poole – Commissioner
02/03/2026- 03/31/2030

PAST MEMBERS

Harry Mittwede	**04/01/1963 – 02/25/1964**
Alton D. Bayne	**04/01/1963 – 02/10/1965**
W. C. Greer	**04/01/1963 – 04/01/1976**
W. E. Pilkerton	**04/01/1963 – 04/02/1982**
C. F. Steagald	**04/01/1963 – 01/07/1966**
Charles H. Warfield	**02/25/1964 – 02/10/1965**
F. Clay Bailey, Jr.	**02/10/1965 – 02/10/2000**
John A. Grazier	**02/10/1965 – 07/19/1966**
W. M. Hutcherson	**01/07/1966 – 04/01/1967**
Tom Hailey	**07/19/1966 – 06/06/1970**
C.F. Steagald	**04/01/1967 – 02/17/1976**
Andrew B. Gibson, Sr.	**06/16/1970 – 07/27/1989**
Mildred Crouch	**04/20/1976 – 03/31/1991**
Linton O'Brien	**02/17/1976 – 03/14/1999**
H. C. Fox	**03/17/1982 – 05/26/1987**
Bettie Phillips	**10/24/1989 – 03/31/1990**
John Bottom	**05/26/1987 – 08/27/1991**
Ethel B. Thomas	**07/03/1990 – 03/31/2000**
Karen Winters Saul	**12/03/1991 – 09/08/1998**
Thomas Bryant	**10/20/1998 – 02/28/2001**
Janet Rachel	**04/01/2000 – 03/31/2004**
Gregory Rodriguez, Jr.	**03/19/2002 – 06/14/2005**
Ervina Jarrett	**04/18/2004 – 09/09/2008**
C. Michael Allen	**07/06/1999 – 10/05/2015**
R. Steve Corbitt	**04/02/1991 – 03/31/2021**
Jo Ann North	**10/07/2008 – 09/30/2024**
Jason T. Evans	**10/01/2024 - 08/25/2025**

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Record of rule revisions since 1/1/2000:

- Sec 3.1 Administrative Change 5/9/2000

- Section revisions: effective 9/12/2000

2.5 E	3.9
4.7 E	4.16
5.9 B-3	6.3
6.5 A	6.7 –16
7.5	

- Section 2.12 12/12/00

- Section revisions: effective 7/1/2001

2.10 B-1	5.9 B 4
4.17	5.9 E
5.3	5.10
5.6	7.15

- Section 4.14 footnote: 12/10/02

- 8/12/03
  Sections 2.2, 3.2, 3.4, 3.5, 3.10, 4.12, 5.1, 5.9, 6.1, 6.6, 6.7, 6.8C, 6.9

- 9/14/04
  Sections1.7, 1.10, 2.10A, 3.2, 6.3, 6.6, 7.11, 8.12

- 7/11/06
  Sections3.11, 4.7-E, 4.18

- 5/08/2007
  Added Chapter 9 Davidson County Sheriff's Office

- 11/13/2007
  Sections 4.12, 6.5

- 4/8/2008 Changes/references to Family Medical Leave Act
  Appendix 3 Family Medical Leave Act (FMLA Handbook)
  * Proposed Revisions to FMLA language in the following:
  * Chapter 3.8 Outside Employment

* Chapter 4.7 Sick Leave
* Chapter 4.16 Family Medical Leave Act
* Chapter 7.5 Outside Employment
* Chapter 8.5 Outside Employment

- 5/12/2009
  Delete Appendix 3 FMLA and move to Employee Handbook

- 4/13/2010
  Added Section 4.19, Volunteer in Schools Program

- 11/12/2010
  Fire Chapter 8.15, Working in a Higher Classification (flat rate), added five classifications

- 07/01/2016 revisions
  Section 2.10 – Interviewing and Selection for Appointment
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- 07/01/2017 revision
  Section 5.8 – Shift Differential Pay

- 07/11/2017 revision
  Section 4.20 – Paid Family Leave

- 07/01/2018 revisions
  Section 2.2 – Types of Eligibility Registers
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- 07/09/2019 Revisions
  Added Sections:
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  Section 9.7 - Transition of Correctional Officers
  Section 9.8 - Reemployment and/or Rehire (3.13)
  Section 9.9 - Holiday Time

- 08/10/2021 revisions
  Section 5.3 General Pay Provisions (removed chart and added it to the policies)

- 06/10/2025 revisions effective July 1, 2025
  Section 5.3 General Pay Provisions (The terminology “Red-Lining” has been updated to “Red Circling”)
  Section 5.7 Special Pay Provisions (This change clarifies that short-term military leave (not to exceed 10 days per military service requirement) will count as time worked for overtime calculation purposes.)
  Chapter 10 Definitions (Changes Red-Lining to Red Circling.)

- 07/08/2025 revisions effective July 1, 2025
  Section 2.10 Interview and Selection for Appointment (This change updates language related to the FY26 consolidated Trades and Labor pay schedule (“TR”) b removing references to prior pay schedule labels “TG”, “TL”, and “TS”)

CHAPTER 1

INTRODUCTION TO THE CIVIL SERVICE RULES AND ADMINISTRATION OF THE RULES

SECTION 1.1- DEVELOPMENT AND REVISION OF RULES

In September and October of 1963 several personnel directors in private industry and from federal agencies, with guidance from the Mayor, met to help develop the groundwork and format for a merit human resources program for the Metropolitan Government of Nashville and Davidson County. Subsequently a series of meetings was held in which human resources policy statements were developed and presented to the Mayor and the Civil Service Commission in January, 1964. After adoption of these policies, regular weekly meetings were held and assignments were made to the personnel directors to develop specific chapters of the Civil Service Rules. The Rules were officially adopted on August 18, 1964.

These rules have been revised and reprinted several times since their initial printing. These revisions were made after careful study by the Department of Human Resources the Department of Law. Input was provided by employees, employee representatives and departments of Metropolitan Government.

SECTION 1.2 - USE OF MASCULINE NOUN AND PRONOUN

In order to avoid the sometimes awkward use of he/she, him/her, his/her, when referring to employees in general, the use of the masculine noun or pronoun in these rules shall be interpreted to include the feminine.

SECTION 1.3 - OBJECTIVES OF RULES

The purpose of these rules is to bring into the service of Metropolitan Government of Nashville and Davidson County a high degree of understanding, cooperation, efficiency and unity. These rules provide a uniform human resources program for all employees, with all the benefits such a program ensures. The fundamental objectives to be achieved by these rules are declared to be:

a. to promote and increase efficiency and economy in the Metropolitan Government.

b. to provide equal employment opportunities to all applicants and employees.

c. to develop a program of recruitment, advancement and tenure which will make employment with Metropolitan Government attractive as a career and encourage each employee to render his best services.

d. to establish a program based on merit for the hiring and promotion of employees and to provide promotional opportunities whenever possible to qualified employees.

e. to establish and promote high morale and enhance working conditions among Metropolitan Government employees by providing a uniform personnel policy, and opportunity for advancement.

SECTION 1.4 - APPLICABILITY OF RULES AND POLICIES

These rules shall apply to all employees of the Metropolitan Government, except those employees who are specifically placed in the unclassified service by the Charter of the Metropolitan Government or who are employed by agencies which act as their own Civil Service Commission

pursuant to the Metro Charter or as otherwise exempted by the Metro Charter. For consistency in Human Resources administration, the Civil Service Commission encourages all departments, especially those departments with both classified and non-classified employees, to follow these rules and policies to the extent possible.

SECTION 1.5 - AVAILABILITY OF CIVIL SERVICE RULES

A copy of the Employee handbook will be given to all Civil Service employees and to all new hires at the beginning of their probationary period. Each employee is to sign a statement that he has received the copy. An up-to-date copy of the Civil Service rules and policies will be maintained in the department and will be made available to all employees on request. Any changes in the rules will be posted on the department bulletin board or other notification procedures.

SECTION 1.6 – HUMAN RESOURCES POLICY MANUAL

A policy is a statement that clarifies a rule or defines a practice/definition. A manual will be maintained by the Human Resources Department containing all HR policies referenced by the rules and/or approved by the Civil Service Commission. A copy of this manual will be provided to all operating departments and a copy will be available for reference in the Human Resources Department.

SECTION 1.7 - AMENDING OR CHANGING RULES

The Director of Human Resources will consult with employee representative groups before recommending changes of these rules to the Civil Service Commission. Anyone may recommend changes to the Director of Resources. The Commission is responsible for approving or disapproving any recommended changes. A public hearing must be conducted prior to any changes being approved.

SECTION 1.8 - PERSONNEL RULE AND POLICY INTERPRETATIONS

The Director of Human Resources is responsible for interpreting the Civil Service rules and policies and shall write interpretations when clarification is needed. These interpretations are to be followed in applying the rules and policies. Appointing authorities and employees may submit written requests for interpretations to the Director of Human Resources.

SECTION 1.9 - EFFECTIVE DATE AND COMPLIANCE

The Civil Service Commission shall establish the effective date of any rule they approve. On that date the previous rule is superseded. The Civil Service Rules shall apply to all employees under the jurisdiction of the Civil Service Commission. It is the responsibility of each appointing authority and each employee to carry out these rules and policies.

SECTION 1.10 - DEPARTMENTAL RULES

Appointing authorities shall implement additional rules to govern their departments, specific rules which would apply to their departments only or are not covered in the Civil Service Rules. These rules must not conflict with Civil Service Rules and Policies. Departments will notify the appropriate employee representative groups in the department before proposing changes to the Commission. Departmental rules shall be approved by the Civil Service Commission. A copy of any proposed departmental rule shall be made available to employees within the department at least two weeks prior to Commission approval. Once approved, all employees of the department shall be furnished a copy of the rules, sign for the copy and have such acknowledgment placed in their HR file.

SECTION 1.11- REVIEW BY THE CIVIL SERVICE COMMISSION

In accordance with the provisions of the Metropolitan Charter, it shall be the authority of the Civil Service Commission to review or modify any action taken by the Director of Human Resources.

CHAPTER 2

SELECTION PRACTICES

SECTION 2.1 - INTRODUCTION

The entrance (original appointment) and promotional selection system for Metropolitan Civil Service positions shall be based solely on merit principles for employment and promotion that select the most qualified person and are fair and equitable to all persons. In accordance with the Metro Charter, an employee or official of Metropolitan Government shall not give preferential treatment to any applicant or employee, or otherwise attempt to influence the selection decision based on non-job related reasons. Any recommendation for hire or promotion and decisions on who to hire or promote shall be made solely for job-related reasons and only by persons serving in an official capacity under the rules and policies of the Civil Service Commission.

It is the policy of Metropolitan Government to provide promotional opportunities whenever possible to qualified employees. Employees are encouraged to take advantage of these opportunities by continuing to strengthen their job-related qualifications and abilities through formal education, training, self-study, and by establishing a record of reliability and quality job performance. Employees shall be assured of full and fair consideration through the promotional selection process contained in these rules, policies, and procedures.

When a determination is made to fill a vacancy, the decision of who is to be selected must be made by giving required consideration to appropriate registers and lists. No Civil Service selection or appointment decision shall be made prior to announcement, examination, establishment of eligibility registers and any required interviews, except as provided elsewhere in these rules.

SECTION 2.2 - TYPES OF ELIGIBILITY REGISTERS

Open Competitive Register - this type of register is open to all applicants (including employees) who meet the minimum requirements prescribed in the classification plan and exam announcement are legally authorized to work in the United States except where actual citizenship is a requirement.

Department Register (Promotional) - this type of register is open to all qualified Civil Service employees of the department.

Metro Register (Promotional) - this type of register is open to all Civil Service employees under the jurisdiction of the Civil Service Commission.

Probationary Civil Service employees may apply for promotional exams, if otherwise eligible, provided they meet the minimum requirements. Probationary employees will not be placed on the eligibility register until they complete/pass their probation. Probationary employees may change classifications (higher, lateral, or lower) if appointed to the new position from an entrance register. The probationary period will then start over.

SECTION 2.3 -TYPES OF ELIGIBILITY LISTS

In accordance with established procedures eligible employees' names may be placed on the following types of eligibility lists. Unlike registers, qualified employees on these lists are not ranked with the exception of Preferred Re-employment lists, which are ranked by seniority. Refer to the following sections regarding lists:

Preferred Re-employment Lists: For selection purposes, Layoff Lists as established in Chapter 3, Section 3.11 J., and Disability Re-employment Lists, as established in Chapter 3, Section 3.13 B., are referred to as Preferred Re-employment Lists.

Re-employment Lists: See Chapter 3, Section 3.13 A.

Transfer Lists: See Chapter 3, Section 3.9.

SECTION 2.4 - REQUESTING EXAMS AND ANNOUNCEMENTS

Examination requests shall be made by the requesting department to the Department of Human Resources according to current Human Resources recruitment policies. Departments should consider any existing Preferred Re-employment List prior to requesting an exam announcement. The Department of Human Resources will evaluate the request and if needed will establish the appropriate register. In lieu of establishing a register the requesting department may be furnished with registers for similar classifications. The requesting department may appoint someone from the furnished registers to the classification designated for the vacant position.

Announcements may be made for a single classification or position or for groups of classifications or occupational groups. When there is to be an exam announcement the HR Department will determine what type of register is to be established and will announce the exam at the most appropriate level. In the event a promotional announcement does not yield an adequate number of candidates to make a reliable selection decision, HR can extend the announcement to the next level of register to expand the applicant pool.

The Department of Human Resources will make public announcement of Open Competitive examinations in advance of the opening date for receiving applications. Promotional announcements will made at least seven (7) calendar days in advance of the closing date for accepting applications. Both Open Competitive and Promotional announcements will be sent to operating departments for posting on official posting locations which may include electronic notification. It shall be the responsibility of departments to post and monitor these announcements in such a manner that all employees can see and review them throughout the period designated as open for the acceptance of applications.

SECTION 2.5 - APPLICATIONS AND OPEN PERIOD FOR FILING

Applications shall be accepted during the period specified on the announcement.
Announcement periods may be extended as necessary to obtain additional applicants. The Director of HR or designee may approve early or late filing if the applicant cannot file during the announced period.

Continuous/Periodic Announcements: Applications may also be accepted on a continuous, quarterly, or semi-annual basis. Promotional Registers will be updated no more often than quarterly. When the register is initially established, the announcement and any advertisements will state the periods during which applications will be accepted.

SECTION 2.6 - DISQUALIFICATION OF APPLICANTS OR REMOVAL OF APPLICANTS FROM REGISTERS AND LISTS

The Director of HR may refuse to examine or after examination may disqualify an applicant or may remove an applicant from an eligibility register or list based on reasons specified in HR Department procedures.

SECTION 2.7 - ESTABLISHING REGISTERS

Registers will be established based on the scores achieved by applicants on competitive examinations and other assessment methods prescribed in this chapter and HR examination procedures. The promotional testing policy for non-exempt positions and any subsequent changes shall be approved by the Civil Service Commission.

On a monthly basis, a list of eligibility registers established will be reported to the Civil Service Commission. An eligibility register will be sent to the Appointing Authority or designee upon request. The Appointing Authority shall make the register available to employees within the department upon request. Appointments must be made from a register that is no more than sixty (60) calendar days old as determined by the date it is generated on the computer. If past this date the Appointing Authority must request that the current register be generated.

Open Competitive and Promotional Registers may be established for a classification or for a specified position within a classification. In the latter case the announcement will specify any job related special qualifications necessary for the position. On Open Competitive registers, if the examination process involves several components, the number of applicants advancing from one component to another may be restricted to a predetermined number of applicants or to those receiving at least an established minimum score.

A Department Register may be established by announcing an exam or may be established from an existing Metro Register or Open Competitive Register. In the latter case only the names of those employees of the department in the outstanding category on the Open Competitive Register will be placed on the Department Register. Scores of applicants can be transferred from one eligibility register to another on open competitive registers and on promotional eligibility registers in the same classification series without the applicant participating in the second selection process, provided the positions have similar requirements and similar selection methods were used. Transfers of scores must meet the guidelines established in HR Department procedures.

SECTION 2.8 - VETERANS PREFERENCE

Veterans with an honorable discharge from the Armed Forces of the United States will be identified on Open Competitive Registers and guaranteed an interview down to the person selected. A copy of the DD214 form must be submitted verifying the period of service and type of discharge.

SECTION 2.9 - PRIORITY ORDER IN USING ELIGIBILITY REGISTERS AND LISTS

Registers and lists shall be considered by the Appointing Authority in accordance with Section 2.10 and in the following order when making appointments.

1st Priority:	Preferred Re-Employment List
2nd Priority:	Metro Register, or Department Register
3rd Priority:	Open Competitive Register

Re-Employment Lists and Transfer Lists may be given 2nd or 3rd priority by the Appointing Authority. However, the Appointing Authority shall document his reasons for using either list over a promotional register.

Once the Preferred Re-employment List is considered the HR Department may send all other appropriate registers and lists to the Appointing Authority upon request but they must be considered in the order specified above.

SECTION 2.10 - INTERVIEWING AND SELECTION FOR APPOINTMENT

Registers and lists will be considered in the priority order given in Section 2.9 and documented according to HR Department instructions. Candidates successfully completing the examination process will have their names placed on eligibility registers and will be considered for appointment or promotion in accordance with the following provisions.

A. Preferred Re-employment Lists:

When an appointment is to be made the names of employees eligible for recall from layoff and return from disability for that classification shall be sent to the Appointing Authority by the HR Department on a Preferred Re-employment List. Eligible employees will be ranked by seniority and any employees from the Appointing Authority's department will be so indicated. The Appointing Authority must offer the appointment to the most senior person from his department on the list.

Prior to making any other appointments to the same classification, the Appointing Authority must appoint from the list any laid off employees from other departments if it is a non-exempt class, and consider employees returning from disability. If it is an exempt class, the Appointing Authority must consider employees on the list who are laid off and/or returning from disability.

B. Department Registers and Metro Registers:

1. Promotional Registers for TLS Classifications: non-exempt trades (TR):
There will be a Basic Score of 10 Points:

5 Experience or seniority Points (Up to 12 years)
5 Points Maximum to be added for Department Assessment Interview

Exempt and overtime eligible exempt Trades classifications will follow the same process as other non-trades classifications as listed in section 2.10,B.2.

2. Promotional Registers for all other Classifications:
This applies to Civil Service exams for Non-Trades classifications in the pay-plan.

Employees are evaluated using selection tools determined to substantially measure or reflect a representative sample of the knowledge, skills, abilities and other characteristics essential to successful job performance. These may include, but shall not be limited to the following:

Written Examination
Oral examination
Work sample performance
Education Ratings
*Experience Rating
Assessment Interviews
Seniority
*(non-exempt and professionally exempt non-supervisory classes will include a 20% experience or seniority rating up to 12 years).

3. Interviewing and Selection from Promotional Registers:

Successful applicants are ranked according to score beginning with the highest scoring applicant. Promotional registers are not divided into categories. Appointments from promotional registers with ten or fewer names must be made from the five highest ranking applicants plus any applicants with a score equal to the fifth ranking applicant. Appointments from promotional registers with more than ten names must be made from the ten highest ranking applicants plus any applicants with a score equal to the tenth ranking applicant. To insure that there is a choice of five to ten names for each appointment, an applicant's relative position on the register will move up as appointments are made. Upon request from an employee the supervisor should explain their selection.

The Appointing Authority shall notify, in writing, each employee interviewed that the selection process has been completed and the name of the individual selected. A copy of the notice must be maintained by the department making the appointment and available to the HR Department upon request. This notice must be sent within ten (10) days of the appointment.

Employees on an eligible register who are offered a position may decline the offer but request to remain on the register by signing a waiver. Their refusal may allow the next employee, by rank, to float up to be considered for the vacant position. This waiver may be used for a specified period of time and/or condition. Each department will determine the conditions and time period of the waiver.

Selective Certification: This is a special circumstance in which an individual position or group of positions in a classification may be placed into a sub-classification because the position/s require unique or special qualifications. A selective certification is made by sending only the names of those applicants possessing the required skills. Any request for a selective certification by a department must have the prior written approval of the HR Director. Appointments are done the same as for other promotional registers except that only those possessing the special qualifications are certified to the Appointing Authority. Applicant pools will be maintained by the HR Department for certain continuous recruitment positions. Applicants will be assessed and rated based on various skills required for these positions. As announcements are requested for vacant positions, only those applicants with the skills required for the position will be referred to the requesting department. Eligibility registers will be established in accordance with Policy 2.10 C-1 and HR Department procedures.

C. Open Competitive Registers:

Applicants will be ranked according to scores beginning with the highest scoring applicant and placed in one of three categories:
Outstanding, Well-Qualified, and Qualified. The categories will be established in accordance with a HR Department procedure. Appointments must be from the Outstanding category. Any Civil Service employees on the register down to the person selected must be interviewed.

SECTION 2.11- APPOINTMENTS

When an applicant is appointed he will be assigned to an appropriate position status. These are Probationary-Civil Service, Civil Service, or Non-Civil Service. Non-Civil Service positions are further categorized as Part-time, Seasonal, Temporary, Emergency, Grant-funded and

Provisional. Civil Service appointments will be made from the appropriate eligibility register or list and reported to the Civil Service Commission on a monthly basis. Appointments from Open Competitive registers must be from the outstanding category.

SECTION 2.12 - PHYSICAL EXAMINATION

Pre-employment Physical Examinations shall be conducted for Civil Service employees as required by policy of the Metro Civil Service Commission. A physician designated by the Health Department Director shall conduct such examination and certify the applicant's physical ability to do the job with or without reasonable accommodation. This shall be determined by means of a post-offer physical examination. The cost of such examination shall be borne by the Metropolitan Government.

SECTION 2.13 - APPLICANT REVIEWS AND APPEALS

An applicant may review his examination records if a written request is filed with the HR Department. If the applicant reviews written, oral, or general performance exam questions he may not take that examination again for twelve (12) months from the date of the review unless a new examination has been developed.

An applicant may appeal his score or status if a written request is filed with the Director or Human Resources within seven (7) calendar days after the date of notification (for Police sworn classifications, see CS Policy 7.2B-I, section VII-C). If the applicant is dissatisfied after consideration and response from the Director of Human Resources, he may request that the Civil Service Commission review the decision. Such request must be filed in writing within fourteen (14) calendar days from the date of the written notification of the HR Director's decision. Complaints concerning interviews and appointments should be addressed through the grievance procedure.

Appeals and Grievances shall be limited to questions concerning whether or not these rules and applicable procedures were properly carried out. An applicant may not appeal or address through the grievance process any minimum requirements in the job description.

The Director of HR shall make the decision on appeals of open competitive exams from applicants who are not employees.

SECTION 2.14 - ABOLISHING REGISTERS

The duration of eligibility registers and lists is a minimum of six months and a maximum of three years. An expiration date may be specified in the announcement as long as it is within the time period. If an eligibility register is at least six months old, the conditions under which the register may be abolished are as follows:

A. Exam components and/or weights for examinations will be changed.

B. Significant changes in job descriptions (education, experience, certifications, licenses, etc.) have been made.

C. Examinations for a classification have been significantly revised.

D. There is an inadequate number of acceptable candidates on the register as documented by the Appointing Authority.

The decision as to whether a current register or list should be abolished will be made by the Director of HR or designee. Registers and lists abolished will be reported to the Commission at least monthly.

SECTION 2.15 - NON-CIVIL SERVICE APPOINTMENTS

Appointments to positions designated as non-Civil Service are at the discretion of the Appointing Authority. Persons appointed must meet the minimum requirements of the applicable job description. It is the responsibility of the Appointing Authority to insure the applicant meets the minimum requirements and to inform the applicant of the non-Civil Service status and the ramifications thereof. The Appointing Authority may also fill Civil Service positions on a temporary basis that meet the criteria of the position statuses defined below.

A. **Seasonal:** These employees are employed for short-term peak workloads which generally occur annually. Seasonal employees shall be limited to four months of employment per calendar year. Seasonal employees are not eligible for Civil Service Commission benefits.

B. **Temporary:** These employees are appointed to fill positions created by a special project or the extended leave of the employee regularly assigned to the position. This status is not to be used to fill vacant Civil Service positions except on a temporary basis. Temporary employment shall not exceed twelve (12) months from the date of employment and the Appointing Authority must stipulate the projected length of the project or extended leave at the time of employment on the employee profile document.

C. **Emergency:** These employees are appointed, in the absence of an eligibility register and/or Preferred Re-employment list, to fill positions that if left vacant would have an adverse affect on government efficiency. The appointments shall not exceed six months. Emergency employees will be granted credit for Civil Service Commission benefits and increments they would have earned during their employment if they are transitioned to the classified service. An emergency appointment shall not be made when there is an existing open competitive or promotional register. This appointment shall automatically start the process of establishing an eligibility register to fill this position by Civil Service Commission appointment. An emergency employee has no guaranteed right to a Civil Service position and will be given consideration just as any other applicant.

D. **Grant funded:** This status shall be used for employees in programs which are funded by federal, state, or private grants which have definite ending dates, and/or employees in non-locally funded unique programs requiring skills which are not directly transferable to other Metro jobs. These employees shall be entitled to vacation, sick leave, and other benefits as authorized and funded by their individual grants.

E. **Part-time:** A part-time appointment shall be made for an employee whose regular assigned work schedule averages less than thirty two (32) hours per work week on a regular basis. Permanent part time employees may request a hearing before the Appointing Authority or his/ her designee prior to disciplinary action.

F. **Provisional:** This is a status for employees appointed to certain classifications where the probationary period does not start until the employee successfully completes a training academy.

G. **Pool Workers:** Persons that are drawn from a ready reserve of qualified persons such as retired or former employees, student, etc., to supplement the regular work force of civilian workers in the Police Department. Pool Workers are not regular salaried employees and

are not appointed to a budgeted position. They are called to report to work when needed because of periods of peak workload, employee absences, emergencies or other short-term situations where the hiring of regular salaried employees or the use of overtime is not effective or cost efficient. Pool workers do not have regularly scheduled hours and work on average less than twenty (20) hours per week.

Once appointed to a non-Civil Service status, subsequent appointments of the employee may not be made to other non-Civil Service statuses, which circumvent the time limits prescribed.

Appointing Authorities are encouraged to use existing Civil Service registers and lists for all appointments. Persons appointed to non-Civil Service positions from an Open Competitive register may be transitioned to Civil Service in the same class at a later date without having to compete again for the appointment. Civil Service rules, policies, and procedures must have been followed and all registers and lists must have been properly documented at the time of the non-Civil Service appointment.

CHAPTER 3

EMPLOYMENT PRACTICES

SECTION 3.1 - EQUAL EMPLOYMENT OPPORTUNITY POLICIES

A. Policy

It is the policy of the Civil Service Commission that all persons shall have equal employment opportunities regardless of race, color, national origin, gender, age, religion, disability creed, gender identity, or sexual orientation. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other employment practices because of non-merit factors shall be prohibited. Harassment based on race, gender, color, religion, age, national origin, disability, creed, gender identity, or sexual orientation is a form of discrimination and will not be condoned.

The Civil Service Rules and HR operations shall be administered in such manner as to comply fully with all Equal Employment Opportunity laws and regulations.

An affirmative action plan may be developed for those departments where thorough analysis shows the need for a plan. Any employee or applicant who feels that he or she has not been afforded equal opportunity for any employment action may file a complaint in accordance with the discrimination complaint procedure.

B. Complaint Procedure

A complaint of discrimination as outlined in the Guidelines on Discrimination, including a complaint of sexual harassment, may be filed according to the steps defined below. A complaint should be filed within a reasonable time frame of the occurrence or reasonable knowledge of alleged harassment and/or discrimination incident(s). If it is a continuing problem, the complainant needs to state when it began and the progression to the time of the complaint. A complaint may be filed by a current or former employee or by an applicant and by an individual or a group of people. Any complainant shall have the right to have reasonable representation of his choosing with him/her at all stages of the complaint procedure. The complaint procedure will maintain confidentiality, to the degree allowed by law. Reprisal or retaliation against good faith complainants or witnesses participating in the investigation is prohibited and could be grounds for disciplinary action. An employee who witnesses or otherwise has knowledge of discrimination is encouraged to report the incident to a supervisor or an appropriate authority.

1. Although employees are encouraged to try to settle problems on an informal basis, any employee who feels that he/she has been subjected to discrimination may submit a complaint to his/her supervisor. The supervisor shall try, in a timely manner, to remedy any actual or perceived problem without the necessity of additional formal procedures. After reviewing the matter, the supervisor shall promptly inform the employee of his/her decision. If the complaint cannot be resolved at this level, the employee may submit the complaint to the Appointing Authority or his/her designee. The Appointing Authority or designee, after a prompt and thorough investigation, should take the necessary steps to correct any problem found to exist, including taking disciplinary action. The Appointing Authority shall notify the complaining party of his/her decision following the conclusion of the investigation. If the Appointing Authority feels that the charges warrant a third party investigation, or if the charges involve rules or policies that are beyond his/her scope of authority, he/she may refer the complaint to the EEO Coordinator. (If the supervisor or the Appointing Authority is the alleged offending party, or if the complainant feels that the supervisor cannot objectively handle the complaint, or if the individual is uncomfortable

discussing his/her complaint with anyone within that individual's department, the individual may file the complaint directly with the EEO Coordinator for the Civil Service Commission as set out below.)

2. If the employee feels that the complaint has not been remedied in a timely manner by the Appointing Authority within the department, he/she may submit the complaint to the EEO Coordinator. (The EEO Coordinator may be contacted in the Department of Human Resources.) Upon receipt of a complaint or referral by an Appointing Authority, the EEO Coordinator will conduct a prompt and thorough investigation of the alleged incident(s). The Appointing Authority and the complainant will be apprised of the findings as a result of the investigation. The Appointing Authority shall then review his/her previous decision to determine if the appropriate action was taken.

3. Right of Appeal - Any complaining party who has Civil Service status may present his/her complaint of discrimination to the Civil Service Commission for review, after the EEO Coordinator has investigated the matter, if the individual feels that the Appointing Authority has failed to adequately address the problem cited. Any request to present a complaint to the Civil Service Commission must be made, in writing, within ten (10) working days of the final determination by the Appointing Authority as set out in Step 2.

4. If for some reason the complaining party is not comfortable with this complaint procedure, it should be recognized that any individual has the right to proceed directly to the Equal Employment Opportunity Commission, the Tennessee Human Rights Commission, or Human Relations to file a complaint of discrimination.

SECTION 3.2 PROBATIONARY AND WORK TEST PERIODS

A. Purpose and Description

When any employee is appointed from a register or list to a Civil Service position he generally shall be required to successfully complete a probationary or work test period of six (6) months of satisfactory job performance before he attains Civil Service status in the position. The purpose of this time shall be for the Appointing Authority to closely observe and evaluate the work performance of the employee and to assure his adjustment to the job. The probationary or work test period shall begin with the employee's first scheduled day of work in the position. For provisional employees the probationary period begins upon completion of their respective training academies. If an employee is granted any paid or unpaid leave in excess of ten working days during this time, his probationary or work test period may be extended the number of days missed. An employee transferred to a different classification or department during the probationary period or work-test period will be required to complete a new six-month probationary or work-test period, whichever is applicable. Otherwise, the probationary or work test period shall not last longer than six (6) months. An Appointing Authority may request that the Civil Service Commission approve an additional work test period for designated classifications not to exceed six (6) months, based on specific reasons.

In those situations where an employee is being appointed to a Civil Service position from a non-Civil Service status in the same classification, the employee may be deemed to have served the required probationary period provided: 1) the action is requested and recommended by the employee's Appointing Authority 2) the employee is appointed without a break in service and 3) the employee has served the previous six months in the same classification.

B. Gaining Civil Service Status

Appointing Authorities shall retain only those employees whose performance during the probationary or work test period is acceptable or better. The supervisor of each probationary or work test employee shall furnish the Appointing Authority evaluation reports, making a recommendation as to the employee's retention or separation. The Appointing Authority shall have the final authority in making the determination to retain an employee and shall consider: performance evaluation reports, attendance, critical incidents, reprimands or disciplinary actions, recommendations of supervisors and other work-related information. If an employee's performance during this period is less than acceptable the Appointing Authority must submit to the HR Department documentation of the performance deficiency and a profile document terminating the employment or reducing the employee by the end of the probationary or work test period. If this is not done by the end of this period, the employee will automatically gain Civil Service status in the position.

C. Probationary Period

1. Application

A probationary period is required for the following appointments:

New Hire
Reemployment
Rehire
Transfer from a non-Civil Service position
Transfer from a probationary status in another classification or department.
Disability reemployment from a non-Civil Service position
Layoff recall from a non-Civil Service position

2. Dismissal of Probationary Employees

A probationary employee may be dismissed at any time during the probationary period because of unsatisfactory job performance, conduct adversely affecting the performance of others, physical or mental inability to perform the job which cannot be reasonably accommodated, or because of violation of Civil Service or departmental rules. Dismissal of a probationary employee does not require that advance notice be given to the employee. However, this does not eliminate the Appointing Authority's responsibility to properly evaluate the employee's performance and to assure that the employee is not dismissed for reasons other than just cause. Dismissal of a probationary employee does not require a disciplinary hearing by the department unless the reason for the dismissal adversely reflects upon the employee's honesty, truthfulness or moral character, in which instances the employee shall be given the opportunity to present to the Appointing Authority his side of the incident(s). Dismissals which are documented in accordance with this section are not appealable to the Civil Service Commission.

D. Work Test

PROBATIONARY AND WORK TEST PERIODS

1. Application

A work test is required for the following appointments:

Promotion
Transfer from a work-test status to another classification or department
Disability reemployment to a different class series or department
Layoff recall to a different department or class series

Note: The work-test for layoff/recall to a different department is for a three-month period. An employee who fails the work-test shall be returned to the layoff list unless he is dismissed for just cause. If dismissed for just cause, the employee may appeal to the Civil Service Commission for the right to be returned to the layoff list. An employee who is returned from disability and subsequently fails the work test will be referred to the Employee Benefit Board.

2. Reduction of Work Test Employees

A newly appointed employee may be reduced to his former classification and returned to the list from which he was appointed at any time during his work test period because of unsatisfactory job performance, conduct adversely affecting the performance of others, physical or mental inability to perform the job which cannot be reasonably accommodated, or because of violation of Civil Service or departmental rules. Reduction during work test must be preceded by adequate counseling of the employee in an effort to improve the employee's performance with any problems documented. This is to assure that an employee is not reduced for a reason other than just cause. Such documentation, along with the profile document reducing the employee, must be sent to the Human Resources Department upon the effective date of the reduction and will be maintained in the employee's file. The employee shall retain his Civil Service status held prior to the appointment. An employee who is reduced may request a review by the Appointing Authority. If questions remain after this review, the employee may request a review by the Director of HR. The request must be made in writing ten (10) calendar days following the effective date of the reduction.

SECTION 3.3 - PERFORMANCE EVALUATION

A. Policy

In accordance with the Metro Charter, each employee's job performance shall be evaluated on at least an annual basis. Additional evaluations may be done when necessary. The requirements of the position constitute the standards of performance or the basis upon which supervisors will rate the efficiency of employees. The standard of performance against which observed performance is compared shall be the performance that may be expected after a reasonable period of training of a fully qualified, competent and acceptable employee.

B. Purpose

Performance evaluations are used to give employees feedback on their job performance, to help them improve future performance and to document performance for the following purposes:

1. to complete probation or work test
2. to determine whether or not an increment will be granted
3. to determine eligibility for promotions and advancement
4. as an aid in determining layoff actions
5. to determine reemployment eligibility
6. to facilitate other HR decisions which may be appropriately influenced by employee performance

C. Types and Frequency of Evaluations

1. Probationary/Work Test - An employee is evaluated in the last month of his probationary or work test period, prior to the person gaining Civil Service status in the classification.
   Employees in this status shall be evaluated more than once during the six-month period and be given clear opportunities to reach an acceptable standard.
   This will not apply in the event of major disciplinary violations.

2. Annual - Each employee is evaluated within the month prior to the anniversary date of his original appointment, promotion, or demotion, to his present position, whichever date is more recent or the adjusted date in case of re-employment or a break in service. This is to be done even if there is no increment possible.

3. Change of Rater - An employee whose rater changes will be given an evaluation by the out-going rater to cover the period of time since the employee's last evaluation.

(See Section 5.5, Relationship of Evaluation to Pay increases and Advancement)

D. Appeals

1. Grounds for Appeal:

An employee may appeal a performance evaluation based on the following grounds:

a. The procedures for completing the evaluation have not been properly followed.
b. Explanation was not given for below standard ratings.
c. The performance evaluation prevents the employee from receiving an increment. In such a case, the employee should be prepared to substantiate the ratings he believes to be appropriate.
d. The employee was rated as not meeting expectations on a section.

2. Appeal Procedure

An appeal filed on the above grounds begins with the rater. The employee should discuss his feelings with the rater and request adjustment to the appropriate evaluation ratings. If the rater believes the initial ratings were correct and does not believe that a change is needed, the employee may request that the reviewer consider the desired changes. If the reviewer upholds the original rating, the employee can appeal to the Appointing Authority or his designee who has the final decision. If changes are made at any time in the process, they shall be in writing and initialed by all parties involved with a copy given to the employee. All aspects of the appeal are handled within the department, as people in outside organizations (such as HR or the Civil Service Commission), would have no effective way of accurately assessing the employee's performance. However, the employee may ask the Director of HR to review the issues to determine if a major policy or procedural violation exists.

3. Appeal Limitations

An employee may not appeal an evaluation simply because he disagrees with particular ratings unless such ratings result in the grounds listed above. Employees may indicate agreement or disagreement with ratings on the evaluation form when it is discussed. If an employee feels that this is insufficient he may attach a separate statement to the evaluation form to be maintained in the employee's file in the HR file. Such rebuttal should be signed by the rater, reviewer and Appointing Authority.

SECTION 3.4 - CONNECTION OF SERVICE TIME

The most recent period of service will be connected for former Civil Service and non-Civil Service employees provided they were previously employed for at least one year, resigned

in good standing, and return within one year of termination. (These time limits are not applicable to employees returned from a layoff or disability reemployment list). Service time will be pro-rated for part-time employees. If time is connected after a break in service, that time off the payroll will be deducted in determining the employee's total service time. In any case with the connection of service time there shall be no retroactive payment of benefits.

SECTION 3.5 - RESIDENCY

It shall be required and the responsibility of the employee to notify the department of his current address. (See Metro Substitute Ordinance No. S094-1078)

SECTION 3.6 - SENIORITY

Among its inherent and customary rights, management has the responsibility, among others, to assign and schedule work to ensure efficient operation. However, as far as practical, seniority shall be the governing factor in job assignments, scheduled overtime, out-of-class and call-back work after management determines that the employees at the work site and in the particular classification have the same knowledge, skills, abilities and performance and work record to perform the available job in a satisfactory manner.

SECTION 3.7 - NEPOTISM

Within each department no employees who are relatives should be placed within the same direct line of supervision whereby one relative is responsible for supervising the job performance or work activities of another relative. In no event will any employee be within two levels of the chain of command of a relative with authority to supervise that relative, including participation in a performance evaluation and excluding emergency situations which effect the health, safety or welfare of the public. A relative is defined as a member of the immediate or extended family.

SECTION 3.8 - OUTSIDE EMPLOYMENT

An employee may engage in employment with another organization as long as he or she satisfactorily performs his or her job responsibilities with Metro Government. Outside employment is any work paid in addition to the Metro salary, including self-employment. Outside employment must be reported in advance, in writing, to the Appointing Authority and must be in accordance with the following guidelines:

A. It must not interfere with the employee's duties.

B. It shall not involve a conflict of interest or the appearance of or potential for a conflict of interest.

C. No employee shall use the facilities, equipment, personnel, or supplies of Metropolitan Government or its agencies for other than officially approved activities, except to the extent that they are lawfully available to the general public.

An employee eligible for FMLA leave may engage in outside employment provided: A) the employee’s health care provider approves the outside employment by certifying that the outside employment will not impede the employee’s recovery from, or treatment for, a serious health condition; and B) the employee’s Human Resources Coordinator approves the outside employment as being consistent with this Section. An employee seeking permission to engage

in outside employment while on FMLA leave is responsible for having their health care provider submit a separate letter to their HR Coordinator that satisfies these requirements.

The Appointing Authority shall approve or disapprove an employee's outside employment in accordance with the guidelines above.

NOTE: See Police and Fire Chapters

SECTION 3.9 - TRANSFERS

Employees may transfer into Civil Service departments according to the guidelines listed in this rule. All transfers must be reported to the Civil Service Commission.

A. **Same Class** - A full-time Civil Service employee may transfer to another department in the same classification upon agreement by both Appointing Authorities without having his name placed on a transfer list.

B. **Lateral Class** - A full-time Civil Service employee may be appointed to a lateral or lower classification in another department from a transfer list or eligibility register upon agreement by both Appointing Authorities. Voluntary Re-assignment to a different lateral classification within the employee's department will be considered a lateral transfer and the class change will be reported as an appointment to the Human Resources Department and the Civil Service Commission

C. **Functional** - A department may initiate the lateral transfer of employees when services or functions are moved from one Civil Service department to another.

D. **Metro-Wide** - Employees who have Civil Service status under another Metro Civil Service Board (Board of Hospitals, Board of Health, or Board of Education) may transfer to a Civil Service Department as provided for in the "Transfer from Other Metro Systems" policy. They may also receive a functional transfer provided they are Civil Service employees under their respective board."

E. **Promotion** - A Civil Service employee may accept a promotion from an eligibility register with transfer to another department. If such an employee fails his work test, he will revert to his original classification and the two departments involved will attempt to place him in an appropriate position.

Intra-Departmental - Transfers within a department are considered as job assignments, as long as the employee remains in their classification and the work involved is similar in nature and requires similar skills and abilities. Intra-departmental transfers are at the discretion of the Appointing Authority, however, TLS non-exempt employees may bid on vacancies within their department if they already hold the classification that is vacant. Seniority will be the governing factor provided everything is equal. Employees whose request to transfer to fill a vacancy is denied, will be provided a reason if requested**.** Sworn members of the Police Department and Fire Department employees may not transfer during the probationary period.
NOTE: See Fire and Police Chapters

SECTION 3.10 - VOLUNTARY REDUCTION IN GRADE

(See section 5.6 for information on setting pay).
A voluntary reduction in grade occurs when an employee requests assignment to a lower classification than his current one for which there is a vacancy and is subject to approval by the Appointing Authority and the Director of HR. The employee must meet the minimum qualifications

if he is going to a different class series. A work test is not required but the employee must have a performance evaluation by the end of six months in the new position. If an employee subsequently wishes to return to the higher classification, he must compete in the promotional process.

(See Fire Chapter)

SECTION 3.11- LAYOFF

An Appointing Authority, with the approval of the Human Resources Director, may effect layoff actions when necessary. A layoff action is defined as a termination of employment resulting from the lack of funds or work, abolishment of position(s), reorganization, or a rollback in classification, increment or salary. A rollback in classification is when an employee is moved to a lower classification in the class series based on seniority, or to a previously held classification. Layoff actions will be determined on a departmental basis and do not create any employee rollback rights between departments.

Refer to Layoff Policy 3.11 for a detailed description of the process.

SECTION 3.12 - SEPARATION

When an employee takes the initiative of terminating his employment with the Metropolitan Government, he is expected to give his supervisor written notice at least two weeks before leaving his job. Failure to give adequate notice shall be noted in the employee's file and may become a factor in his being considered for reemployment.

SECTION 3.13 - REEMPLOYMENT

A. Re-employment

A former Civil Service employee may request, in writing, that his name be placed on a reemployment list. Such employee may return to any related classification in the class series to which he could have been demoted, reduced in rank or transferred. The employee may also be re-employed in an unrelated class if appointed from an eligibility register. To be eligible for reemployment the person must have been employed by Metro Government for at least two years and cannot have been evaluated on his most recent evaluation as below standard or dismissed for cause. A person is eligible for reemployment for a period of one year, commencing with the date of the employee's separation from Metro Government. No employee may be re-employed under this provision more than one time.

Note: See layoff rule.

B. Disability Reemployment

A former employee currently drawing a disability pension may be referred by the Employee Benefit Board to the HR Department to have his name placed on the most appropriate disability reemployment list(s). The Benefit Board will provide information regarding restrictions or other pertinent information needed to determine what classifications the person is physically capable of performing. Former employees will have their names placed on disability eligibility lists according to HR Department operating procedures. There shall be no limit to the number of times an employee may be returned from disability.

Note: See Fire and Police Chapters

C. Reporting

All re-employment will be reported to the Civil Service Commission on a monthly basis.

CHAPTER 4

ATTENDANCE AND LEAVE

SECTION 4.1 - WORK SCHEDULE

The Appointing Authority will establish the regular work period, shifts and work hours for the department, which will be part of the departmental rules. The standard work schedule for full-time employees must consist of forty (40) hours unless otherwise specified in the departmental rules as approved by the Civil Service Commission.

NOTE: See Fire and Police Chapters

SECTION 4.2 - ELIGIBILITY TO OBSERVE AND ACCRUE LEAVE

Full-time, probationary and grant-funded employees, if the grant allows, are eligible to observe paid holidays and to accrue vacation and sick leave. An employee whose services are being terminated, either voluntarily or involuntarily, shall not accumulate any additional sick leave or vacation days. (See Section 5.13)

Seasonal, part-time, emergency and temporary employees are not eligible to observe paid holidays and to accrue vacation and sick leave unless authorized in the departmental rules.

SECTION 4.3 - SCHEDULING AND APPROVAL OF LEAVE

All leaves must be requested as far in advance as possible. The Appointing Authority or designee shall have the discretion to approve all leave requests.

The immediate supervisor shall have the discretion to schedule and approve compensatory time off for an employee. The employee may be permitted by the immediate supervisor to use compensatory time earned within a reasonable time after making a request for time, if the use of such time does not unduly disrupt the operation of the department.

SECTION 4.4 - ABSENT WITHOUT LEAVE

An employee who fails to report to work for whatever reason, unless prior approval has been given, shall be required to notify the designated supervisor in his department stating a reason for his absence. This notification must be made no later than the first hour of the employee's scheduled work day. When notification is given the supervisor may approve the absence or may instruct the employee that he/she is being recorded as being on absence without leave. The failure of an employee to comply with this rule or having time recorded as absence without leave may be considered grounds for disciplinary action.

SECTION 4.5 - HOLIDAYS

A. Holiday Schedule

The following will be declared official holidays, and all employees will be excused without charge to leave, except those employees required to maintain essential operation, who shall be compensated in accordance with Section 5.7.

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

Holidays that fall on Sunday will be observed on the following Monday and holidays that fall on Saturday will be observed on the Friday before by those employees working Monday through Friday. On those occasions when Christmas Day falls on Monday, the Christmas Eve holiday will be observed on the Tuesday following Christmas Day: on those occasions when Christmas falls on Saturday, the Christmas holiday will be observed on the subsequent Monday. If a holiday is observed on an employee's day off, the employee may be scheduled for a floating holiday during the week of the holiday or the following week. If community practice dictates a change in the day observed, the Director of Human Resources shall have discretion to change the dates for that year.

NOTE: See Fire Chapter

B. Effect of Other Leaves

An employee who is recorded with absence without leave for any part of the day immediately preceding or following a holiday(s) shall lose pay for the holiday as well as for the other day(s) off. Official holidays occurring during any other paid leave shall not be charged to the employee's other paid leave time.

If a holiday falls within a period where an employee is on LWOP status which has been approved to last for more than 20 working days, then the employee shall not be paid holiday pay. This shall only apply to the period of time around the specific holiday.

SECTION 4.6 - VACATION

A. Vacation Earnings Schedule

Vacation leave is earned and accrued on a monthly basis according to the schedule below, based on months of service according to the continuous service date. Generally, with some exceptions, an employee must be in a paid status the entire month in order to earn a vacation day (see Policy 4.6/4.7 A-I for guidelines). No employee may give or loan vacation to another employee.

Service with Metro	Days Per Year	Days Per Month	Hours Per Month
Hire thru 5th year (1-60 mos.)	10	.833	6.667
6-10 years (61-120 months)	15	1.250	10.000
11th year (121-132 months)	16	1.333	10.667
12th year (133-144 months)	17	1.417	11.333
13th year (145-156 months)	18	1.500	12.000
14th year (157-168 months)	19	1.583	12.667
15th year (169-180 months)	20	1.667	13.333
16th year (181-192 months)	21	1.750	14.000
17th year (193-204 months)	22	1.833	14.667
18th year (205-216 months)	23	1.917	15.333
19th year (217-228 months)	24	2.000	16.000
20th year or more (229 mos.)	25	2.083	16.667

Note: See Police and Fire Chapter.

B. Vacation Accrual

Vacation may be accrued to an amount equal to three times the employee's current annual accrual rate.

SECTION 4.7 - SICK LEAVE

A. Policy

Sick leave shall be considered a benefit and privilege and not a right. An employee may utilize his sick leave allowance for absence due to his illness, non-occupational injury or illness, or development or existence of a contagious disease endangering the health of other employees. Sick leave may also be used for appointments with a licensed doctor, dentist or other licensed health professional. When appropriate, a partial sick day may be used rather than a full day. Up to five days in a calendar year may be used for the illness of an employee's spouse, parent, or child, who lives in the employee's household or for whom the employee is the primary caretaker. **For approved FMLA leave, there shall be a limit of twenty (20) days of paid sick leave, including the five days just described, that an employee may use to care for an employee's spouse, parent, or child, who lives in the employee's household or for whom the employee is the primary caregiver. (See Civil Service Policy 4.16)** Employees who become ill during the period of their vacation may request that their vacation temporarily be terminated and the time changed to sick leave. However, such

request must be justified by means of a doctor's statement upon return to work. No employee may give or loan sick leave to another employee. An employee who requests sick leave, unless prior approval is given, shall be required to notify the designated supervisor in his department stating a reason for his absence.

This notification must be made according to the respective Department's rules and policies. Police Department employees must call prior to their scheduled work time.

Note: See Police Chapter.

B. Earning and Accrual of Sick Leave

Probationary and Civil Service employees shall earn sick leave at a rate of one (1) eight-hour day for each calendar month of service. Generally, with some exceptions, an employee must be in a paid status the entire month in order to earn a sick day (see Policy 4.6/4.7 A-I for guidelines). Unused sick leave shall be accumulated to a maximum of two hundred (200) days for employees hired July 1, 1989 or earlier. Employees hired after July 1, 1989 may accumulate a maximum of one hundred and twenty (120) days. Any days earned in excess of the 200 or 120 days will be placed in a separate "bank", to be applied as credit towards a service pension (as outlined by Benefit Board guidelines). Once pension credits are placed in this bank, they cannot be transferred back for regular sick leave use. For example, an employee has 200 days and accrues twelve more which are placed in the "bank". If he uses twenty, they will be deducted from the two hundred. The twelve will remain in the bank. The employee would have to accrue twenty days and reach 200 again before any additional days go in the bank. Any days in the bank are never available to be used for sick leave.

Note: See Fire and Police Chapters

C. Medical Documentation of Sick Leave

An employee may be required to provide a physician's statement verifying his use of sick leave, regardless of the length of time involved, when the employee develops a documented pattern of attendance which indicates that there may be a problem, or if abuse of sick leave is suspected (See Attendance Policy). Such physician's statement should verify that the time was needed for medical purposes but not give specific medical information. If the Appointing Authority has reason to question the validity of a claim for continued sick leave, he shall require the employee to be evaluated by the Health Department.

When an employee's continuing illness spans ten or more work days, he may be required to furnish a physician's statement which shall include the date the employee is anticipated to return to work. Additional physician's statements may be required every ten workdays thereafter until the employee returns to work. If, based on medical information, it appears that an employee can no longer perform the essential duties of his position, the Appointing Authority may refer him to the Metropolitan Health Department for a recommendation as to the provision of reasonable accommodation or the employee's fitness for continued employment. If the Health Department determines that the employee is not physically fit for continued employment and his condition cannot be reasonably accommodated, the Appointing Authority will notify the employee that he must immediately apply for a disability pension, if eligible.

D. Abuse of Sick Leave

An employee who is suspected of abusing sick leave may be required to provide a physician's statement verifying his illness. Employees who abuse sick leave, or deliberately cause others to make false or misleading statements or claims shall be subject to dismissal or other appropriate disciplinary action. Any supervisor knowingly condoning unjustified sick leave of an employee shall be subject to disciplinary action.

E. Conversion of Sick Leave

Employees other than those in the Police and Fire Departments *and the Office of Emergency Communications* having twenty-four (24) or more sick leave days, in January of each year, may elect to convert up to three (3) sick days to three (3) personal days. Such days are not cumulative and must be scheduled and taken in the current calendar year and cannot be reconverted to sick leave. Days not converted will continue to accumulate as sick leave. (see Rule 4.18 and Police and Fire Chapters)

F. Sick Leave Buy-Out

Generally, when an employee leaves employment with Metro Government, he forfeits unused sick leave. Upon approval by the Civil Service Commission and the Department of Finance, however, a program may be enacted to allow retiring employees to be paid for a portion of unused sick leave. The specifics of any such plan will be determined in conjunction with the approval required.

SECTION 4.8 - IN LINE OF DUTY INJURY LEAVE

A. Purpose

Injury leave is used when an employee has an on-the-job injury or develops an occupational illness arising from employment with Metro Government. It is intended to provide salary continuation and job security until such time as the employee can return to his regular duties, with or without accommodation, or is determined as disabled from performing the essential duties of his job.

B. Notice of Injury

Injury - Every injured employee or his representative shall, immediately upon the occurrence of an injury, even if medical attention is not needed, give written notice of the injury to his supervisor. If an injury is not realized upon occurrence, written notice must be given the next working day after realization and within ten days after the occurrence of the injury.

Occupational Illness - When an incident occurs which may result in an occupational illness, the employee or his representative shall give written notice of the incident to his supervisor, even if no medical treatment is needed at that time. If a directly related occupational illness develops later, the employee must give written notice to his supervisor within ten working days after diagnosis.

General Reporting Requirements - Reporting by each department of In-line-of-duty injuries and follow-up case management will be under the guide lines of the Employee Benefit Board.

C. Determination of Injury Leave

It shall be the responsibility of the appointing authority or his designated representative to determine if an employee reporting an injury or occupational illness is entitled to injury leave. An employee may appeal through the grievance procedure if he disagrees with the determination. Injury leave should not be granted in the following circumstances:

Injury -

1. Injury leave should be denied in those cases where the written notice is given on time but the appointing authority or his designee has reason to doubt the legitimacy of a claim for injury leave or the medical information is inconclusive.

2. Injury leave should be denied from the date of an injury to the date of giving written notice unless it can be shown that the supervisor had actual knowledge of the accident

3. Injury leave should be denied if written notice of the injury is not given the supervisor immediately and the appointing authority or his designee has reason to doubt the legitimacy of the claim for injury leave

4. Injury leave should be denied if written notice is not given within ten working days of the accident unless it can be shown that the supervisor had actual knowledge of the accident.

Occupational Illness –

1. If the illness is attributed to a specific incident and the employee failed to give written notice of the incident immediately to the supervisor, injury leave should be denied. Some illnesses are not attributable to a specific accident or illness. In such cases injury leave should be denied if the appointing authority or his designee has reason to doubt the claim for injury leave or the medical information is inconclusive.

2. Injury leave not attributable to a specific incident should be denied if written notice of the illness is not given to the supervisor within ten days of the diagnosis.

Willful Misconduct or intentional self-inflicted injury and pre-existing conditions -

Injury leave should be denied if the injury is due to the employee's willful misconduct or intentional, self-inflicted injury; due to intoxication; due to a willful failure or refusal to use a safety appliance; or a sports-related injury unless participation is required by the job description. This exclusion does not apply to mandatory physical fitness programs as mandated by the Appointing Authority.

In order for aggravation of a pre-existing condition to be covered as injury leave, the employee must cite the specific incident which caused the problem.

D. Period of Compensation

Leave and/or light duty for an injury shall extend for such time as the injured employee is unable to work, but in no event beyond six months of compensation for the same or recurring injury.

An employee, who requires additional IOD leave, may request a waiver from the Civil Service Commission. The employee shall present medical information confirming that he will be capable of returning to full, unrestricted duty within a specified and reasonable amount of time. The Civil Service Commission may consider if this additional time places an undue hardship on the department. The Metro IOD Clinic physician and/or the Civil Service Medical Examiner may be consulted if necessary. The employee must submit their request prior to exhausting their six months of compensation.

When the Civil Service Medical Examiner determines that the employee is disabled and will not be able to return to work, after full consideration of possible reasonable accommodation, the employee should immediately apply for the appropriate pension. An employee applying for a disability pension is required to notify his Appointing Authority, who will investigate the possibility of accommodating the employee's restrictions before the pension application is processed.

If, after exhausting all six (6) months of compensation, an employee has returned to work, and the medical information confirms that surgery is required for the same injury, the employee shall receive up to six (6) weeks additional compensation per calendar year for the purpose of having surgery performed and rehabilitation from this surgery. This additional leave/light duty shall be available so long as the employee is actively at work for Metropolitan Government.

E. Compensation Received

For the first two weeks that an employee cannot return to regular duty due to an approved injury on duty, he shall be entitled to receive 100% of his pay. After exhausting two weeks of IOD pay, the employee shall be entitled to receive 90% of his pay thereafter as established by the Pay Plan during the remainder of his IOD leave, subject to all other provisions as set out herein.

Employees working light duty shall receive 100% of their pay.

If the appointing authority determines, after review of the medical information, that the employee is capable of performing light duty work and the employee refuses an offer of light duty by his department, the department shall cease paid IOD leave. If no light duty work is offered by the department, the employee will continue to receive paid IOD leave in accordance to Civil Service Rule 4.8.

In no event will injury leave reduce an employee’s compensation below the established living wage.

INJURY LEAVE

F. Use of Sick Leave

An employee who is injured on-the-job or develops an occupational illness shall be granted injury leave. Such leave shall not be charged against the employee's sick leave nor may the employee use sick leave for such time with the following exception: An employee shall be allowed to use up to five (5) of his sick days available in each subsequent year for a recurrence of an IOD injury after the initial six (6) months of compensation are exhausted.

G. Employee Claims Against Third Party

When an on-the-job injury was caused under circumstances creating a legal liability against someone other than the Metro Government, the injured employee shall have the right to receive injury leave benefits and may pursue his remedy by proper action in a court of competent jurisdiction against the person. In the event of recovery against such third party by judgment, settlement or otherwise, and the Government's maximum liability for benefits has been partially or fully paid and discharged, the Government shall have a subrogation right thereof against such recovery. If the net recovery by the injured employee exceeds the amount paid by the Government and a future liability is anticipated, the Government shall be entitled to a credit on its future liability.

SECTION 4.9 - BEREAVEMENT LEAVE

In the event of a death in an employee's immediate family, the employee shall be granted a reasonable paid absence up to five (5) working days. Consideration will be given to the relationship of the employee to the deceased, the employee's responsibilities, logistics, travel, etc. An employee may be granted up to one full work shift to attend the funeral of a member of the extended family. Immediate and extended family are defined in chapter ten (10).

SECTION 4.10 - ADMINISTRATIVE LEAVE WITH PAY

Absence with pay for administrative purposes may be granted by the Appointing Authority only when other paid leave is not appropriate. This leave will not exceed five working days per calendar year unless approved by the Civil Service Commission. The five working day limit can be extended by the Appointing Authority to twenty (20) working days when the employee is on Administrative Leave with Pay pending a disciplinary action. If the time limit reaches 20 days, the appointing authority can request to the Human Resources Director for approval of up to an additional 25 days to complete the process. This request must contain justification for the additional time. Any time needed over the 45 day limit must seek approval from the Civil Service Commission.

SECTION 4.11- JURY LEAVE

Upon receiving a summons to report for jury duty any employee shall, on the next day he is engaged in his employment, exhibit the summons to his immediate superior and the employee shall thereupon be excused with pay from his employment for the day or days required of him while serving as a juror in any court of the United States or the State of Tennessee, provided that such employee's responsibility exceeds three (3) hours during the day for which excuse is sought. When jury service, including travel, does not exceed three (3) hours the employee shall be required to return to work. In addition to his pay, the employee will be allowed to retain any per diem paid to him by the court.

If a Civil Service employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, such employee shall also be excused with pay from his employment as provided by this section for the shift immediately preceding his/her first day of service on any lawsuit. After the first day of service, when such person's responsibility for jury duty exceeds three (3) hours during a day then such person shall be excused from his next scheduled work period occurring within twenty-four (24) hours of such day of jury service. Any question concerning the application of this provision to a particular work shift or shifts shall be conclusively resolved by the trial judge of the court to which the employee has been summoned.

This section shall not apply to any employee who has been employed on a temporary basis for less than six months.

SECTION 4.12 - MILITARY LEAVE

A. Annual Training

Civil Service employees who are members of any military reserve component will be granted military training leave, with pay, for such time as they are in the military service on field training or active duty for a period not to exceed twenty (20) working days each calendar year. Such requested leave shall be supported with copies of the armed forces orders and follow-up documentation and shall be granted by the Appointing Authority.

B. Reemployment Following Active Duty

Former Civil Service employees will be granted reemployment rights as provided by law.

SECTION 4.13 - MATERNITY LEAVE

Sick leave will be granted for maternity purposes when supported by a medical certificate that the employee is physically unable to perform her duties. The employee may also take any accumulated vacation time and/or request leave without pay. Provisions of the Family and Medical Leave Act and the Tennessee state law on Maternity Leave, copied in the back of these rules, shall apply (Appendix 2).

SECTION 4.14 - LEAVE WITHOUT PAY

Any employee may, at the discretion of the Appointing Authority, be granted leave without pay for any reason, not to exceed twenty (20) work days within a calendar year. Upon the recommendation of the Appointing Authority, the Director of Human Resources may approve leave without pay in excess of twenty (20) work days but not to exceed six (6) calendar months. The Appointing Authority shall not fill the position held by the employee on leave without pay except temporarily until the leave of absence has expired and not been extended or the employee notifies the Appointing Authority, in writing, that he/she will not be returning to the position. The Appointing Authority may request that this leave be rescinded and that the employee be ordered to return to work.

Leave without pay in excess of twenty (20) cumulative work days in a calendar year will be deducted from the employee's continuous service date for the purposes of determining longevity and Civil Service benefits.

> *The above provisions concerning the maximum length of time an employee may be granted leave without pay do not apply to employees on leave pursuant to a reasonable accommodation under the Americans with Disabilities Act.*

SECTION 4.15 - LEAVE FROM CIVIL SERVICE STATUS

In some cases it benefits both Metro Government and an employee for the employee to work in a non-Civil Service position. In such a case the Appointing Authority may request that the Civil Service Commission grant the employee a leave from Civil Service status. At any time the Appointing Authority may request that this leave be rescinded and order the employee to return to his Civil Service position. Any person on such leave shall continue to earn service credit.

The Commission may grant such leave for a period of up to one (1) calendar year at a time. The Appointing Authority may leave the position open, fill the position, or allocate the funds to another area of the budget. Upon return from leave the employee will be placed in his previous Civil Service classification. If the employee's position has been filled or eliminated, the Appointing Authority must make the necessary budget and/or organizational adjustments to facilitate the return of the employee. This may include necessary layoffs and/or rollbacks as provided for in Section 3.11 of the rules.

SECTION 4.16 - FAMILY AND MEDICAL LEAVE ACT

Employees who are eligible may be granted leave pursuant to the Metro FMLA Policy Handbook, provided to employees when hired, available to employees by contacting their supervisor and/or HR Coordinator, or available to employees on the Metro website at www.nashville.gov, Human Resources sub-site.

NOTE: Also see the Metro FMLA Policy Handbook.

SECTION 4.17 – PARENT TEACHER CONFERENCES

Metropolitan Government employees, who are scheduled to work, shall be granted up to three (3) hours Administrative Leave on the first day of school to attend school with their child if requested, provided it does not disrupt the workplace. Furthermore, each employee shall be allowed to use up to six (6) hours sick or vacation leave per child a year, to attend school functions or parent/teacher conferences, again, provided it does not disrupt the workplace.

SECTION 4.18 - PERSONAL LEAVE

Employees of the Emergency Communications Center shall receive three (3) annual personal leave days. Such days shall be scheduled and taken with the approval of the Appointing Authority or his designee and may not be accrued from one calendar year to the next.

SECTION 4.19 - METROPOLITAN GOVERNMENT EMPLOYEE VOLUNTEER IN SCHOOLS PROGRAM

Metropolitan Government employees, who are scheduled to work, are eligible for up to two (2) hours of paid work-time per week, to participate in the Metropolitan Nashville Public School employee volunteer program during the school calendar year. The Appointing Authority shall have the discretion to approve all requests under this Section. No request shall be granted under this Section if it is determined by the Appointing Authority that it would disrupt the workplace. Employees shall comply with all applicable Civil Service Rules and Policies while participating in the Metropolitan Nashville Public School employee volunteer program. During the work-time granted under this Section, employees are determined to be acting within the scope of their employment while participating in the Metropolitan Nashville Public School employee volunteer program pursuant to its policies and procedures.

SECTION 4.20 – PAID FAMILY LEAVE

Full-time employees who have been employed with Metro for at least six (6) months are eligible for up to thirty (30) work days of Paid Family Leave (approximately six business weeks) for the birth or adoption of a child and/or to provide care for a spouse, parent, or child as defined by the Federal Family and Medical Leave Act (FMLA). The Paid Family Leave program will be administered within the guidelines of the FMLA Policy Handbook maintained by Human Resources and publicly available to all employees. Paid Family Leave time will run concurrently with time designated as FMLA leave.

CHAPTER 5
CLASSIFICATION AND COMPENSATION

SECTION 5.1 - INTRODUCTION

The classification and pay plan shall be established in accordance with procedures in the Metro Charter. The Director of Human Resources shall, subject to the provisions of the Charter, be responsible for the maintenance and administration of the classification and pay plan. The director shall do the following in regard to the pay plan:

A. Assign classification titles to every position in the classified service.

B. Prepare and maintain job descriptions of every classification in the classified service. These job descriptions will be maintained in the HR Department and will be available to employees wishing to read them.

C. Evaluate and assign each position to its proper classification in accordance with the approved classification plan and the position audit and reclassification policies as established by the Department of HR and approved by the Civil Service Commission.

D. Establish and maintain records reflecting such data and information as is necessary for the administration and maintenance of the classification and pay plan.

E. On an ongoing basis conduct classification and pay review studies and submit changes to the Civil Service Commission. Classification and pay reviews shall be conducted at least once every three years and shall include elected official classes that are covered by the Civil Service Commission and may include other elected officials as well. Priorities for study shall be established annually by the HR Director in consultation with department management and the administration and shall consider input from employees and their representatives. Such studies should include periodic wage and salary surveys. An annual report shall be submitted to the Civil Service Commission which will include the classifications completed, and the priority of those that are pending.

SECTION 5.2 - ADMINISTERING AND CHANGING THE CLASSIFICATION PLAN

Each Appointing Authority for departments under the Civil Service Commission will submit to the Director of HR an organization chart showing all positions and the classification that has been assigned to each position. When the appointing authority finds that it is necessary or desirable to change the classification assigned to a position, they shall submit a request in writing to the Director of HR. The Director of HR will initiate a position audit, which will be used to determine if the position should be reclassified. Once a position has been assigned to a classification that position shall not be reclassified except as outlined in the Reclassification Policy.

Any change in the classification plan shall be processed in accordance with the Metro Charter. If any change is made in the classification plan that divides, alters, adds, abolishes, or combines classifications, the Director of HR shall realign the positions affected to appropriate classes in the amended classification plan.

SECTION 5.3 - GENERAL PAY PROVISIONS

Employees shall be paid in accordance with the approved pay plan, Civil Service rules and policies, and policies established by the Director of Finance. The pay plan will define the various pay schedules for classifications as well as the method for calculating promotions and upgrades relative to each pay schedule. Pay rates for classes on the Director Pay Schedule will be set in accordance with the pay plan and Policy 5.6 A-I, Director Pay Schedule.

No employee shall be paid at a rate less than the base rate nor more than the maximum for a classification as provided for in the pay plan except as provided for in the following rules and policies: 1) Section 5.6 C. Pertaining to Voluntary Reduction in Grade, 2) Policy 5.6 D-I, Section VI, Red Circling. Part time employees may be paid by the hour or paid a proportional amount of the pay plan rate according to the time worked. The Commission may adopt special pay provisions as needed to cover unusual situations, such as irregular part-time, seasonal, temporary or grant-funded arrangements.

The chart list under Policy 5.14, shows the equivalent salary grade for each pay schedule. When comparing two classifications from different schedules the chart will be used to determine whether the respective grades are equivalent, higher, or lower.

SECTION 5.4 - ESTABLISHMENT OF INCREMENT DATES

Merit pay increases are intended as a reward for good performance. Increases will be granted upon recommendation of the appointing authority if the employee's performance is acceptable according to the performance evaluation system used to evaluate the employee. The pay plan will prescribe the schedule or frequency of merit pay increases. Increases above the allowed amount or early increases must meet criteria established in the "Hire Above Base, Increment Advances, and Equity Adjustments" policy, and must be approved in advance by the Civil Service Commission. Pay advances in classifications included in the Open Range Policy are not covered in this section. The Open Range Policy will govern increases for these classes.
To set a new increment date following a change of status, use the appropriate procedure for the status change listed below:

Procedure 1. Using the appropriate pay table in the pay plan book look-up the employee's new grade and step. The number of months until the next step is shown at the bottom of the pay table. Set the increment date that many months from the effective date of the status change.

Procedure 2. The employee will be given credit for the time served toward their increment prior to the status change. First determine the increment date using procedure 1. Then move the increment date up the number of months that the employee served toward their increment prior to the status change.

1. **New Hire, Promotion, Upgrade, Demotion and Re-employment**: Use procedure 1.
2. **Layoff and Return from Disability Pension**: Use procedure 2.
3. **Reclassification**: Use procedure 1 if the reclassification results in an increase equal to or greater than one increment step. Use procedure 2 when it does not result in such an increase.
4. **Rollback in Lieu of Layoff**: Use procedure 2.
   Roll-up: If the employee is subsequently rolled up to the former classification the increment date will be based on the date rolled-up and the employee will be given credit for time served toward their increment prior to being rolled back.
5. **Transfers**: Use procedure 2. when an employee transfers to an equal or lower classification or step. When an employee transfers in the same classification and same step their increment date will remain the same.

6. **Transitioning from Non-Civil Service Status**: When employees who are not Civil Service transition into Civil Service positions, the increment date shall be determined as follows: Use procedure 2. if the employee transitions to a classification of equal or lower grade. Use procedure 1. if the employee transitions into a higher grade from an eligibility register.

7. **Absences**: Time off due to absences without pay in excess of 20 working days within a calendar year shall extend the employee's increment date. The new date will be determined by extending the original established increment date by the number of days missed in excess of 20 working days.

8. **Early Increment Advance**: When an employee receives an increment advance prior to the normal amount of time prescribed in the pay plan the increment date will be reestablished based on the effective date of the early increment advancement unless the Commission approves basing it on the old increment date.

9. **Pay Plan Implementation**: Increment dates may be adjusted in order to implement a new pay plan upon approval of the Civil Service Commission

10. **Reinstatement**: When an employee who has been demoted or dismissed is reinstated by the Civil Service Commission, the Commission shall determine the increment date.

11. **Delay of Increment**: A delay of increment, under the provisions of Section 5.5, due to performance that is below the acceptable range (according to the employee's performance evaluation) will not change the increment date.

12. In the event of an **Equity Adjustment** or status change not specifically or adequately addressed in this section, the HR Director will designate the appropriate increment date.

SECTION 5.5 - RELATIONSHIP OF EVALUATION TO PAY INCREASES AND ADVANCEMENT (Classes included in the Open Range Policy are not covered in this section, see Open Range Policy)

1. Merit Increase: To be eligible for an increment increase or promotion/upgrade, an employee must have attained an acceptable rating on the most recent evaluation. An employee's increment date may change as a result of a pay plan implementation and the annual evaluation may no longer correspond with the increment date. For these employees a special evaluation may be completed if the performance evaluation is over six months old and their overall level of performance has changed since the last evaluation. The rater will attach a letter to the evaluation documenting the reasons for the special evaluation.

2. Delayed Pay Increases: A delay of increment increase will be based on the employee's last evaluation. The employee must be notified in writing at the time of the evaluation that their increment advancement will be delayed. An increment date can be delayed if the employee does not receive an acceptable evaluation. The employee will be reevaluated three months after their increment date. If the employee's performance has improved to a level considered to be acceptable, the increment will be granted at that time. If at the end of the three months the employee's performance evaluation has not improved to an acceptable level, the appointing authority may take appropriate action.

Employees who fail their three-month re-evaluation are not eligible for an increment for a period of one year from the time the original increment would have been due.

SECTION 5.6- PROMOTION, UPGRADES, DEMOTION, AND RECLASSIFICATION

A. Promotion: When an employee is promoted, the employee's rate of pay will be increased to reflect the additional duties and responsibilities of the new classification. The rate of pay will be established in accordance with the instructions in the pay plan for the employee's pay schedule. Director Pay will be established in accordance with Policy 5.6 A-I, Director Pay Schedule. When a promotion is from a different schedule, compensation will be initially set at a step in the new schedule according to the rules of the employee's original schedule. Thereafter, the frequency of increments will be according to the new schedule. An employee may be promoted to a supervisory position and be compensated at a lesser rate than a direct subordinate. This is because the higher steps in the subordinate's classification overlap the lower steps in the supervisor's classification. When this situation occurs, it shall not be grounds to grant early or additional increment for the supervising employee.

B. Policy 5.6 - I, "Upgrades for Targeted Classifications", Policy 5.6 - II, "Upgrades for Targeted Classifications - Police Civilians", and Policy 2.10 - I, "Transitioning to Professional License of Certification Classifications": Employees advanced through the provisions of these policies will be compensated at the same rate as if promoted, unless the applicable policy provides otherwise.

C. Demotion: When an employee in one classification is demoted for cause or requests a voluntary demotion to another classification, their rate of pay shall be reduced within the range of the new classification, without being higher, as recommended by the Appointing Authority. An employee, other than an employee of the Police Department, may be red circled at their current pay plan rate if recommended by the Appointing Authority and approved by the Director of Human Resources. If the voluntary reduction in grade is in lieu of layoff the Appointing Authority may designate any lower rate step in the range as a condition of the voluntary demotion (See Section 3.10, Voluntary Reduction in Grade, and Section 8.9, Voluntary Reduction in Grade, Fire).

D. Reclassification: An employee's classification and salary may be changed through the reclassification policy. Policy 5.6 D-I, Reclassification Policy shall determine how reclassifications are conducted and how salaries are affected:
An employee has the right to appeal a reclassification of their position resulting from a position audit to the Director of HR. The appeal must state the reason the employee feels the reclassification is not appropriate and must comply with the guidelines of the Appeal of Reclassification Policy. The appeal must be filed within 14 calendar days following notification from the Department of HR of the reclassification. If the employee is not satisfied with the decision of the Director of HR, they may request a review by the Civil Service Commission. The request must be made in writing to the Director of HR within 10 calendar days following written notification of their decision.

SECTION 5.7 - SPECIAL PAY PROVISIONS

The Director of Human Resources shall designate to the Civil Service Commission the classifications which are to be considered exempt, non-exempt and top management for the purposes of this section in accordance with the definitions as set out in Chapter 9.

A. Overtime Pay:

1. It is the policy of the Metropolitan Government that overtime shall not be worked unless essential to the public interest or to preserve public health and safety. Where overtime is deemed necessary, such overtime should be allocated as evenly as possible among all non-exempt employees qualified to do the work. All overtime worked must be scheduled by the job supervisor and then approved by the Appointing Authority.

2. Any overtime worked shall be scheduled in advance (except in emergency situations) by the immediate supervisor of the non-exempt employee working the additional hours. The employee shall have the right to refuse overtime unless at least four hours advance notice is given. If it is determined by the Appointing Authority or their designee that an emergency exists affecting the health, welfare, and safety of the community or the efficient operations of the department, the advance notice is waived.

3. Rate of pay for overtime shall be calculated at one and one-half times the employee's hourly rate of pay. Rate of pay for straight time overtime shall be calculated at the employee's hourly rate of pay. The hourly rate of pay is determined by dividing the employee's annual salary by 2080.00 hours for all pay schedules. The overtime rate of pay applies when employees exceed the work hours as specified within these rules for workweek or work period.

4. In no event will there be any pyramiding or compounding of overtime and holiday pay e.g. an employee who works ten hours on a holiday will be compensated for all times at the holiday rate. The additional two hours will not be paid at three and three-fourths the regular rate of pay.

B. Compensatory Time in Lieu of Overtime - Election by Non-exempt.

Non-exempt employees who are required to work in excess of their regularly assigned work schedule may elect to receive compensatory time off in lieu of overtime in accordance with the provisions as set out below. Election of compensatory time must be voluntary on the part of the employee.

1. Such compensatory time off shall be earned at a rate of one- and one- half hours for each hour of employment for which overtime would be worked and paid under Section 5.7a (2 and 3).
2. Election of Compensatory Time Off in lieu of Overtime:
   A non-exempt employee electing to receive compensatory time in lieu of overtime shall do so in accordance with the approved compensatory time election policies as established by the Department of Human Resources and approved by the Civil Service Commission.

3. Limitation of Compensatory Hours Accumulated:

   a. A non-exempt employee engaged in a public safety activity (Fire/Police), an emergency response activity (Emergency Medical Services), security personnel in correctional institutions, or a seasonal activity cannot accrue more than 480 hours of compensatory time off for hours worked in accordance with the policies and procedures as noted in (2) above.

   b. A non-exempt employee engaged in any other work cannot accrue more than 240 hours of compensatory time off in accordance with the policies as noted in 2 above.

c. A non-exempt employee who has elected compensatory time in lieu of overtime and who has accrued 480 or 240 hours of compensatory time off, within the time established by the Department of Human Resources and approved by the Civil Service Commission, shall for any additional overtime hours worked above the limit, be paid overtime compensation (in cash).

4. Payment for Accrued Compensatory Time Off at Time of Termination:
A non-exempt employee who has accrued compensatory time off, as authorized by these Civil Service rules and applicable policies and procedures, shall upon termination be paid for the unused compensatory time at a rate of compensation not less than:
   a. the average regular rate received by such a non-exempt employee during the last three years of employment, or
   b. the final regular rate of pay received by such an employee, whichever is higher.

   Exempt employees will not be paid for unused compensatory time when terminated. Exempt employees will be paid for unused compensatory time if laid-off.
5. Use of Compensatory Time Off:
A non-exempt employee who has accrued compensatory time may be permitted by the Appointing Authority or their designee to use such time within a reasonable period after making the request if the use of compensatory time off does not unduly disrupt the operations of the department.
6. The Appointing Authority may, within the department's rules, make these rules and/or corresponding policies more specific, particularly in regard to the time period for which a non-exempt employee may elect to accrue and take compensatory time and/or when they shall be compensated as long as the time period is less than the maximum period established by the Civil Service Commission.

C. Compensatory Time for Exempt Employees

Top-level management employees (see definition) are not eligible for overtime or compensatory time off. All other exempt employees who are required to work in excess of their regularly assigned work schedule during the designated work period shall be granted compensatory time, to be computed at straight time.
Certain exempt employees may receive pay in lieu of compensatory time under emergency situations (see Policy 5.7 C-I). Compensatory time earned by exempt employees shall be accrued on a calendar year basis. Such time must be cleared from the books by June 30th following the year in which it was earned. This shall be accomplished in the following manner: The exempt employee may be permitted by the appointing authority or their designee, to use such compensatory time earned within a reasonable time after making the request, if the use of such time does not unduly disrupt the operations of the department.

D. Work Hours and Overtime and/or Compensatory Time

Computation of overtime and/or compensatory time shall be based on time worked in excess of 40 hours in a designated work period, unless otherwise specified in these Civil Service Rules. Time scheduled as vacation, holiday, jury duty, bereavement, short term military leave (not to exceed 10 days per military service requirement), and injured in line-of-duty during a designated work period shall be construed for purposes of calculating overtime or compensatory time as time actually worked.

E. Accrual and Payment of Compensatory Time

1. Compensatory time will be accrued on an annual basis beginning on January 1st and ending on December 31st.

2. Non-exempt employees will normally be paid for unused compensatory time on an annual basis but may be paid quarterly or semi-annually if provided for in a department's rules. Non-exempt employees who have compensatory time on the books as of December 31st, which has not been taken or scheduled by April 30th, will be paid for such compensatory time by the last pay period in May at the employee's regular rate of pay at the time payment is made.
3. Exempt employees will not be paid for unused compensatory time except when laid off. An exempt employee must use all compensatory time accrued in a calendar year by June 30th of the following year or such time will be forfeited.

F. Holiday Pay:

1. A NON-EXEMPT employee who is required to work on a holiday will be compensated at two and one half (2 ½) times their regular hourly rate for each hour actually worked on the holiday. If the non-exempt employee has elected compensatory time, they shall receive their regular pay plus one and one-half hours compensatory time for each hour worked on the holiday.

2. EXEMPT employees who are required to work on a holiday shall receive compensatory time off, computed at straight time equal to the number of hours actually worked on the holiday. Non-supervisory exempt employees working on a holiday may, at the discretion of the department, earn one and one-half hours for each hour worked.

3. Justification for and verification of the hours worked by an employee will be submitted to the Appointing Authority, or their designee, who shall authorize payment for the holiday pay.

G. Payroll Adjustment for Vehicle:

All employees required, by the nature of their official responsibilities, to have a vehicle assigned to them on a 24 -hour basis who are required by the Internal Revenue Service to report the miles driven to and from work as income, for tax purposes, are eligible for a payroll adjustment of $3.00 for each day the vehicle is used for commuting to and from work, provided all forms required by the Metropolitan Finance Department are properly and timely filed.

NOTE: See Police and Fire Chapters for rules on designated work periods.

Section 5.8 - SHIFT DIFFERENTIAL PAY

A. Shift differential pay shall be paid for regularly scheduled non-overtime work to all regular full-time employees who work one-half or more of their shift after:

1. Evening shift: 6:00 P.M.
2. Night shift: 2:00 A.M. provided the shift begins before 5:00 a.m.

B. The shift differential rate shall be 70 cents per hour for the evening shift and 80 cents per hour for the night shift.

C. Premiums for shift differential shall be included in all salary computations.

NOTE: This section is not applicable to those employees working in the Metro Fire Department who regularly work a 24-48 hour work assignment. In addition, it is not applicable where there is only one shift for a given job, regardless of the hours that shift works.

Section 5.9 - WORKING IN A HIGHER CLASSIFICATION

The policy for working in a higher classification is intended to provide departments some flexibility for immediate and short- term staffing needs, not to circumvent the Civil Service promotional system. Employees working in a higher classification shall meet minimum requirements of the position and assignments must be to budgeted positions.

Eligibility Provisions:

- Employees must be assigned in advance by an authorized supervisor.
- The employee must perform at least 75% of the typical duties listed in the functional job description of the higher position.
- TLS non-exempt employees who work at least half of their assigned shift in an out-of-class position will receive out-of-class pay for the hours worked in the out of class position. All other employees must be physically present and perform those duties for at least 75% of the shift in order to receive out-of-class pay. No employees will be paid the out-of-class rate while on leave or off for holidays.
- Any person assigned to temporarily fill a vacant position on the Director Pay (DP) Schedule will not be eligible for out-of-class pay as provided for in this section and will not be subject to the provisions of Section 5.9. The rate will be established in accordance with Policy 5.6 A-I, Director Pay Schedule.

Note: All exempt out-of-class assignments must be to budgeted positions that are vacant, or the employee assigned to that position is on leave or working in a higher classification.

When Pay Begins:

Classes in the TLS pay schedule: Employees will be eligible for out-of-class pay beginning on the first day the employee works in the higher classification.

Classes in all other pay schedules: Employees must perform the duties of the higher classification for a minimum of 30 consecutive workdays to be eligible for the out-of-class pay. Once eligible, the employee shall receive the pay retroactive to the first day.

Certain Fire Department classes receive a flat rate per shift for out-of-class work and are paid as of the first day. After thirty consecutive days at the flat rate these employees will stop receiving the flat rate and will be paid in accordance with this section. When this occurs, the employees are not paid retroactively, since they have already received the flat rate.

Procedures for out-of-class assignment beyond 30 working days.

1. The department making the assignment shall post in the department an announcement of the out-of-class position and the person selected.
2. The department making the assignment shall give written notice to the Director of HR which shall include the name of the person selected to serve in the out-of-class assignment and certification that the person meets the minimum requirements. If the position is vacant, the department shall also certify that the position cannot be filled on a permanent basis at that time.
3. If there is no register from which to fill the position, the Department of HR will announce an examination so the position may be filled on a permanent basis.
4. If there is no register and it is necessary to fill a position after 30 days with an employee who does not meet the minimum requirements (because there are no employees available who meets the minimum requirements), the department may request an extension of the 30-day period from the Director of HR. If the extension is approved, the employee may continue working in the higher classification until a register can be furnished, and a permanent selection made.

Pay Provisions:

Maximum Time Limits:
No out-of-class assignment may exceed 100 working days in a calendar year (exempt or non-exempt) without the review and approval of the Commission, except when the employee normally assigned to that position is on extended leave. In such cases the out-of-class assignment may continue until the leave expires.
(See Fire Chapter)

Rate of Pay:
The employee will be compensated at the rate they would receive if actually promoted and will revert to the employee's regular rate when out-of-class work terminates.

Merit Pay Increases:
If an employee is eligible for an increment in their lower classification while working in a higher classification, the increment shall be granted. The employee's out-of-class pay shall then be recalculated based on the new rate of pay in the lower classification. The employee may or may not receive an increase in their out-of-class rate.

Rate of Pay When Promoted:
When an employee is working in a higher classification and is promoted to fill the classification for which they have been working out-of-class, the rate of pay will be set at the rate at which they are being compensated while working out-of-class.

SECTION 5.10 - ORIGINAL APPOINTMENT

A new hire in a step classification shall be paid the base rate of pay. All requests to hire above base must meet the guidelines of the "Hire Above Base and Increment Advances, and Equity Adjustments" policy and must be approved by the Civil Service Commission. (Classes in the Open Range Policy and the DP Schedule are not covered in this section; see Open Range and DP policies)

SECTION 5.11 - TRANSITIONING FROM NON-CIVIL SERVICE POSITIONS

Non-Civil Service employees who transition without a break in service into a regular Civil Service position shall have as their hire date the date they were initially employed with Metropolitan Government for purposes of determining Civil Service benefits.

SECTION 5.12 - CALL BACK PAY

An employee called to report to a work site outside their regularly scheduled time will be guaranteed a minimum of three hours pay, except when such time is continuous with the employee's work shift. This does not apply to work performed at home. Note: Not applicable to Police and Fire Departments

Section 5.13 - SEPARATION PAY

An employee whose services are terminated, either voluntarily or involuntarily, shall be paid for all regular earnings due as well as accrued vacation pay. The employee shall not be paid for any unused sick leave except as part of a sick leave buyout program approved in accordance with Section 4.7F and shall not accumulate any additional sick leave or vacation days once they cease reporting to work. In addition, an employee whose services are terminated because of layoff will be entitled to payment for compensatory time due as provided in the procedures for layoff.

CHAPTER 6

EMPLOYEE CONDUCT, DISCIPLINARY ACTION AND GRIEVANCE PROCEDURES

SECTION 6.1 - EMPLOYEE CONDUCT IN GENERAL

An employee of the Metropolitan Government shall not engage in any criminal, dishonest, infamous, immoral, or disgraceful conduct or behavior, activity, or association which discredits him and/or the Metropolitan Government. Each employee is expected to conduct himself both on and off the job in such a manner as to reflect credit on both himself and the Metropolitan Government.

It shall be the duty of each employee to maintain high standards of cooperation, efficiency, and economy in his work. Appointing Authorities and supervisors shall organize and direct the work of their units to achieve these objectives. When work habits, attitude, production, or personal conduct of an employee falls below an acceptable standard, supervisors should point out the deficiency at the time it is observed. Warning should precede disciplinary action, however, nothing in these rules shall prevent immediate formal action whenever the interest of Metropolitan Government requires it.

It shall be the employee's responsibility to report to the Appointing Authority, any conviction or alternative pleading to any misdemeanor or felony violation of Federal, State or Local Law. Written notification shall be within three (3) business days or upon return to work (which ever occurs first).

Every employee shall have the right to present his testimony or witness in a due process or grievance hearing free from fear, interference, restraint, discrimination, coercion or reprisal.

No officer, supervisor, or employee shall consciously and by overt act deprive any person of any rights to which such person is entitled under any State law and Federal law or law, ordinance, rule or regulation of the Metropolitan Government.

Any person, other than a member of the Civil Service Commission may request that an Appointing Authority prefer charges against an employee. As is the case with any disciplinary matter, the Appointing Authority shall make such inquiries and investigations necessary to determine if any corrective or disciplinary action should be taken.

Each employee of the Metropolitan Government shall perform his duties fairly, impartially and without discrimination on account of any of the following: race, color, national origin, sex, age, religion, disability, friendship, family or political affiliation, employee representative organization affiliation, or other organizational affiliation.

No officer, supervisor, or employee shall directly or indirectly solicit any money, service, favor or other consideration for carrying out his duties as an employee.

Note: Rules concerning Ethics and Disclosure are also located in Appendix I of these rules.

SECTION 6.2 - POLITICAL ACTIVITY

Political activities, including running for political office, are not to be conducted at the workplace or during working hours. Time off for such purposes will be in accordance with applicable leave policies in these Civil Service rules. Civil Service employees should refer to state law concerning any further rights to engage in political activities.

SECTION 6.3 - CORRECTIVE ACTION (REPRIMAND)

Any Supervisor may take corrective action by issuing a written or oral reprimand to an employee as needed. This action may be taken in an effort to correct a situation that, if uncorrected, may require disciplinary action. The employee should sign the reprimand. The signature only certifies that the employee has been shown the reprimand prior to it going in his file.

A copy of any written reprimand or notation of an oral reprimand must be placed in the employee's personnel file maintained in the department. The written reprimand or notation of an oral reprimand shall remain as an active part of the employee's departmental personnel file for a period not to exceed one year. After one year from the date of its issuance a written reprimand or the notation of an oral reprimand shall remain in the file, but will not be reflected in his annual performance evaluation. These may be used after one year to substantiate disciplinary action. Written and oral reprimands shall be removed from an employee's file after two (2) years provided no incident has taken place and is requested by the employee. The paperwork will be placed in an inactive reprimand file maintained by the Human Resources Department and may not be used to substantiate disciplinary action provided no similar incident has occurred within the two (2) year period. While written or oral reprimands are not forms of disciplinary action, an employee may state his version of the incident in writing and have it attached to the reprimand and filed in his departmental personnel file.

SECTION 6.4 - ABSENTEEISM AND TARDINESS

Consistent attendance and promptness are important factors of employment for all employees of the Metropolitan Government. Excessive absenteeism and/or tardiness are grounds for appropriate disciplinary action. Guidelines to be used for dealing with excessive absenteeism or tardiness are referenced in the attendance policy. The guidelines below also apply.

a. If an employee in a non-exempt position is late for work relative to the start of his regular work shift or his return from scheduled lunch or breaks, the employee may be subjected to loss of pay. (Employees in exempt positions shall not be subjected to loss of pay in these situations).

b. An employee who develops a pattern of attendance and/or tardiness problems should be counseled for improvement and should be reprimanded if counseling is not adequate. If the problems continue the employee may be subject to disciplinary action; however, counseling and reprimand are not pre-requisites for disciplinary actions, especially when incidents of AWOL are part of the problem.

c. In situations where the crew to which the employee is assigned has already left for the job site by the time the late employee arrives at work, his paid work time will not begin until he reaches his crew and starts work.

SECTION 6.5 - TYPES OF DISCIPLINARY ACTIONS

In the interest of good discipline, an Appointing Authority or his designee may for just cause and after proper notice and hearing take the following types of disciplinary action:

A. Suspension - An Appointing Authority may suspend an employee without pay for cause, provided that the suspension does not exceed an accumulation of 30 working days during a twelve (12) month period. Upon mutual agreement by the Appointing Authority and the employee, suspensions may be deducted from accrued vacation. The Appointing Authority or his designee shall have the discretion to determine whether or not an employee in a leave without pay status loses their vacation and sick accrual, and must notify the employee in the determination letter. To protect their exempt status, exempt employees should only be disciplined in full work week increments with the following exceptions:

1. An exempt employee may be suspended one or more full days imposed in good faith for infractions of safety rules of major significance and disciplinary reasons for infractions of workplace conduct rules. This provision refers to serious misconduct, not performance or attendance issues.
2 Such disciplinary deductions may only be made in full day increments.

B. **Demotion** - Disciplinary demotions include reduction in grade and/or salary; they may be temporary or full. An employee may be demoted to a lower classification with a lower salary grade or to a lower step in the same classification pay range.

1. Temporary Demotion - Those from 30 up to 180 consecutive calendar days. An employee who receives a temporary demotion in grade may continue to be assigned his normal duties but will not be eligible for out-of-class pay for the normal classification during the period of the temporary demotion.

2. Full Demotion - Those that are for an indefinite period. In order for a demoted employee to return to his original classification he must successfully compete in the promotional process.

C. Dismissal - An employee may be terminated from employment with the Metropolitan Government.

SECTION 6.6 - DUE PROCESS

No suspension, demotion, or dismissal of a Civil Service employee shall become effective until due process is provided for the employee as outlined below:
Summary

1. Notification of charges in writing
2. Informal Departmental meeting or hearing
3. Notification in Writing of action taken (within 10 calendar days)

<u>Optional:</u>

4. Option to meet with Department Head to present additional evidence
5. Right to Appeal decision to the Civil Service Commission. The hearing is conducted by an Administrative Law Judge, or Hearing Officer, or the full Commission as provided for in these rules.
6. Review of Order by full Commission

1. **Notification of charges:** The employee shall be notified of the charges against him. Such notification shall detail times, places, and other pertinent facts concerning the charges and should be in writing. The notification will provide for the employee to have a meeting with the Appointing Authority or designee prior to taking disciplinary action. The notification will state the mechanism through which such discussion may be arranged.

2. **Departmental Meeting/Hearing**: The meeting/hearing shall be informal and conducted for the purpose of explaining the department's charges against the employee, and allowing the employee's response. The manager conducting such discussions shall be an Appointing Authority or designee.

   Note: The employee shall have the right to a representative. The employee shall have the right to present statements, witnesses, or any other information with regard to the charges. Attendance and participation by persons other than the manager, the employee, the employee's representative/s, and witnesses shall be at the discretion of the manager. The employee shall be able to obtain any documents and/or statements made by witnesses regarding the charges before the hearing, unless prohibited by law. If the employee or his representative declines the opportunity to have the meeting / hearing, the provisions of this section will be deemed met.

3. **Notification of action taken**: The employee must be notified in writing of the action taken within ten (10) calendar days, and this notice must also advise the employee that within (10) calendar days, he may request a second meeting with the Appointing Authority to provide additional new evidence.

4. **Department Head meeting** (optional**)**: An employee requesting such a meeting must do so in writing and must specify in the request what <u>additional evidence</u> may be brought forth. If the employee submits the additional evidence in writing, the Appointing Authority shall meet with the employee and/or his representative within ten (10) days of receiving notice or may delegate this responsibility to his second in command, provided such manager did not conduct the original meeting.

5. **Appeal to the Civil Service Commission:** An employee may appeal disciplinary action in accordance with section 6.8C. The notice of disciplinary action shall include a statement notifying the employee of the following appeal requirements.

   a. The request must be <u>filed within fifteen (15) calendar days of notification of the disciplinary action taken,</u> unless the employee has filed a timely written request with the Appointing Authority to consider additional evidence. In that event the employee shall have fifteen (15) calendar days after a written response from his department to file an appeal with the Civil Service Commission.

NOTE: The Administrative Law Judge or Hearing Officer shall determine as a preliminary matter to the merits of an appeal, an employee's allegation that he or she was denied minimum due process. Procedures may be established within a department for the conduct of the meetings and for meetings at one or more levels within the organization. If more than one level is used this shall be spelled out in a written procedure.

SECTION 6.7 - GROUNDS FOR DISCIPLINARY ACTION

The following constitute grounds for disciplinary action:

1. Neglect or failure to perform official duty.

2. Deficient or inefficient performance of duties.

3. Insubordination toward the supervisor.

4. Absence without notification or approval for leave.

5. Neglect or disobedience to the lawful and reasonable orders given by a supervisor.

6. Drinking intoxicating beverages, using drugs not specifically prescribed to the employee by a licensed physician or using a controlled substance while on duty, whether under the influence of the beverage, drug, or controlled substance or not.

7. Being under the influence of intoxicating beverages or drugs not specifically prescribed for the employee by a licensed physician or controlled substances when on duty or upon reporting to duty.

8. Public Intoxication while off duty, in uniform, or wearing any other evidence of being an employee of the Metropolitan Government or when driving a government owned vehicle.

9. Possession of illegal drugs or a controlled substance while on or off duty or any violation of Civil Service or departmental rules, policies, or procedures related to the substance abuse program.

10. Violation of any provision of the Metropolitan Charter or any written Executive or Administrative Orders.

11. Violation of any written rules, policies or procedures of the department in which the employee is employed.

12. Violation of any of the rules or regulations of the Metropolitan Civil Service Commission.

13. Dishonesty.

14. Immoral conduct.

15. Conviction of a felony.

16. Inability to perform duties, when reasonable accommodation has been considered and cannot be made.

17. Neglect or failure of any employee to properly and promptly make reports or furnish information specifically required by the Civil Service Commission.

18. Excessive absenteeism and/or excessive tardiness and/or abuse of sick leave.

19. Any attempt (outside of official Commission meetings), directly or indirectly, by an employee to influence the judgment of the Metropolitan Civil Service Commission or any member thereof, with reference to any issue pending before the Commission.

20. Violation of safety rules, regulations or procedures.

21. Unauthorized sleeping on duty.

22. Damage to or loss of Metropolitan Government property caused by negligent acts of the employee.

23. Unlawful or unauthorized possession of a weapon, as defined by applicable laws, while on duty or while on Metro property.

24. Using abusive or profane language so as to create a disturbance in the work place or when directed toward a member of the public.

25. Gambling on Metro property or while on duty.

26. Falsifying employment or promotional application or any official document of Metro Government.

27. Disclosing confidential information to unauthorized persons.

28. The use or threat of violence or intimidation when directed toward another person.

29. Participation in strikes, work slow-downs, boycotts, sick-ins, picketing for the purpose of preventing others from coming to work or other similar job actions.

30. Discrimination on the unlawful basis of race, sex, color, age, religion, national origin, handicap or lawful political or employee group affiliation.

31. Participation in a pattern of harassment toward an employee of Metropolitan Government.

32. Any failure of good behavior which reflects discredit upon himself, the department and/or the Metropolitan Government.

33. Conduct unbecoming an employee of the Metropolitan Government.

SECTION 6.8 - DISCIPLINARY ACTION APPEAL TO CIVIL SERVICE COMMISSION

A. INTRODUCTION

Any employee demoted for cause, suspended, or dismissed from the Civil Service may appeal the action to the Civil Service Commission for a hearing. The proceedings or any part thereof:

(1) Shall be conducted by a majority of the Commission sitting with an administrative judge or hearing officer; or

(2) Shall be conducted by an administrative judge or hearing officer sitting alone, subject to review by a majority of the Commission.

(3) Combined Hearings: With the agreement of all parties, an Administrative Law Judge may conduct an appeal of a suspension or temporary demotion jointly with an appeal of dismissal in those cases where the employee has been dismissed prior to the appeal of the suspension or temporary demotion having been heard. Upon agreement of all parties, the appeal of the suspension or temporary demotion may be re-assigned from the Hearing Officer/Commissioner to the Administrative Law Judge.
Cases are assigned based on the type and severity of disciplinary action imposed and subject to available funds. Specific guidelines for assigning cases, setting hearing dates, and conducting proceedings are set out in Civil Service Policy 6.8 - I, Appeal Proceedings. Any provisions in that policy may be suspended where good cause has been shown and upon majority vote by the Civil Service Commission.

In any situation that arises that is not specifically addressed by the policy, reference may be made to the Uniform Administrative Procedures Act Part 3 - Contested Cases T.C.A. 4--5--301, et seq and the Tennessee Rules of Civil Procedure for guidance as to the proper procedure to follow, where appropriate and to whatever extent will best serve the interest of justice and the speedy and inexpensive determination of the matter at hand.

B. TIME

In computing any period of time prescribed or allowed by statute, rule, or order, the date of the act, event or default is not to be included. The last day of the period so computed is to be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Except in regard to petitions for review under T.C.A. 4--5--315, 4--5--317, and 4--5--322, or where otherwise prohibited by law, when an act is required or allowed to be done at or within a specified time, the agency or the administrative judge may, at any time, (1) with or without motion or notice order the period enlarged if the request is made before the expiration of the period originally prescribed or as extended by previous order, or (2) upon motion made after the expiration of the specified period, permit the act to be done late, where the failure to act was the result of excusable neglect. Nothing in this section shall be construed to allow any ex-parte communications concerning any issue in the proceedings that would be prohibited by
T.C.A. 4--5--304.

C. COMMENCEMENT OF CONTESTED CASE PROCEEDINGS

Commencement of Action - An appeal of disciplinary action must be commenced by filing Notice of Appeal with the Secretary to the Commission. Said request must be made within 15 calendar days after notification by the Appointing Authority of said action.

Answer. Any employee or former employee appealing any disciplinary action taken against him shall with his notice of appeal file an answer or statement setting forth the reason said employee is appealing.

Notice of Hearing - In every contested case, except those heard by an Administrative Law Judge from the Office of the Secretary of State, a notice of hearing shall be issued by the Secretary to the Commission. The notice shall comply with T.C.A. 4--5--307 (b). Included with the notice will be a copy of the charge and/or determination letter from the appointing authority setting out the reasons for disciplinary action and a copy of the hearing procedures to be followed. A copy of the notice will be sent to the Department of Law. Notice of hearings set before an ALJ will be issued by the Administrative Procedures Division of the Office of the Secretary of State.

Within 20 calendar days from the receipt of the Notice of Hearing a representative of the Department of Law shall file with the Secretary to the Commission formal Charges and Specifications. The Charges and Specifications shall set out the specific act(s) or event(s) leading to the disciplinary action being taken, and shall set out the specific Civil Service Commission Rules and Regulations, the Charter Provision, Executive or Administrative Order, Department Rule, or Regulation, Ordinance, Law, or other regulation violated.

D. SERVICE OF NOTICE OF HEARING

A copy of the notice of hearing must be delivered by return receipt mail or served personally on the appellant and/or his designee. No hearing shall be held, unless otherwise specified by statute, until the expiration of 30 days from service of the notice upon all parties.

Since each employee is required to keep the Civil Service Commission informed of his current address, service of notice shall be deemed complete upon placing the notice in the mail to the last known address of such party. However, in the event of a motion for default where there is not indication of actual service on a party, the following circumstances will be taken into account in determining whether to grant the default, in addition to whether service was complete as defined above:

1. Whether any other attempts at actual service were made;

2. Whether and to what extent actual service is practicable in any given case;

3. What attempts were made to get in contact with the party by telephone or otherwise; and

4. Whether the Commission has actual knowledge or reason to know that the party may be located elsewhere than the address to which the notice was mailed.

E. REPRESENTATION

1. Any party may participate in the hearing in person or, if the party is an agency of Metropolitan Government, by a duly licensed attorney.

2. Whether or not participating in person, any party may be advised and represented at the party's own expense by a licensed attorney.

3. Attorney General's Opinion #97-164, as adopted by the Civil Service Commission on March 10, 1998, provides that a duly licensed attorney must represent all parties, who wish to have representation in hearings before the commission. All parties in a contested case hearing shall be notified of their right to be represented by counsel. An appearance by a party at a hearing without counsel may be deemed a waiver of the right to counsel.

SECTION 6.9 - EMPLOYEE GRIEVANCES

INTRODUCTION

A grievance is defined as follows:

An employee's claim that he has been adversely affected by a violation, misinterpretation, misapplication or non-application of a specific law, ordinance, resolution, executive order, Civil Service Rule or written policy. Exceptions are as noted in part A –non-grievable matters.

Employees and management should recognize that grievances can be helpful to an organization to call matters to the attention of officials when action is needed. If a grievance procedure is used properly, it can assist in establishing a harmonious and cooperative working relationship between employees of the Metropolitan Government. The grievance procedure is used to give every employee who has a grievance the opportunity to express himself and to allow Metropolitan officials to take prompt action where needed.

Every employee shall have the right to present his grievance under the provisions of the grievance procedures free from fear, interference, restraint, discrimination, coercion or reprisal. Any aggrieved employee or group of employees shall have the right to have reasonable representation of his or their choosing at all stages of the grievance procedure.
If the grievance decision is appealed to the Civil Service Commission, representation will be in accordance with Section 6.8E, above. A group of employees appealing a grievance to the Civil Service Commission without counsel shall designate one member of the group as spokesman.

A. NON-GRIEVABLE MATTERS

While the grievance procedure can be beneficial to an organization, there are boundaries that must be set concerning issues that are not grievable. These boundaries are set in order to maintain the efficient operation of the Metropolitan Government and to prevent the obstruction of its goals and objectives.

The list found below outlines subject areas that are considered to be non-grievable. Complaints concerning these areas must not be filed as grievances by employees nor may they be accepted as grievances. If accepted it can be ruled non-grievable later by the Appointing Authority or the Director of Human Resources. Management should attempt to resolve these types of complaints through routine procedures. (In that complaints of this nature will usually involve an established rule or policy, employees should be encouraged to suggest revisions to a rule or policy to the Director of Human Resources for Metropolitan Government)

- Changes or request for changes in the approved pay plan or approved benefits
- The merits of any uniformly applied HR practice, policy or procedure established by laws, ordinance or Civil Service Rule
- Reductions in work force
- Management rights to schedule and organize work, to make work assignments, and to prescribe methods and procedures by which work is performed, unless otherwise provided in these rules.

Complaints alleging discrimination or other violations of applicable EEO laws must be filed as discrimination complaints and will be processed in accordance with the EEO Complaint Procedure (see Section 3.1 B).

In the event of a disagreement as to whether a complaint is grievable within the scope of this procedure, the employee may, by his simple written request, ask the Director of HR to make the determination. If the employee is not satisfied with the Director of HR's final decision, he may appeal this decision to the Civil Service Commission.

B. GRIEVANCE PROCEDURE

(See Fire Chapter for Grievance Procedures)

Metro Grievance Procedure:

- **Stage I** Written complaint form to Departmental Human Resource Coordinator
- **Stage II** Written appeal to Department Head/Authority

Stage I. **Written Complaint to Departmental Human Resources Coordinator**
The first stage of any complaint consists of the employee's written presentation of his complaint to the **Departmental Human Resources Coordinator**. The HR Coordinator will promptly consider the complaint and determine if the matter is grievable. The HR Coordinator will take the appropriate action to resolve the grievance or to deny the grievance. He shall take action and/or notify the employee of his decision in writing within ten (10) calendar days of receipt of the written complaint. If the complaint is grievable and cannot be resolved between the employee and the Departmental HR Coordinator, the employee may proceed to Stage II.

Any grievance must be filed within sixty (60) calendar days after the event giving rise to the grievance. Back pay shall not be awarded for any period earlier than six-months prior to the filing date of the grievance.

Stage II. **Appeal to Appointing Authority:** The employee must write a letter to the Appointing Authority stating his complaint/grievance and requesting to proceed to Stage II. The letter must be received by the Appointing Authority within ten (10) calendar days of receiving the HR Coordinator's decision. If there is no resolution acceptable to both parties the Appointing Authority or designee will attempt to resolve the grievance and will send a letter to the employee, within ten (10) calendar days of receipt of the written appeal, confirming any agreed upon resolution. The Appointing Authority will notify the employee within the same time period that he may appeal the decision to the Civil Service Commission.

C. REVIEW BY THE CIVIL SERVICE COMMISSION

If the employee is not satisfied with the Appointing Authority's final decision, he may appeal this decision to the Civil Service Commission. A hearing will then be scheduled with an Administrative Law Judge assigned by the TN. Secretary of State's Office. The decision of the Judge will be reviewed by the Civil Service Commission under the same procedures as for disciplinary appeals.

The request must be made in writing to the Director of HR within ten (10) calendar days following receipt of the Appointing Authority's final decision. The HR Department will schedule a date for the hearing and will notify all parties.

D. FINAL DECISION AND ORDERS

A grievance may be settled, in part or in whole, at any time during the grievance procedure. A final decision or order in a grievance review shall be in writing and stated in the record. A final decision shall include findings of facts and reasons for the ultimate decision. Parties shall be notified in writing either personally or by mail of any decision or order and such written notice shall include a statement of a party's right to administrative or judicial review. A copy of the decision or order will be delivered or mailed forthwith to each party or to his representative of record.

E. ENFORCEMENT OF THE GRIEVANCE DECISION

After a decision has been rendered in settling a grievance, it is expected that the decision would be placed into action as soon as possible. If there is an unusual delay in placing the decision into effect, the employee may seek the reasons for the delay from the Appointing Authority. If no satisfactory answer is obtained and/or the delay continues, the employee should present the matter to the Director of HR. Full information will be presented which will enable the Director of HR to implement the decision. If for any reason this action is unsuccessful, the Director of HR will direct this matter for enforcement to the attention of the Civil Service Commission.

F. MISCELLANEOUS

1. TIME LIMITATIONS

The time constraints referred to throughout the grievance section were included to assure a swift yet fair grievance process. They may be extended by mutual agreement. The time limits are to be strictly observed. In the event a grievance is not filed or is not appealed by the employee within the specified time limit, at any point in the grievance process, the matter will be considered as having been accepted by the employee or settled on the basis of the last disposition. In the event a grievance is not answered within the specified time limit, the employee may appeal the grievance to the next step in the process.

2. HOURS/COMPENSATION

Any employee officially involved in the handling of a grievance will be considered on official duty during his normal working hours. This will include the employee filing the grievance, his representative, any employee assigned to the investigation and any employee called as a witness. All hearings, investigations, and settlements of grievances shall be processed during regular working hours whenever possible. All grievances shall be settled in accordance with the provisions of these procedures and there shall not be any undue interruptions, interference, or work stoppage.

3. WITNESSES

Metro employees who have direct, firsthand knowledge of the specific event or circumstances giving rise to a grievance may be required to give evidence at any step of the grievance procedure. The number of witnesses will be limited to those necessary for a fair presentation of the grievance. When there appears to be unnecessary witnesses the Appointing Authority will hold a pre-hearing conference with the employee and/or his representative to discuss the necessity of each witness. When several witnesses are testifying to the same incident or circumstances or there are numerous character witnesses, the witnesses will be limited to a reasonable number.

4. BURDEN OF PROOF

The employee will bear the burden of proof in all grievance proceedings.

CHAPTER 7

POLICE DEPARTMENT SPECIAL PROVISIONS

SECTION - 7.1 INTRODUCTION

This chapter of the rules covers areas unique to the Police Department or rules governing a particular area which are different for Police Department employees. If this chapter is silent on an issue, the general rules shall apply. The related section number of the general rule is provided after the section title where applicable.

SECTION - 7.2 SELECTION PROCEDURES

A. Police Officer Trainee. Applicants for Police Officer Trainee are required to successfully complete a series of examinations before they can be appointed. These examinations are designed to measure knowledge, skills, and abilities which are essential to successful job performance. A brief description of these examinations is covered in a policy approved by the Civil Service Commission.

B. Promotional Policy. The procedures for qualifying/testing and selection of candidates for the following sworn classifications will be in accordance with a policy approved by the Civil Service Commission: Sergeant, Lieutenant, and Captain. Promotions for sworn classifications above the rank of Captain will be in accordance with those provisions of Chapter 2, Selection, which pertain to exempt classification promotions.

C. Assignment Classifications. Certain sworn classifications are designated as assignment classifications rather than permanent classifications (see Policy 7.2 C-I).

SECTION 7.3 - APPLICANT REVIEWS AND APPEALS (2.13)

General rules on applicant reviews and appeals are given in Section 2.13 and in policies. The following rules govern those examination procedures which apply only for Police Officer Trainee.

A. Disqualification from the following shall be reviewed by the Police Chief or his designee.
   1. Traffic violations
   2. Discharge from employment
   3. Offenses not clearly defined as allowed in T.C.A. 38-8-106 or as amended
   4. Disqualification based on incorrect information (such as a conviction record on another person by the same name)

B. Appeal of disqualification for the following reasons shall be considered by the Civil Service Commission.
   1. Applicants who are given a tentative offer of employment will be sent for a physical exam to be performed by a physician designated by the Director of the Health Department. Applicants who do not meet the required physical standards may file a request with the Civil Service Commission for a waiver. The applicant must submit any additional medical evaluations to the examining physician at the Health Department. The examining physician at the Health Department will make a written report to the Commission to review these records. The Commission will consider each applicant on a case-by-case basis to assess the individual's ability to perform the essential functions of a Police Officer safely and effectively.
   2. Adverse decisions of appeals to the Police Chief or Director of HR.

C. Appeal of disqualification shall not be granted on requirements mandated by state law or on the following components:
   1. Educational requirement
   2. Written exam
   3. Physical agility test
   4. Computer Voice Stress Analysis (CVSA)
   5. Psychological exam
   6. Oral exam

SECTION 7.4 - TRANSITION OF POLICE OFFICER TRAINEES

Police Officer Trainees are provisional (non-Civil Service) employees. Upon successful completion of academy training these employees shall be transitioned to Police Officer I and when they successfully complete a probationary period, they shall be transitioned to Police Officer II. Such transitions are done without further competitive examination.

SECTION 7.5 - OUTSIDE EMPLOYMENT (3.8)

Police Department employees (Civilian and Sworn) are allowed to hold outside employment in accordance with departmental regulations. Outside employment in police-related activity is limited to twenty (20) hours per week. "Employees working extra duty through the Police Department Secondary Employment Unit shall be compensated according to provisions as set out in Police Department Written Directives. An employee eligible for FMLA leave may engage in outside employment provided: A) the employee's health care provider approves the outside employment by certifying that the outside employment will not impede the employee's recovery from, or treatment for, a serious health condition; and B) the employee's Human Resources Coordinator approves the outside employment as being consistent with Section 3.8. An employee seeking permission to engage in outside employment while on FMLA leave is responsible for having their health care provider submit a separate letter to their HR Coordinator that satisfies these requirements.

SECTION 7.6 - APPOINTMENT OF EMPLOYEES FROM OTHER METRO DEPARTMENTS (TRANSFERS) (3.9)

Any Metro employee appointed from an Open Competitive Register as a Police Officer Trainee shall be required to resign from their original position upon being appointed. The employee's accrued leave time will be transferred to the Police Department and the employee's current service time will be connected. The employee will not retain their Civil Service status and must complete a probationary period in order to regain Civil Service status. Should the employee fail to complete the academy or probationary period, the employee does not have any rights to return to their former position except those reemployment rights provided under Section 3.13 of the general rules.

SECTION 7.7 - REQUIREMENTS AFTER AN EXTENDED ABSENCE FROM THE DEPARTMENT

Employees in Sworn and civilian classifications who have been on leave for six months or longer or have terminated from employment for any period will be required to successfully complete a physical exam and controlled substances test before returning to work if it is required as part of the pre-employment or pre-appointment process for the position. Upon return to work such employee may be required to successfully complete refresher training.

SECTION 7.8 - REEMPLOYMENT AND/OR REHIRE (3.13)

Any officer who leaves the Metropolitan Police Department must meet the requirements of state law (T.C.A. 38-8-106 or as amended), before they can be considered for reemployment. Such officers may be required to successfully complete additional training upon reemployment or rehire.

A. Section 3.13, Reemployment provides that employees who have at least two years of service may be re-employed within one year of separation, subject to all requirements and restrictions of that section.

B. A former officer who does not meet the time requirements established in Section 3.13 may be hired under the provisions of a policy approved by the Civil Service Commission. A former officer hired under this policy will not be granted credit for prior service time.

SECTION 7.9 - WORK SCHEDULE (4.1)

The standard work schedule for non-exempt police employees engaged in law enforcement activities, as those positions are defined under the FLSA, is based on 170 hours in a continuous 28- day period or a corresponding amount of time as stated in the FLSA regulations. Overtime is paid for all hours worked (as the Civil Service Rules define time worked) in excess of the total numbers of hours in the standard work schedule.

SECTION 7.10 - HOLIDAYS

All members of the Police Department (Civilian and Sworn) scheduled to work a holiday shall be compensated at one and one-half times their regular rate of pay for all hours actually worked on the holiday and shall also receive a floating holiday. No more than five floating holidays may be carried over from one fiscal year to the next.

SECTION 7.11 – VACATION (4.6)

In accordance with the Metro Charter employees of the Police Department (Civilian and Sworn) earn 20 days (160 hours for Civilian Employees and 170 hours for Sworn Employees) per calendar year. Vacation time is earned at a rate of 1.667 days per month (13.333 hours per month for Civilian Employees and 14.167 hours per month for Sworn Employees). Employees transferred from the Police or Fire Department into the General Government, shall begin to accrue vacation leave according to the General Government accrual rates as stated in CS rule 4.6A. Those employees may transfer all accrued vacation leave recorded on the books that are within their accrual maximum as a Public Safety employee, however, those who transfer accrued vacation leave in excess of their new General Government accrual maximum, shall have three years to come into compliance with CS rule 4.6A, which states “Vacation may be accrued to an amount equal to three times the employee’s current annual accrual rate”. After three years, accrued vacation leave in excess of three times the current annual accrual rate, must have been scheduled and taken in order to be in compliance with Civil Service Rule 4.6A. Vacation earned is credited to employees at the end of the calendar year for use in the following year. Vacation may be accrued to an amount equal to three times the employee’s current annual accrual rate.

SECTION 7.12 - SICK LEAVE BANK

A sick leave bank will be established for all full-time members of the Police Department (Civilian and Sworn) who wish to contribute. A Sick Leave Committee will be established within the Police Department to oversee the administration of the bank. The Sick Leave Bank policy is subject to approval of the Civil Service Commission. Sick leave days from the bank are not available to employees who have exhausted sick leave after applying for a disability pension.

SECTION 7.13 - PERSONAL LEAVE

Employees of the Police Department (Civilian and Sworn) shall receive three annual personal leave days. Such days shall be scheduled and taken with the approval of the Appointing Authority or their designee and may not be accrued from one calendar year to the next.

SECTION 7.14 - CALL BACK PAY (5.12)

When Police Department employees (Civilian and Sworn) are called back to work outside the regularly scheduled time due to unplanned assignments or emergency situations, they will be guaranteed a minimum of two hours of pay for each call out. This does not apply when such time is continuous with the employee's work shift.
Please See Police Department General Orders for additional guidelines.

SECTION 7.15 - COURT AND OFFICIAL APPEARANCES

Time spent in court or in making official appearances, such as before the Grand Jury, on behalf of Metro Government will be counted as time worked and will require some form of overtime compensation if the time results in more than the regularly scheduled hours for the work period. The guidelines below govern accrual of such time.

A. Court time applies to all non-exempt sworn personnel. It applies to civilian personnel through salary grade ST-11, non-exempt and exempt.

B. Employees will receive a minimum of two hours pay for making court appearances under certain conditions established in Police Department General Orders.

CHAPTER 8

FIRE DEPARTMENT SPECIAL PROVISIONS

SECTION 8.1 - INTRODUCTION

This chapter of the rules covers areas unique to the Fire Department or rules governing a particular area which are different for Fire Department employees. If this chapter is silent on an issue, the general rules shall apply. The related section number of the general rule is provided after the section title where applicable.

SECTION 8.2 - SELECTION PROCEDURES

A. Fire Recruit and EMT Applicants for Fire Recruit, Advanced Emergency Medical Technician (AEMT) and Paramedic are required to successfully complete a series of examinations before they can be appointed. These examinations are designed to measure knowledge, skills and abilities, which are essential to successful job performance. A brief description of these examinations is covered in a policy approved by the Civil Service Commission.

B. Promotional Procedures: The procedures for qualifying/testing and selection of candidates for all classifications used in the Fire Department that are unique to the Police/Fire Pay Plan, up to and including Fire District Chief (or equivalent), will be in accordance with a policy approved by the Civil Service Commission.

SECTION 8.3 - APPLICANT REVIEW AND APPEALS (2.13)

General rules for applicant reviews and appeals are given in Section 2.13 and in policies. The following rules govern those examination procedures which apply to Fire Recruit, AEMT, and Paramedic.

A. Disqualification for the following shall be reviewed by the Fire Chief or their designee:
   1. Serious or Multiple Traffic Violations
   2. Discharge from Employment
   3. Misdemeanors (if job-related), or Felony Convictions
   4. Less than Honorable Military Discharge

A. Appeal of disqualification for the following reasons may be considered by the Civil Service Commission.

   1. Applicants who are given a tentative offer of employment will be sent for a physical exam to be performed by a physician designated by the Director of the Health Department. Applicants who do not meet the physical standards as approved by the Civil Service Commission, may file a request with the Civil Service Commission for a waiver. The applicant must submit any additional medical evaluations to the examining physician at the Health Department. The examining physician at the Health Department will make a written report to the Commission to review these records. The Commission will consider each applicant on a case-by-case basis to assess the individual's ability to perform the essential functions of Fire Fighting and Emergency Medical Service safely and effectively.

   2. Adverse decisions of appeals to the Fire Chief or the Director of HR.

C. Appeal of disqualification shall not be granted on the following components:
   1. Physical Agility
   2. Written
   3. Education

D. Any applicant previously disqualified and not granted relief on appeal may not apply again unless there is a substantial change in the standards of application which resulted in the disqualification or the applicant can prove that the grounds for the disqualification no longer exist.

SECTION 8.4 - TRANSITION OF FIRE RECRUITS AND AEMT

Fire Recruits are provisional (non-Civil Service) employees. Upon successful completion of their academy training these employees may be transitioned to the next higher classification (Firefighter I), Upon successful completion of a probationary period they may be transitioned to the next higher classification (Fire fighter II). An AEMT who receives their Paramedic license and meets the minimum experience requirements may be transitioned to Paramedic. Such transitions are done without further competitive examination.

SECTION 8.5 - OUTSIDE EMPLOYMENT

All Fire Department Employees who are employed outside the department must comply with Civil Service rules and Fire Department Guidelines and Procedures pertaining to outside employment.

SECTION 8.6 - APPOINTMENT OF EMPLOYEES FROM OTHER METRO DEPARTMENTS (TRANSFERS) (3.9)

Any Metro employee (excluding employees of the Fire Department) appointed from an Open Competitive Register as a Fire Recruit, shall be required to resign from their position upon being appointed. The employee will not retain their Civil Service status and must complete a probationary period in order to regain Civil Service status. The employee's accrued sick time will be transferred to the Fire Department and the employee's current service time will be connected.

Should the employee fail to complete the academy or probationary period, they do not have any rights to return to their former position except those re-employment rights provided under section 3.13 of the general rules.

SECTION 8.7 - REQUIREMENTS AFTER AN EXTENDED ABSENCE FROM THE DEPARTMENT

All employees who have been gone six months or longer will be required to complete a physical exam and refresher training. Certain classifications will have additional requirements which are specified in the Fire Department Guidelines and Procedures.

SECTION 8.8 - REEMPLOYMENT AND/OR REHIRE (3.13)

A. A former employee who meets the requirements of Section 3.13, Re-employment, may be re-employed under those provisions. Section 3.13 allows re-employment and connection of service time within one year subject to certain conditions.

B. A former Fire Suppression Employee or Emergency Medical Employee may be rehired after one year under the provisions of a policy approved by the Civil Service Commission. A former employee hired under those provisions will not be granted civil service credit for prior service time.

SECTION 8.9 - VOLUNTARY REDUCTION IN GRADE (3.10)

Voluntary reductions in grade within the Fire Department are limited to classifications previously held by the employee except when the employee is on an eligibility register for the classification (see Section 5.6).

SECTION 8.10 - WORK SCHEDULE (4.1)

The standard work schedule for non-exempt fire department employees engaged in firefighting, as those positions are defined under FLSA, who are on a 24-to-48- hour shift shall be based on a maximum of 204 hours worked in a 27- day work period or a corresponding amount of time as stated in the FLSA regulations. Overtime is paid for all hours worked (as the Civil Service Rules define time worked) in excess of the total number of hours in the standard work schedule.

SECTION 8.11 - HOLIDAYS (4.5)

Fire Department employees who work in positions where shifts are scheduled and services are provided seven days a week, will receive one floating holiday in lieu of each holiday for general employees. The floating holiday will be equivalent in hours to the employee's normal shift with the following exception: floating holidays for employees who work a 24-48- hour schedule will be for 12 hours.

Floating holidays are to be taken as schedules permit. Employees must, with the following exception, use any floating holidays on the books as of December 31st by June 30th of the following year or such time is forfeited. Employees who are unable to take the holidays due to being on injury leave shall be permitted to take such time after the end of the injury leave period immediately prior to being returned to duty.

When employees are required to work any hours during the holiday, they shall be compensated at a rate which is one and one-half times their regular hourly rate. The regular hourly rate shall be based on work hours scheduled for that week.

Fire Department employees who work in positions where work is normally scheduled Monday through Friday only, are subject to the holiday rules for general employees (see section 4.5, Holidays).

The official holiday begins at 12:00 a.m. and ends at 11:59 p.m.

SECTION 8.12 - VACATION (4.6)

In accordance with the Metro Charter all employees of the Fire Department earn 20 work days of vacation per calendar year. Vacation time is earned at a rate of 1.667 days per month or five days per quarter and is accordingly prorated in any situation where an employee does not work the full year. Vacation may be accrued to an amount equal to three times the employee's current annual accrual rate. Employees transferred from the Police or Fire Department into the General Government, shall begin to accrue vacation leave according to the General Government accrual rates as stated in CS rule 4.6A. Those employees may transfer all accrued vacation leave recorded on the books that are within their accrual maximum as a Public Safety employee, however, those who transfer accrued vacation leave in excess of their new General Government accrual maximum, shall have three (3) years to come into compliance with CS rule 4.6A, which states "Vacation may be accrued to an amount equal to three times the employee's current annual accrual rate". After three years, accrued vacation leave in excess of three times the current annual accrual rate, must have been scheduled and taken in order to be in compliance with Civil Service Rule 4.6A.

Exception: All Fire Department employees assigned to "in the field" shift work may accrue up to three and three-quarters their annual rate for a high leave balance of 75 days if the following conditions are met:

- *The employee must have been employed and on the payroll as an active employee on July 1, 2004.*
- *The accrual period for this exception is from July 1, 2004 until June 30, 2005.*
- *When the vacation balance falls below the 75- day limit, the high leave balance then becomes that number until the balance reaches three times the annual accrual rate as described above. (Example: an employee uses vacation leave that causes the 75-day accrual to drop to 69 days. The new high leave balance is 69 days for that employee.)*

SECTION 8.13 - PERSONAL LEAVE

All employees of the Fire Department shall receive three annual personal leave days on July 1 of each year. Such days shall be scheduled and taken with the approval of the Appointing Authority or their designee. Employees hired any time after the first quarter in the fiscal year will be prorated in accordance with Fire Department Guidelines and Procedures. In the case of those employees working a 24-48 schedule, each personal leave day shall be for a 12- hour period. Personal leave days may not be accrued from one fiscal year to the next.

SECTION 8.14 - CALL BACK PAY (5.12)

When Fire Department employees are called back to work outside the regularly scheduled time due to unplanned assignments or emergency situations, they will be guaranteed a minimum of two hours of pay for each call out. This will not apply when such time is continuous with the employee's work shift. Call back pay is subject to additional Fire Department Guidelines and Procedures.

SECTION 8.15 - WORKING IN A HIGHER CLASSIFICATION (5.9)

A. A Fire Department employee who is assigned to perform all typical duties of the classifications listed below shall receive additional pay, on a flat rate basis per shift. The rate will be as recommended by the Fire Chief and approved by the Civil Service Commission. After thirty consecutive days in the higher classification employees will be paid in accordance with Section 5.9 and will no longer be given the flat rate. For purposes of the 100 working day maximum time limit, a working day will be counted as a 24-hour shift.

(1) Fire fighters assigned at the level of Fire Engineer
(2) Fire fighters and Fire Engineers assigned at the level of Fire Captain
(3) Fire Captains assigned at the level of Fire District Chief.
(4) Fire District Chiefs assigned at the level of Fire Assistant Chief.
(5) Paramedics assigned at the level of District Chief - Emergency Service Operations.
(6) EMT assigned at the level of Paramedic.
(7) District Chiefs - Emergency Service Operations, assigned at the level of Fire Assistant Chief - Emergency Service Operations.
(8) Fire Inspector II would be assigned at the level of Assistant Fire Marshal;
(9) Asst. Fire Marshall would be assigned at the level of Deputy Fire Marshal
(10) Fire Instructor would be assigned to the level of Fire District Chief – Training Academy
(11) Fire Captain from the fire training academy would be assigned to the level of Asst. Chief Training Officer
(12) Deputy Fire Marshall would be assigned to the level of Fire Marshall.
(13) Fire District Chief from the fire training academy would be assigned to the level of Fire Commander – Training Academy.

B. A Fire Department employee who is working in a higher classification not covered by the flat rate shall be subject to the out-of-class provisions in Section 5.9.

SECTION 8.17 - CATASTROPHIC LEAVE BANK (1.22)

A leave bank will be established for all members of the NFD who wish to contribute. A catastrophic leave bank policy approved by the Civil Service Commission outlines eligibility for use of this leave. A leave committee comprised of members of management and the union will oversee the administration of this policy.

CHAPTER 9

DAVIDSON COUNTY SHERIFF'S OFFICE
SPECIAL PROVISIONS

SECTION 9.1 – INTRODUCTION

This chapter of the rules covers areas unique to the Sheriff's Office or rules governing a particular area which are different for Sheriff's Office employees. If this chapter is silent on an issue, the general rules shall apply. The related section number of the general rule is provided after the section title where appropriate.

SECTION 9.3 – VACATION (4.6)

Employees may give vacation, holiday and personal days to employees who qualify under the Sheriff's Office policy "Leave Transfer."

SECTION 9.4 – PERSONAL LEAVE

Employees of the Sheriff's Office shall receive three annual personal leave days each January 1st. Such days shall be scheduled and taken with the approval of the Appointing Authority. Personal leave days that are not taken by the end of the calendar year will be forfeited.

SECTION 9.5 – WORK SCHEDULE AND OVERTIME (4.1 and 5.7)

The standard work schedule for non-exempt Correctional Officers is based on 168 hours in a continuous twenty-eight (28) day work period, equal to 2184 hours in a calendar year. The annual salary listed in the pay plan encompasses the standard work schedule for a calendar year.

Overtime is earned for all hours actually worked and for leave time that is considered as time worked in excess of 168 hours worked in a designated 28- day work period.

Hours in excess of 168 hours in the 28- day work period that include approved leave that is not counted as time worked are paid at straight time overtime.

(See Section 5.7 A. 3; Overtime Rate of Pay and Section 5.7 D. for leave considered as time worked.)

SECTION 9.6 - APPOINTMENT OF EMPLOYEES FROM OTHER METRO DEPARTMENTS (3.9)

Any Metro employee appointed from an Open Competitive Register as a Correctional Officer shall be required to resign from the employee's original position upon being appointed. The employee's accrued leave time will be transferred to the Sheriff's Office and the employee's current service time will be connected. The employee will not retain Civil Service status and must complete a probationary period in order to regain Civil Service status. Should the employee fail to complete the academy or probationary period, the employee does not have any rights to return to the employee's former position, except those reemployment rights provided under Section 3.13 of the general rules.

Section 9.7 – TRANSITION OF CORRECTIONAL OFFICERS

Correctional Officer Trainees are provisional (non-Civil Service) employees. Upon successful completion of academy, the employee is automatically transitioned into the Correctional Officer I classification and begins a six-month probationary period. Upon successful completion of the probationary period, the employee will be transitioned to Correctional Officer II and is granted Civil Service status. These transitions are done without further competitive examination.

SECTION 9.8 – REEMPLOYMENT AND/OR REHIRE (3.13)

A former Civil Service employee in the Sheriff's Office is eligible for reemployment in the Sheriff's Office for a period of one year, commencing with the date of the employee's separation from Metro Government or change to a non-Civil Service position. No employee may be re-employed under this provision more than one time.

SECTION 9.9—HOLIDAY TIME

Sheriff's Office employees cannot carry more than 32 hours of holiday leave into a new fiscal year. Employees are not reimbursed for floating holidays that are not used.

CHAPTER 10

DEFINITIONS

ABSENCE WITHOUT LEAVE - an absence from duty which was not authorized or approved

ACCIDENT REPORT - a required "First Injury" report form which is completed by supervisors and signed by employees to report all on-the-job accidents and injuries

ADDRESS - the street, number, city, county, state and zip code of an employee or applicant's residence

ADMINISTRATIVE LEAVE - leave with pay which may be granted to employees by the appointing authority when no other type of leave is appropriate

APPLICANT- an individual who has applied or is applying for employment or promotion with the Metropolitan Government

APPOINTMENT- official designation of an applicant to a particular position by the appointing authority in accordance with these rules

APPOINTING AUTHORITY - the Metropolitan official who is given authority to direct all functions of a department: appointing authority is usually vested in a Department Head unless otherwise delegated

AFFIRMATIVE ACTION PLAN - a plan for increasing representation by protected groups where their numbers among employees in a department are lower than their availability in the local labor market

ANNOUNCEMENT- formal notice by the Department of Human Resources that applications will be accepted during a designated period for a particular classification

BENEFITS- those rights and privileges provided for under these rules (Medical, dental, and health insurance benefits are not included in this definition of benefits because they are under the jurisdiction of the Employee Benefit Board)

BONUS - A method of authorizing employee increases without permanently increasing employee's pay. Bonus programs are administered in accordance with Policy 5.10 - I, Hire Above Base, Increment Advances, and Equity Adjustments and must by approved by the Civil Service Commission

CONTINUOUS SERVICE - the employment time accumulated by an employee without a break in service or employment time adjusted to reflect the deduction of approved time not actively on the payroll

DEMOTION - a regular or temporary change of classification and/or compensation of an employee as a result of disciplinary action from a position in one class to a position in another class having less responsibility and a lower level of compensation or a reduction in salary to a lower step in the same classification

EMERGENCY MEDICAL SERVICE EMPLOYEE - An employee of the Fire Department who has been appointed to the classification of Paramedic or Emergency Medical Technician and has a current license

EVALUATION - a measurement of an employee's job performance determined by the employee's supervisor

EXAM COMPONENT- one or more of the assessment methods used to rate applicants. Examples are written tests, performance exams, and oral exams

EXEMPT EMPLOYEE - Employees not subject to the overtime requirements of the Fair Labor Standards Act because they perform the duties of a classification determined not to be covered under the act

FAMILY:

EXTENDED FAMILY - aunts, uncles, nieces, nephews, sister-in-law, brother-in-law

IMMEDIATE FAMILY - spouse, domestic partner, parent, children, siblings, grandparents, grandparents-in-law, grandchildren, mother-in-law, father-in-law, daughter-in-law or son-in-law, legal guardians or dependents; step or half relations shall be given the same consideration as blood relatives of the same type

FIRE SUPPRESSION EMPLOYEE - An employee of the Fire Department who has been appointed to the entry-level classification of Firefighter and has successfully completed the required training at the Fire Academy

INJURY LEAVE - paid time off which is granted to an employee who is injured by an accident or develops an occupational illness in the course of their employment with the Metropolitan Government

INTERVIEW- a personal, face-to-face conversation with an applicant in which a series of questions are asked to help determine an applicant’s suitability for a position

JOB DESCRIPTION- a written description of a classification showing the typical duties, responsibilities, and minimum qualifications required for that classification

LATERAL CLASS - a classification having the same or equivalent salary grade as the classification currently held by an employee

LAYOFF - termination of employment resulting from the lack of funds or work, abolition of position(s) or reorganization

LEAVE OF ABSENCE - the excused absence of an employee for a period of time during which they retain the right to return to his job

LIST- a document consisting of the names of eligible employees who by their status qualify for inclusion. Examples are re-employment, transfer and layoff lists. Unlike registers, employees are not ranked according to their composite score but must meet the criteria of the applicable rule or procedure.

NOTIFICATION - Shall be the postmark or date that notice is rendered, either by mail to the last known address or in person.

NEPOTISM - the employment of relatives (defined above as family) within a department and/or any favoritism shown to relatives by reason of relationship rather than merit

NON-EXEMPT EMPLOYEE - Employees subject to the overtime requirements of the Fair Labor Standards Act because they perform the duties of a classification determined to be covered under the act

ON CALL- being available for work beyond the regularly scheduled work time where the employee's freedom to leave their premises is restricted or they are restricted so near that they cannot use the time freely

OPEN RANGE - The pay plan salary range is for designated positions where there is a minimum and maximum salary. Employees are paid anywhere within the range subject to the guidelines of Policy 5.10 - II, Compensation on Open Ranges.

PROBATIONARY PERIOD - the designated period of time when a person is first appointed to a Civil Service position for the employee to demonstrate their fitness for the position

PROMOTION - the appointment of an employee from an eligibility register to a position in another classification having additional responsibilities and a higher salary grade

RECALL - the return to employment of a person from a layoff list

RECLASSIFICATION - the reassignment of a position to a more appropriate classification in order to properly reflect the function of the position

RED CIRCLING - 1. Allowing an incumbent to retain their current classification when their position is assigned to a classification with a lower salary grade as a result of a position audit or in lieu of a layoff. When the employee leaves the position, it is filled with the lower classification, or 2. Freezing an employee's salary at the current rate of pay upon implementation of a reclassification study and pay plan when the employee's current rate of pay exceeds the maximum for the new salary range

REHIRE - a former employee hired from an entrance eligibility register

REEMPLOYMENT - the return of a former employee who is credited with their past service time

REGISTER- a document consisting of the names and composite scores of eligible applicants who have successfully completed the examination process

RESIDENCE - the actual place of abode of an employee

RESIDENT ALIEN- any person who is not a United States Citizen but possesses an alien registration card or other immigration papers authorizing permanent residency in this country and entitlement to work

RESIGNATION - a separation from the Metropolitan service made at the request of the employee

ROLLBACK - reduction in pay, either within the pay range or to a classification with a lower pay range, in lieu of a layoff

SENIORITY - the tenure of an employee acquired by continuous service with the Metro Government

SUPERVISOR- an individual having authority in the interest of the Metropolitan Government to perform some or all of the following functions: hire, transfer, suspend, layoff, recall, promote, dismiss, assign, reward or discipline other employees or has the responsibility to direct them , or to adjust their grievances, or effectively to recommend any of the above , if in connection with the foregoing the exercise of such authority is not of a merely routine nature, but requires the use of independent judgment; it is the intent that this definitions applies to those individuals compensated as supervisory personnel

SICK LEAVE - absence approved by an appointing authority due to the illness or non-occupational injury of an employee

TARGETING - a process whereby an employee is advanced according to a pre-determined criteria to a higher classification within a designated series as they acquire additional experience and accept additional responsibility

TERMINATION- the separation of an employee from the Metropolitan Government payroll

TOP-LEVEL MANAGEMENT - employees in classifications designated on the job description as ineligible for overtime or compensatory time off. These include, but are not limited to Department Directors and Assistant Directors

TRANSFER - the change of an employee from one position to another position in another department or agency

UPGRADE - the change of a position from one classification to a higher classification

VACANCY - a position funded in a department's budget to which no person is currently appointed.

WEIGHTS- the relative value, expressed as a percentage, given to an exam component in relation to all exam components used in qualifying and ranking applicants

WORK TEST - a specified period of time during which a Civil Service employee is required to demonstrate their fitness for a substantially different job

APPENDIX 1 - TO CIVIL SERVICE RULES OF METROPOLITAN GOVERNMENT: THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DAVID BRILEY, MAYOR

EXECUTIVE ORDER NO. 005

SUBJECT: Financial and other disclosures by certain Metropolitan Government employees and officials; ethics, conflicts of interest, and acceptance of gifts on the part of employees of Metropolitan Government.

I, David Briley, Mayor of the Metropolitan Government of Nashville and Davidson County, by virtue of the power and authority vested in me, do hereby find, direct and order the following:
Section 1 – Financial and other disclosures by certain Metropolitan Government employees and officials.

1. Each Metropolitan Government employee or official holding a position listed on Attachment A to this order shall annually make a disclosure in the same manner as set forth in Section 2.222.030 of the Metropolitan Code of Laws. Persons who are already required to make a disclosure by Section 2.222.030 of the Metropolitan Code of Laws ("(1) the mayor; (2) all employees in the mayor's office, including the members of the mayor's cabinet; (3) the metropolitan council office; (4) the holders of all elected offices authorized or created by the Metropolitan Charter; (5) all directors, executive directors, assistant directors, and associate directors of metropolitan government agencies, boards, and commissions, but not including Nashville Electric Service, the Metropolitan Nashville Airport Authority, the Metropolitan Development and Housing Agency and the Metropolitan Transit Authority . . .") are exempt from having to submit duplicative additional disclosures pursuant to this Executive Order.

2. In addition, each person holding a position listed on Attachment A shall annually sign a disclosure statement in the form found in Attachment B stating that he or she knows of no actual or potential conflict of interest with his or her duties respecting the Metropolitan Government, or listing and describing any circumstances that might constitute a conflict. Said form shall be filed with the Metropolitan Clerk contemporaneously with the Annual Disclosure forms.

3. The disclosures required in this executive order are not intended to duplicate the requirements of Section 2.222.030 of the Metropolitan Code of Laws.

Section 2 – Ethics, conflicts of interest, and acceptance of gifts on the part of employees of Metropolitan Government.

I. The maintenance of high standards of honesty, integrity, impartiality, and conduct by employees and agents of the Metropolitan Government is essential to the proper performance of government business and the maintenance of confidence by citizens in their government; and

II. The avoidance of misconduct and conflicts of interest on the part of employees of the Metropolitan Government is indispensable to the maintenance of these standards.

1. Employee responsibilities. Each employee of the Metropolitan Government shall avoid any action, whether or not specifically prohibited by this order, departmental codes of ethics, or Metro Code of Laws Section 2.222.020, which might result in, or create the appearance of:
a. using a public office for private gain;
b. giving preferential treatment to any person;
c. impeding government efficiency or economy;
d. losing complete independence or impartiality;
e. making a Metropolitan Government decision outside of official channels; or
f. affecting adversely the confidence of the public in the integrity of the Metropolitan Government.

2. Persons covered. This Executive Order applies to all employees of the Metropolitan Government except: employees of the Nashville Electric Service, Metropolitan Nashville Airport Authority, Metropolitan Development and Housing Agency, Metropolitan Transit Authority, Metropolitan Sports Authority, and the Metropolitan Hospital Authority, non-professional employees of the Board of Health, and elected officials.

3. Mayor's office covered. This order applies to the Mayor and employees of the Mayor's office.

4. Standards of Conduct. Employees of the Metropolitan Government shall be guided by the provisions set out in Chapter 2.222 of the Metropolitan Code when determining appropriate standards of conduct.

5. Questions on interpretation of this order. When an employee is in doubt as to the proper interpretation of this order, he or she is expected to seek the advice of the applicable Department Head or the Director of Law if time permits, or to use good judgment in accordance with (1) above and to report the gift, entertainment or favor to the Department Head or the Director of Law within seven (7) days.

6. Departmental ethics standards. Any department or agency of the Metropolitan Government may establish such additional ethics guidelines and standards as may be lawfully applied and may in the opinion of the head of the department or agency be appropriate for the proper operation of the department. Such additional standards should be filed with the Director of Law and any other person required by law as soon as practicable after adoption. This Executive Order does not supersede or revoke those portions of any existing departmental or agency policies regarding ethical standards which are stricter than, or cover areas additional to, the standards set out herein.

7. Ethics guidelines published by Personnel Director. The personnel director is requested, with the permission of the Civil Service Commission, to maintain a system whereby each covered employee is informed of the requirements of this order, each covered employee has access to the order and signs a statement that they have received and/or read it, and to maintain personnel manuals which reflect the standards outlined in this order.

8. Supervisors Responsible. Each employee of the Metropolitan Government who acts in a supervisory capacity is responsible for achieving compliance with the Executive Order by those persons in his or her line of authority.

9. Required contractual provision. Department heads and others who approve contracts for their departments shall include in every employment contract the provision that employees provided to the Metropolitan Government under such contract are covered by this Executive Order.

Attachment A

Attachment B

Ordered, Effective and Issued:

David Briley
Mayor

Date: February 24, 2016

APPENDIX 2 - TO CIVIL SERVICE RULES OF METROPOLITAN GOVERNMENT:

Subject: <u>The Tennessee Maternity Leave Law</u>
Approved May 27, 2005 into Law

HOUSE BILL NO. 1323

By Representatives Stanley, Marrero, Hargett

Substituted for: Senate Bill No. 1566

By Senators Tracy, Miller, Burks

AN ACT to amend Tennessee Code Annotated, Section 4-21-408, relative to leave for female employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-21-408, is amended by deleting the section in its entirety and by substituting instead the following language:

Section 4-21-408.

(a) Employees who have been employed by the same employer for at least twelve (12) consecutive months as full-time employees, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing the infant, where applicable (such period to be hereinafter referred to as “leave”). With regard to adoption, the four (4) month period shall begin at the time an employee receives custody of the child.

(b)(1) Employees who give at least three (3) months' advance notice to their employer of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar positions with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(2) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency which necessitates that leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice.

(3) Employees who are prevented from giving three (3) months’ advance notice because the notice of adoption was received less than three (3) months in advance shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) month’s advance notice.

(c)(1) Leave may be with or without pay at the discretion of the employer. Such leave shall not affect the employees’ right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employees were eligible at the date of their leave, and any other benefits or rights of their employment incident to the employees’ employment position; provided, that the employer need not provide for the cost of any benefits, plans or programs during the

period of such leave unless such employer so provides for all employees on leaves of absence.

(2) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this section for failure to reinstate the employee at the end of such leave period.

(3) The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of such leave.

(4) Whenever the employer shall determine that the employee will not be reinstated at the end of such leave because the employee's position cannot be filled temporarily or because the employee has used such leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee.

(d) Nothing contained within the provisions of this section shall be construed to:

(1) Affect any bargaining agreement or company policy which provides for greater or additional benefits than those required under this section;

(2) Apply to any employer who employs fewer than one hundred (100) full-time employees on a permanent basis at the job site or location; or

(3) Diminish or restrict the rights of teachers to leave pursuant to title 49, chapter 5, part 7, or to return or reinstatement after leave.

(e) The provisions of this section shall be included in the next employee handbook published by the employer after passage of this section.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.