



# CIVIL SERVICE COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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MEMORANDUM  
CSC No. 2014 - 16

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Date: September 10, 2014

To: Department Heads  
Human Resources Representatives

Cc: Micki Callahan, Human Resources Director

From: Jennifer Johnston, Executive Officer 

Subject: **Civil Service Commission Rules and Policies on the Civil Service Selection Process**

JENNIFER C. JOHNSTON  
EXECUTIVE OFFICER

The purpose of this memorandum is to notify departments of recently adopted Civil Service Rule amendments affecting the civil service selection process (see also Memorandum CSC No. 2014-15); and to clarify and confirm the discretion afforded to appointing officers to select the best qualified candidates for civil service positions based on documented non-discriminatory, merit-based selection criteria.

### I. Hiring Departments' Options Upon Referral of the Eligible List

#### A. Overview on Recent Rule Amendments

Under the previous Civil Service Rules, departments were required to survey all candidates who were reachable on the eligible list pursuant to the applicable certification rule when seeking to fill any Permanent Civil Service ("PCS") position. This would often extend the hiring process by a few weeks, which not only impacted departments' ability to quickly fill positions but also the City's ability to successfully compete with local public and private sector employers for the best candidates.

By action of the Civil Service Commission ("Commission") at its meeting of August 18, 2014, Volumes I and IV of the Civil Service Rules were amended to clarify selection procedures following eligible list referral; and to make the departmental survey (now referred to as the "Notice of Inquiry") optional in appropriate circumstances when the hiring department has determined that it has sufficient information to make a merit-based, objective determination as to who the best qualified reachable candidate(s) is/are based on what the candidates have already submitted and/or their performance on an examination. This would be the case, for example, if the department were seeking to hire the top candidate on a recently administered examination; or, if the department were seeking to only consider those

candidates who possess certain licensure or specific experience as captured on the job application or a supplemental questionnaire; etc.

B. New: Notice of Inquiry Now Optional, Per Recent Civil Service Rule Amendments<sup>1</sup>

Under the newly revised Civil Service Rules, the Department of Human Resources (“DHR”) (or the Director of Transportation, for service-critical positions of the Municipal Transportation Agency (“MTA”)) now sends a “Notice of Certification” to both the hiring department and the reachable eligibles at the time that the eligible list is certified to the department to fill a PCS position. The Notice of Certification to the eligibles is informational only; it does not require a response from the eligible, and it is clear that an interview is not guaranteed. (Rule 113.11, Notice of Certification) Note also that the Rule amendments do not impact the Certification Date as defined under Rule 113.3 (for miscellaneous employees) and Rule 413.4 (for service-critical employees of the MTA).

Hiring departments then have the option of issuing a Notice of Inquiry to the eligibles for the purpose of assessing their interest in the specific position in the department, and/or requesting additional information or submissions as part of the screening and selection process. (Rules 113.5 and 113.12, Notice of Inquiry) Unless the deadline for response is otherwise extended by the Human Resources Director (or Director of Transportation, for service-critical positions of the MTA), eligibles are required to respond to the Notice of Inquiry within five business days. (Rule 113.12.2)

Eligibles are no longer placed under waiver on the eligible list for not responding to a Notice of Inquiry or for declining to participate in the selection process. If all eligibles at a rank waive the opportunity to participate or fail to respond to a Notice of Inquiry within the response deadline, the hiring department may request supplementary certification from the next highest rank(s). (Rule 113.12.3 and Article III of Rule 113) In the event that a hiring department chooses not to conduct a Notice of Inquiry, it may only consider for selection those candidates who are initially reachable on the eligible list under the applicable certification rule. In other words, the department may not request supplemental certification if it does not conduct a Notice of Inquiry. However, if the department subsequently wishes to conduct a Notice of Inquiry, it may do so with the approval of the Human Resources Director/Director of Transportation with adequate justification (e.g., no or very few reachable eligibles expressed interest in the position, no or very few reachable eligibles possessed the desirable qualifications, etc.).

It is important to remember that although the appointing officer has the discretion to conduct a Notice of Inquiry, the Commission and DHR retain their authority and oversight over the selection process, and merit system requirements still apply (see the attachment). Irrespective of whether the hiring department chooses to conduct a Notice of Inquiry, hiring departments must in all situations administer a documented, non-discriminatory, merit-based screening process for selecting amongst the reachable eligibles, as further discussed under Section II below.

C. Results of a Certification and Notice to Unsuccessful Candidates

The deadline by which hiring departments must notify the Human Resources

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<sup>1</sup> The cited Civil Service Rule provisions apply to Volume I; however, Volume IV has parallel and nearly identical provisions. Please see the corresponding Rules in Volume IV applicable to MTA Service-Critical positions.



Director/Director of Transportation of the results of a certification has also been extended from 20 business days (one month) to 60 calendar days (two months) after the date of the Notice of Certification, in recognition of the fact that departments often require more time to complete the selection and appointment process. (Rule 113.13, Certification Results)

Commission policy also now requires hiring departments to notify all unsuccessful eligibles to whom a Notice of Certification and/or Notice of Inquiry was sent that the department has chosen to select another candidate for the position within five business days of making the appointment. (Civil Service Adviser No. 08, Selection from Civil Service Eligible Lists<sup>2</sup>)

## II. Post-Referral Selection Process Requirements

### A. Appointing Officer's Discretion

An appointing officer is afforded a great deal of discretion and authority in both determining the appropriate non-discriminatory and merit-based method to screen eligibles who have expressed interest in a position, as well as in ultimately selecting the candidate that he or she believes is best-suited to perform the duties of the specific position to be filled based on that screening process.

However, during the Commission meeting of July 7, 2014, DHR reported that many hiring departments were developing and administering extensive post-referral selection processes (irrespective of the level and responsibilities of the position being filled) based on an interpretation of the following policy articulated in Civil Service Adviser No. 08, Selection from Civil Service Eligible Lists:

“The Civil Service Commission and the Department of Human Resources highly recommend that the department head/designee interview the remaining candidates in order to select the best-qualified individual. The interview panel should be diverse and must ask job-related questions.”

As a result, departments' post-referral selection processes oftentimes involved elaborate tape-recorded panel interviews conducted by subject matter experts, which included strict rating standards and benchmark responses designed to eliminate flexibility and discretion on the part of the interviewer. In other words, hiring departments, in an abundance of caution, were essentially administering a highly-structured testing instrument more appropriately administered as part of the examination process.

In adopting DHR's staff report at its meeting of July 7<sup>th</sup>, the Commission confirmed that such overly rigorous and time consuming practices are not required under the Civil Service Rules or merit system principles. Although DHR and the Commission *recommend* that the appointing officer interview the remaining candidates to select the best-qualified individual, the appointing officer has the discretion to determine the appropriate screening and selection processes, provided that they are: 1) merit-based; 2) job-related; 3) non-discriminatory; and, 4) documented.

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<sup>2</sup> All Civil Service Advisers are available on the Commission's website at [www.sfgov.org/Civil\\_Service](http://www.sfgov.org/Civil_Service) under "Policies."



Civil Service Rule Series 13.1 – Certification of Eligibles – General Policy is clear on this point:

“The Civil Service Commission endorses and supports the broadening of the Rules governing certification of eligibles from civil service eligible lists and considers this broadening as an increase in opportunities for appointing officers to select employees who are best suited to perform the duties of specific positions and to provide greater opportunities to maximize multicultural diversity of the work force in the City and County of San Francisco.

Selection of employees from eligible lists shall be based on merit and fitness without regard to relationship, [membership in a protected category], or other non-merit factors or otherwise prohibited nepotism or favoritism. **Appointing officers and their designees shall be responsible for establishing non-discriminatory selection procedures which may include by way of example but not limitation, scheduling each interested eligible for interview, reviewing application materials, conducting interviews by a diverse panel, and asking job-related questions.”** [Emphasis added.]

Likewise, Civil Service Adviser No. 08 provides:

“The City’s policy as adopted by the Civil Service Commission requires that the selection of eligibles from civil service eligible lists must be based on merit and fitness without regard to [membership in a protected category], political affiliation, [...or] other non-merit factors or otherwise prohibited nepotism or favoritism. Appointments are made with due consideration to providing equal employment opportunity. [...]

The Department Head is responsible for selecting the best qualified eligible utilizing uniform nondiscriminatory merit based selection procedures. [...] **The department head/designee may determine the appropriate method to screen eligibles who have expressed interest. This screening process must be non-discriminatory and merit system compliant and could include, but is not limited to resumes, updated applications, writing exercises, work samples, skills checklists, and performance reviews.**” [Emphasis added.]

#### B. Post-Referral Screening Criteria and Selection Processes

Provided that they are appropriately documented and uniformly applied, such nondiscriminatory merit-based screening and selection criteria *may* include, for example, any one or more of the following: performance on the examination; responses to job-related panel interview questions; performance assessments; reviews of examination application materials and/or written supplemental submissions (e.g., to determine the possession of desirable qualifications as posted on the examination announcement); work performance; disciplinary history; reference checks; etc.

For example, a department may choose to appoint the candidate who ranked first on the eligible list, based on the fact that he or she performed so successfully on the examination. This would be particularly appropriate if the hiring department is selecting from a recently-established eligible list pursuant to a PBT examination administered by that same department. Or, a department may wish to only consider candidates in the first three reachable ranks based on their successful performance on the examination; however, the hiring department must administer and document the non-discriminatory, merit-based criteria used to further screen and select from the reachable eligibles



in those ranks.

Additionally, although the Civil Service Rules are clear that Provisional employees do not acquire a right or preference for PCS appointments, Commission policy allows a department to select a Provisional employee for permanent appointment without the department interviewing that individual or any other candidate if the Provisional employee: a) successfully completed the examination process; b) is on the eligible list; c) is reachable on the eligible list; and d) is performing competently and effectively in the department. The department head/designee may also decide that another reachable eligible is the best qualified for the job, in which case, the Provisional employee would be displaced.

Note that the Commission and DHR's recommendation that the appointing officer interview the remaining candidates is based on best practices, as opposed to any merit system requirements. It could be the case that the appointing officer discovers in the course of the interview process that another candidate would be a better fit for the position; or the department may want to use the outcome of the interview process to make additional appointments from that or future referrals from the same eligible list in the interest of efficiency (provided an eligible is still reachable at the time of that future referral). It would therefore be prudent for the appointing officer to consider including interviews as a component of the selection process.

In establishing the appropriate post-referral selection criteria and screening mechanisms, departments should give consideration to the level of confidence in the testing instrument (the examination); how long ago the examination was administered; whether the examination included an interview panel on which the hiring manager/supervisor (the appointing officer's designee) participated; the propensity for or likelihood of complaints or grievances; the need for greater structure and transparency to address employee concerns or workplace morale; and the type, level and responsibilities of the position to be filled.

### C. Documentation Requirements

In all instances, the screening and selection process must be documented, and such documentation must be maintained in the department's files or appropriate system of record for five (5) years from the date of creation. This is important because the appointing officer may be required to articulate why a particular candidate was selected over others in the event of an audit, grievance, litigation, or complaint resulting in an Inspection Service review. Required documentation includes copies of the examination announcement, eligibles' exam applications and the Notice of Certification from DHR/Director of Transportation; if a Notice of Inquiry was conducted, then a list of the eligibles who were contacted, the disposition of those contacts, and documentation of the contact and the eligibles' responses; what the post-referral selection process entailed and any additional related records; and if interviews were conducted, then copies of relevant records such as the interview questions and interview notes.

As a reminder, departments are also required to verify that all individuals meet the minimum qualifications for the positions to which they are appointed, and that such verifying documentation is maintained in the employees' official personnel files.

### **III. Continued Merit System Oversight**

Civil Service Rule Series 14.1.3, Finality of Appointing Officer's Decision, is clear that, "Except as otherwise provided in these Rules, ordinances, or the Charter, the decision of the appointing officer in all matters regarding appointment shall be final." However, although the Charter, Civil Service Rules and Administrative Code afford appointing officers a great deal of discretion in selecting the best qualified eligible candidate for a position, appointing officers must continue to adhere to applicable Civil Service Rules and Commission policies that regulate how that decision is made, as outlined herein. Again, the Commission's and DHR's oversight of, and authority over the selection process is in no way diminished or otherwise affected by the recent Rule amendments or policy statements reviewed in this memorandum. See the attached for excerpts of Charter, Administrative Code and Civil Service Rule provisions governing civil service selections/appointments.

**Questions:** For questions regarding the Civil Service Rules and Commission policies described in this memorandum, you may contact the Executive Officer at (415) 252-3247, or email [CivilService@sfgov.org](mailto:CivilService@sfgov.org). For questions regarding the implementation, administration and oversight of the selection processes described in this memorandum, please contact your designated DHR Client Services Representative.

**Attachment:** Excerpts of Charter, Administrative Code and Civil Service Rule Provisions Governing Civil Service Selections/Appointments.



**Attachment to CSC Memorandum No. 2014-16:**  
**Relevant Provisions Governing Civil Service Appointments**

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**I. Selections from the Eligible List/Civil Service Appointments**

- Administrative Code Section 2A.30, Department Heads:  
“The department head shall act as the ‘appointing officer’ under the civil service provisions of the Charter for the appointing, disciplining and removal of such officers, assistants and employees as may be authorized.”
- Charter Section 8A.100, Preamble [to Charter Section VIIIA, The Municipal Transportation Agency]:  
“[This] Article is intended to strengthen the Municipal Transportation Agency’s authority to: 1) manage its employees; [...] and 3) protect the Agency’s right to select, train, promote, demote, discipline, layoff and terminate employees, managers, and supervisors based upon the highest standards of customer service, efficiency and competency.”
- Charter Section A8.329, Certification of Eligibles:  
“Whenever a [civil service position] is to be filled, the appointing officer shall make a requisition to the department of human resources for a person to fill it. Thereupon, the department shall certify to the appointing officer the names and addresses of all those persons meeting the certification rule established for that classification. The Civil Service Commission shall establish certification rules. Certification rules shall not be more restrictive than the certification of all candidates receiving the three highest scores on the list of eligibles for such positions. The appointing officer shall fill the position by the appointment of one of the persons certified.”
- Civil Service Rule Series 13, Certification of Eligibles; Article I, General Principles:  
*Volume I – Section 113.1, General Policy:*  
“The Civil Service Commission endorses and supports the broadening of the Rules governing certification of eligibles from civil service eligible lists and considers this broadening as an increase in opportunities for appointing officers to select employees who are best suited to perform the duties of specific positions and to provide greater opportunities to maximize multicultural diversity of the work force in the City and County of San Francisco.

Selection of employees from eligible lists shall be based on merit and fitness without regard to relationship, [membership in a protected category], or other non-merit factors or otherwise prohibited nepotism or favoritism. Appointing officers and their designees shall be responsible for establishing non-discriminatory selection procedures which may include by way of example but not limitation, scheduling each interested eligible for interview, reviewing application materials, conducting interviews by a diverse panel, and asking job-related questions. Appointing officers/designees shall also be responsible for maintaining documentation of selection criteria. Departments shall make reports as requested by the Civil Service Commission on merit system issues such as recruitment, examination, and certification and selection procedures.”

*Volume IV -- Section 413.1, General Policy:*

“The Civil Service Commission endorses and supports the broadening of the Rules governing certification of eligibles from civil service eligible lists and considers this broadening as an increase in opportunities for appointing officers to select employees who are best suited to perform the duties of specific positions and to provide greater opportunities to maximize multicultural diversity of the work force in the City and County of San Francisco. Selection of employees from eligible lists shall be based on merit and fitness without regard to relationship, race, religion, gender, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital status, color, medical condition or other non-merit factors or otherwise prohibited nepotism or favoritism. The MTA Director of Transportation/Designee shall be responsible for establishing non-discriminatory selection procedures which may include by way of example but not limitation, scheduling each interested eligible for interview, reviewing application materials, conducting interviews by a diverse panel, and asking job-related questions. The MTA Director of Transportation/Designee shall also be responsible for maintaining documentation of selection criteria. The MTA Director of Transportation/Designee shall make reports as requested by the Civil Service Commission on merit system issues such as recruitment, examination, and certification and selection procedures.”

- Civil Service Rule Series 01.3, Merit System Principles (Volumes I and IV):  
“As applied to employee classifications under the competitive civil service selection, appointment and removal procedures.

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The principles of the City and County's merit system include:

- 1) Recruitment, employment, retention, and promotion of employees on the basis of qualifications and performance; and,
- 2) High performance and ethical standards, consistent with hiring qualified individuals who have successfully completed the examination process, been placed on an eligible list and completed the probationary period.

Further, it is the goal and policy of the Civil Service Commission to provide fair treatment of applicants in all aspects of employment without regard to [membership in a protected category] and otherwise prohibited nepotism or favoritism.”

- Civil Service Rule Series 03.1, Policies for Equal Employment Opportunities (Volumes I and IV):  
“Equal Employment Opportunity. It is the policy of the Civil Service Commission of the City and County of San Francisco that all persons shall have equal opportunity in employment; that selection of employees to positions in the City and County be made on the basis of merit; and that continuing programs be maintained to afford equal employment opportunities at all levels. Vigorous enforcement of the laws against discrimination shall be carried out at every level of each department. All persons shall have equal access to employment within the City and County, limited only by their ability to do the job.

No person shall be appointed, reduced, removed, or in any way favored or discriminated against in employment or opportunity for employment because of [membership in a protected category] or other non-merit factors or any other category provided by ordinance.”

**II. Oversight on Civil Service Selection and Appointment Processes**

- Charter Section 10.101, General Powers and Duties [of the Civil Service Commission]:  
“The Civil Service Commission shall adopt rules, policies and procedures to carry out the civil service merit system provisions of this charter and, except as otherwise provided in this Charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; [...]; appointments; promotions; provided, however, that the minimum rule for the certification of eligibles shall be the Rule of Three Scores [...].”  
  
“The Commission shall establish an inspection service for the purpose of investigating the conduct or an action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the Commission in making its investigations and any person hindering the Commission or its agents shall be subject to suspension.”  
  
“The Commission shall have the power to inquire into the operation of the civil service merit system to ensure compliance with merit principles and rules established by the Commission. After such inquiry, the Commission may direct the Human Resources Director to take such action as the Commission believes necessary to carry out the civil service provisions of this Charter.”
- Charter Section 10.102, Department of Human Resources:  
“Pursuant to and in accordance with policies, rules and procedures of the Civil Services Commission governing the merit system, the Department of Human Resources shall be the personnel department for the City and County and shall determine appointments on the basis of merit and fitness as shown by appropriate test and, except as specifically set forth in this Charter, shall perform all tests, duties and functions previously performed by the Civil Service Commission, including but not limited to authority to recruit, select, certify, appoint, [...] and other related personnel activities in order to maintain an effective and responsive work force.”
- Charter Section 10.103, Human Resources Director:  
“The Human Resources Director shall verify that all persons whose names appear on City and County payrolls have been legally appointed to or employed in positions legally established under this Charter. [...] Consistent with the foregoing and other applicable provisions of this Charter, the Human Resources Director may delegate to the various



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appointing officers appropriate personnel responsibilities, and shall consult with appointing officers with respect to Civil Service Commission rules affecting their operations.”

- Charter Section 8A.100, Preamble [to Charter Section VIII A, The Municipal Transportation Agency]:  
“[This] Article is intended to ensure sufficient oversight of the Municipal Transportation Agency by, among other things, preserving the role of [...] the Civil Service Commission, as to merit system issues. [...]”
- Charter Section 8A.104, Personnel and Merit System [of the MTA]:  
“Except as otherwise provided in this Section, the Agency shall be governed by the rules of the civil service system administered by the City and appeals provided in civil service rules shall be heard by the City’s Civil Service Commission. [...] Effective July 1, 2000, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter in connection with job classifications within the Agency performing “service-critical” functions. Except for the matters set forth in subsection (f), the Department of Human Resources and the Director of Human Resources shall maintain all powers and duties under Articles X and XI as to all other Agency employees. In addition, the Agency shall, with respect to all Agency employees, succeed to the powers and duties of the Director of Human Resources under Article X to review and resolve allegations of discrimination, as defined in Article XVII, against employees or job applicants, or allegations of nepotism or other prohibited forms of favoritism. To the extent resolution of a discrimination complaint or request for accommodation involves matters or employees beyond the Agency’s jurisdiction, the Agency shall coordinate with and be subject to applicable determinations of the Director of Human Resources.”
- Civil Service Rule Series 13, Certification of Eligibles; Article I, General Principles:  
*Volume I – Section 113.1.3 - Implementation of the Rule by the Human Resources Director.*  
“Implementing this Rule, the Human Resources Director shall:
  - 1) adhere to all rules, policies, procedures, and directives of the Civil Service Commission and all relevant Charter provisions of the City and County of San Francisco, and
  - 2) ensure that such rules, policies, procedures, directives, and Charter provisions are adhered to by all decentralized units as delegated by the Human Resources Director, and
  - 3) take any action necessary to ensure compliance with federal, state and local anti-discrimination laws, ordinances or regulations.”  
*Volume IV – Section 413.1.3 - Implementation of the Rule by the MTA Director of Transportation/Designee.*  
“Implementing this Rule, the MTA Director of Transportation/Designee shall:
  - 1) adhere to all rules, policies, procedures, and directives of the Civil Service Commission and all relevant Charter provisions of the City and County of San Francisco, and
  - 2) take any action necessary to ensure compliance with federal, state and local anti-discrimination laws, ordinances or regulations.”

