

## **RULE 6 - PROBATIONARY PERIOD**

Section 6.01 – Probationary Period. Every person appointed or promoted to a permanent position in the competitive civil service after certification from an eligible list, shall serve a period of probation while occupying such position, which shall be considered a part of the test of fitness. Former employees who are re-employed under the provisions of these rules shall be required to serve a period of probation of six (6) months from the date of re-employment.

The probationary period shall be an essential part of the selection process, and shall be utilized for the most effective adjustment of a new employee and for the removal or demotion of any probationary employee whose performance does not meet the required standard of performance.

Section 6.02 – Duration of Probationary Period. For entrance appointments the duration of such probationary period shall be for a period of twelve (12) consecutive months of active service, with the exception of the rank of Police Officer whose probationary period shall be for eighteen (18) months. The probationary period for persons appointed on a promotional basis shall be six (6) months.

An employee accepting a regular entrance appointment who has served on a limited duration appointment in the same class immediately prior to her/his regular appointment shall have that period of time counted as part of her/his probationary period. Rights and privileges shall accrue from the beginning date of limited duration appointment and shall be considered the original appointment date. (C.S. Res. 38851)

Personnel Manual – Civil Service Board April 10, 2008 23

Section 6.03 – Interruption of Probationary Period. If an employee is laid off during the probationary period and subsequently reappointed to the same class, he/she shall be given credit for the portion of the probationary period previously completed.

If an employee is transferred during her/his probationary period from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority, the second appointing authority shall grant credit for the portion of the probationary period previously completed.

Section 6.04 – Performance Rating During Probationary Period. Department heads shall file an approved report of performance at the end of the third and fifth months of employment for each employee serving a six-month probationary period. For probationary employees who have been required to serve a twelve-month probationary period, the department head shall file with the Personnel Director a report of performance for each employee at the end of the third, fifth, eighth, and eleventh months of employment. This section does not preclude the filing of additional reports at any other time during the employment of any individual.

Upon a favorable report, the appointment of the employee shall be deemed to be permanent at the expiration of the probationary period. In the event of an unfavorable report, the appointing authority shall notify the Personnel Director and the employee, at least five (5) working days in advance, that he/she will be removed from the position no later than the final date of the probationary period.

Section 6.05 – Removal or Demotion of Employee During The Probationary Period. At any time during the probationary period (entrance appointment to a classified position – one year; police officer – 18 months; entrance and restricted entrance appointment to a

higher or equal classification – one (1) year; or a promotional appointment – six (6) months) an employee may be removed from her/his current position by the appointing authority, provided that:

- (a) Upon removal by the appointing authority, such probationer's name shall be removed from the eligible list from which he/she was certified, and he/she shall be considered permanently separated from that position without right of appeal to the Board except as set forth in section 6.06.
- (b) If the employee has served in the City in another position in the competitive civil service, the employee shall be notified in writing by the Personnel Department within five (5) working days of removal that he/she may be reinstated to the prior classification from which promotion was made. The employee has five (5) working days from date of notification to respond in writing, stating her/his wish to be so reinstated.
- (c) Reinstatement to the former classification will be based on the circumstances of the removal from the most recent appointment during the probationary period and the employee's work record as determined by the appointing authority.

Personnel Manual – Civil Service Board April 10, 2008 24

- (d) If reinstatement is effected by the appointing authority, the employee shall be appointed to a vacant position in the former classification. If none is immediately available, it shall be the responsibility of the appointing authority to provide such a vacancy as expeditiously as possible without violating the rules of any applicable Memorandum of Understanding or the Personnel Manual concerning layoffs and without the necessity of creating an additional position.

Section 6.06 – Limited Rights of an Employee During Probationary Period. The right of an employee to appeal to the Board because of her/his permanent separation from her/his position during the probationary period shall be limited to the following:

- (a) Failure of the appointing authority to comply with section 6.04 of these Rules;
- (b) Failure of the appointing authority to comply with section 6.05 of these Rules;
- (c) Discrimination against an employee during such probationary period on the basis of race, color, religion/religious creed, marital status, national origin/ancestry, gender, gender identity, pregnancy, sexual orientation, physical or mental disability, medical condition, AIDS/HIV status, military or veteran status, age, citizenship or on any other status protected by federal, state or local law.

Section 6.07 – Procedure to Be Used In Appeals and Hearings Under Section 6.06.

Whenever an employee who has been permanently removed from her/his position during the probationary period desires to appeal under the provisions of section 6.06, the following order of procedure shall govern:

(a) Order of Procedure in Appeals:

- i. The appeal must be filed in the office of the Personnel Director within five (5) working days from the date that notice of removal was filed upon the affected employee. A letter sent to the affected employee's address of record via regular and certified mail, or hand delivered to the affected employee, shall constitute notification.
- ii. The appeal must be submitted in writing, and if the appellant desires to waive a public hearing, such a waiver must be in writing.
- iii. The appeal shall state the sub-section of section 6.06 of these rules upon which it is based and a statement of the facts upon which such appeal is based.
- iv. Within seven (7) working days from the filing of this appeal, the appointing authority shall submit to the Board in writing its response.
- v. At the first meeting of the Board after the filing of the appeal and the City's response, the appeal shall be received and a date for the hearing shall be set. The appeal hearing shall be held at the next meeting of the Board, unless continued by the Board.
- vi. Not less than five (5) working days before the date the appeal is scheduled for hearing, the Board shall send:

Personnel Manual – Civil Service Board April 10, 2008 25

- a. A written notice giving the date, time, and place of such hearing to the appointing authority, to the appellant or her/his attorney and/or representative, and to the City Attorney;
- b. A copy of the appeal to the appointing authority and the City Attorney; a copy of the answer of the appointing authority to the appellant or her/his attorney or representative.

vii. Hearings on appeals may be open to the public. However, upon motion of a directly interested party, the Chairperson of the Board may exclude from the hearing room any witnesses not at the time under examination; except that a party to the proceeding and/or her/his counsel, or other persons conducting her/his case cannot be excluded.

viii. The technical rules of evidence shall not apply. However, all testimony and exhibits offered must be relevant and bear upon the act of removal. Any testimony or exhibits that do not meet these criteria may be excluded. The Board shall consider the objection of either side to the introduction of evidence.

ix. Hearings may be continued beyond the period originally scheduled or recessed until a future date agreeable to the Board and the parties for good reason. Provided, however, that if such request is made by the appellant or her/his attorney of record and the Board sustains the appeal, the Board may rule that the appellant shall receive no pay for the period of time during which such continuance was granted.

x. Based on the evidence presented at the hearing, the Board shall render its decision which may be:

- a. to sustain the action of the appointing authority concerned;
- b. to sustain the appeal and reinstate the appellant in accordance with subsection xi below.

xi. The words "probationary period" as defined in section 6.01 of these rules shall be construed to mean a period of probation consistent with the letter and spirit of these rules; if an appeal is sustained hereunder, the Board may determine that there has been an interruption in the probationary period from the date of the cause giving rise to the appeal hereunder, to the date of the decision by the Board, and the probationary period of the appellant may be extended by the length of such interruption.

(b) Burden Of Proof: In any appeal under this section, the burden of proof shall be upon the appellant, and the evidence in support of the allegations made in such appeal must be clear and convincing.