



RULES

REVISIONS AND AMENDMENTS
THROUGH
DECEMBER 12, 2018

FOREWORD

This reprint of Civil Service Board Rules for the administration of Civil Service Law in Hillsborough County, Florida, contains revisions and amendments through December 12, 2018.

While the rules contained here set forth general personnel policies and procedures, there may be additional or different rules and procedures adopted by participating and non-participating agencies. For additional rules and procedures, individuals are encouraged to refer to the most current edition of each Hillsborough County government appointing agency's personnel policies and procedures.

<u>PAGE</u>		<u>PAGE</u>		<u>PAGE</u>		<u>PAGE</u>	
0-1	06-25-14	8-1	02-21-18	11-1	05-18-05	15-18	11-15-17
0-2	12-12-18	8-2	02-21-18	11-2	05-18-05	15-19	11-15-17
0-3	02-21-18	8-3	02-21-18	11-3	05-18-05	15-20	11-15-17
0-4	05-28-15	8-4	02-21-18	11-4	08-16-06	15-21	11-15-17
0-5	11-15-17	8-5	02-21-18	11-5	08-16-06	15-22	11-15-17
		8-6	02-21-18	11-6	08-16-06	15-23	11-15-17
1-1	06-25-14			11-7	11-16-11	15-24	11-15-17
1-2	06-25-14	9-1	05-25-06	11-8	01-16-13	15-25	11-15-17
		9-2	11-17-99	11-9	03-17-10		
2-1	11-15-06			11-10	01-16-13		
2-2	11-15-06	10-1	05-25-06				
2-3	11-16-11	10-2	11-16-11	12-1	05-28-15		
2-4	05-25-06	10-3	11-17-10	12-2	05-28-15		
2-5	07-21-12	10-4	03-15-06	12-3	05-28-15		
2-6	11-16-11	10-5	11-17-99	12-4	05-28-15		
2-7	06-20-07	10-6	02-26-09	12-5	05-28-15		
		10-7	11-14-07	12-6	05-28-15		
3-1	05-28-15	10-8	09-16-09	12-7	05-28-15		
		10-9	11-17-10	12-8	05-28-15		
4-1	05-28-15	10-10	08-15-01	12-9	05-28-15		
		10-11	11-17-99	12-10	05-28-15		
5-1	05-28-15	10-12	02-26-09	12-11	05-28-15		
5-2	05-28-15	10-13	11-17-99				
5-3	05-28-15	10-14	11-14-07	13-1	06-21-00		
5-4	05-28-15	10-15	11-17-10				
5-5	05-28-15	10-16	11-17-10	14-1	09-20-00		
5-6	05-28-15	10-17	11-17-99	14-2	09-20-00		
5-7	05-28-15	10-18	11-17-99	14-3	09-20-00		
5-8	05-28-15	10-19	11-17-99	14-4	09-20-00		
5-9	05-25-15	10-20	11-17-99	14-5	09-20-00		
5-10	12-12-18	10-21	11-19-08				
5-11	12-12-18	10-22	11-19-08	15-1	11-15-17		
		10-23	01-16-02	15-2	11-15-17		
6-1	05-28-15	10-24	01-16-02	15-3	11-15-17		
6-2	05-28-15	10-25	01-16-02	15-4	11-15-17		
6-3	05-28-15	10-26	01-16-02	15-5	11-15-17		
		10-27	01-16-02	15-6	11-15-17		
7-1	05-28-15	10-28	07-12-10	15-7	11-15-17		
7-2	05-28-15	10-29	01-18-06	15-8	11-15-17		
7-3	05-28-15	10-30	02-26-09	15-9	11-15-17		
7-4	05-28-15	10-31	11-17-10	15-10	11-15-17		
7-5	05-28-15	10-32	02-26-09	15-11	11-15-17		
7-6	05-28-15	10-33	02-26-09	15-12	11-15-17		
7-7	05-28-15			15-13	11-15-17		
7-8	05-28-15			15-14	11-15-17		
7-9	05-28-15			15-15	11-15-17		
7-10	05-28-15			15-16	11-15-17		
7-11	05-28-15			15-17	11-15-17		
7-12	05-28-15						
7-13	05-28-15						
7-14	05-28-15						

TABLE OF CONTENTS

RULE ONE: ADMINISTRATION OF CIVIL SERVICE

1.1 Title and Application 1-1
1.2 Notice of Election 1-2

RULE TWO: DEFINITIONS

2.1 Acting..... 2-1
2.2 Agency 2-1
2.3 Agency Head..... 2-1
2.4 Appointing Authority..... 2-1
2.5 Beneficiary 2-1
2.6 Benefits Date..... 2-1
2.7 Break in Service..... 2-2
2.8 Civil Service 2-2
2.9 Classified Employee 2-2
2.10 Conditional Probationary Period 2-2
2.11 Demotion..... 2-2
2.12 Emergency Temporary..... 2-2
2.13 Employee 2-2
2.14 Executive Manager 2-3
2.15 Functional Transfer 2-3
2.16 Hourly Employee 2-3
2.17 Initial Probationary Period..... 2-3
2.18 Limited Duration Employee 2-3
2.19 Other Class Transfer 2-3
2.20 Part-time Employee 2-4
2.21 Performance Increase 2-4
2.22 Performance Review Date 2-4
2.23 Position 2-4
2.24 Position Number Change 2-4
2.25 Promotion 2-4
2.26 Proper Notice 2-4
2.27 Reclassification 2-5
2.28 Red Circle 2-5
2.29 Reduced Hour Employment 2-5
2.30 Reemployment 2-5
2.31 Regrading 2-5
2.32 Reinstatement 2-5
2.33 Resignation 2-6
2.34 Restricted Employment..... 2-6
2.35 Retitle 2-6
2.36 Salaried Employee 2-6
2.37 Set Point..... 2-6

TABLE OF CONTENTS

RULE TWO: (Cont'd)

2.38 Substitute Employee 2-6
2.39 Temporary Employee..... 2-7
2.40 Tenured Employee 2-7
2.41 Trainee Classification 2-7
2.42 Transfer 2-7
2.42 Unclassified (Exempt) Employee 2-7

RULE THREE: DIRECTOR AND ADVISORS OF THE BOARD

3.1 Director 3-1
3.2 Deputies to the Civil Service Board 3-1
3.3 Employee Advisory Committee..... 3-1

RULE FOUR: ESTABLISHMENT AND DISCONTINUANCE OF POSITIONS

4.1 Establishment of Positions..... 4-1
4.2 Inactivation of Positions 4-1
4.3 Transition to the Civil Service System 4-1

RULE FIVE: JOB CLASSIFICATION; PAY PLAN

5.1 General..... 5-1
5.2 Administration of the Classification and Pay Plan 5-2
5.3 Establishing New Positions 5-3
5.4 Reclassifying Existing Positions..... 5-3
5.5 Impact of Position Reclassification on Position Incumbent 5-4
5.6 Regrading Existing Job Classifications 5-7
5.7 Impact of Job Classification Regrading on Position Incumbent..... 5-7
5.8 Trainee Classification..... 5-8
5.9 Student Intern Classification General 5-10
5.10 Student Internship Program 5-10

**RULE SIX: RECRUITMENTS, APPLICATIONS, ASSESSMENTS, & ELIGIBILITY
LISTS**

6.1 Recruitment Advertising..... 6-1
6.2 Application for Appointment..... 6-1
6.3 Candidate Assessment 6-2
6.4 Eligibility List 6-3

TABLE OF CONTENTS

RULE SEVEN: APPOINTMENTS; CONDITIONS OF EMPLOYMENT

7.1 General..... 7-1
7.2 Types of Appointments and Assignments 7-2
7.3 Probation Periods 7-10
7.4 Classified Employees Holding Public Office 7-14

RULE EIGHT: CLASSIFIED EMPLOYEE COMPENSATION

8.1 General..... 8-1
8.2 Establishing and Adjusting Rates of Pay 8-1
8.3 Bonus Payments..... 8-6
8.4 Overtime 8-7
8.5 Special Forms of Compensation 8-8
8.6 Deferred Compensation 8-10

RULE NINE: HOURS OF WORK AND ATTENDANCE OF EMPLOYEES

9.1 Hours of Duty 9-1
9.2 Holidays 9-1

RULE TEN: LEAVES OF ABSENCE

10.1 Kinds of Leaves of Absence 10-1
10.2 Eligibility for Leaves of Absence 10-1
10.3 Sick Leave - Plan "A" 10-2
10.4 Sick Leave - Plan "B" 10-8
10.5 Annual Leave..... 10-16
10.6 Compensatory Leave 10-21
10.7 Civic Leave 10-23
10.8 Military Leave of Absence 10-23
10.9 Paid Military Leave 10-28
10.10 Leave Without Pay - Other Cogent Reason..... 10-29
10.11 Bereavement Leave..... 10-29
10.12 Uni-Leave 10-30
10.13 Family and Medical Leave of Absence 10-30
10.14 Administrative Leave..... 10-32

TABLE OF CONTENTS

RULE ELEVEN: DISMISSALS, SUSPENSIONS, INVOLUNTARY DEMOTIONS FOR CAUSE, RESIGNATIONS, & PRE-DISCIPLINARY/ADMINISTRATIVE DUE PROCESS HEARINGS

11.1 General Provisions for Dismissals, Suspensions, and Involuntary Demotion for Cause 11-1
11.2 Reasons for Dismissals, Suspensions, or Involuntary Demotions for Cause 11-1
11.3 Immediate Suspensions In The Best Interest of Hillsborough County 11-4
11.4 Pre-Disciplinary and Administrative Due Process Hearing Requirements..... 11-5
11.5 Resignation of Position 11-6
11.6 Abandonment of Position 11-6
11.7 Reduction In Force..... 11-7
11.8 Workers' Compensation Dismissal and Return to Work Program..... 11-9

RULE TWELVE: PERFORMANCE MANAGEMENT

12.1 General..... 12-1
12.2 Responsibilities..... 12-2
12.3 Establishing and Adjusting Performance Review Date..... 12-5
12.4 Change in Rater-Employee Relationship..... 12-7
12.5 The Performance Improvement Program (PIP) 12-10

RULE THIRTEEN: DEPARTMENT REPORTS

13.1 Types of Reports..... 13-1
13.2 Form and Manner of Reports..... 13-1

RULE FOURTEEN: COMPLAINTS AND GRIEVANCES

14.1 General..... 14-1
14.2 Formal Grievance Documentation, Process, and Time Limitations 14-1
14.3 Director's Review of Grievances..... 14-3
14.4 Basis for Formal Grievance Hearing 14-4
14.5 Scheduling of Formal Grievance Hearing. 14-4
14.6 Pre-Hearing and Hearing Procedures..... 14-4
14.7 Civil Service Board Composition During Grievance Hearings..... 14-5
14.8 Burden of Proof..... 14-5
14.9 Remedies..... 14-5

TABLE OF CONTENTS

RULE FIFTEEN: APPEAL HEARING PROCEDURES

15.1 General/Powers of the Board.....	15-1
15.2 Appointing Authority.....	15-1
15.3 Employees.....	15-2
15.4 Basis for Appeal.....	15-3
15.5 Request for Appeal Hearing.....	15-4
15.6 E-filing Consent, Exception, Service, and Technology.....	15-5
15.7 Filing Sensitive Information Minimization.....	15-6
15.8 Accessibility of Information and Technology.....	15-7
15.9 Scheduling of Appeal Hearing.....	15-7
15.10 Abandonment of Right to Appeal.....	15-9
15.11 Use of Communication Equipment.....	15-9
15.12 Motion for Summary Judgment.....	15-11
15.13 Subpoena Authority and Powers of the Board.....	15-14
15.14 Pre-Hearing Conference Requirements.....	15-15
15.15 Marking and Listing of Exhibits.....	15-17
15.16 Findings of Fact.....	15-18
15.17 Board Composition During Appeal Hearings.....	15-18
15.18 Accommodations for Persons with Disabilities.....	15-19
15.19 Hearing Procedures.....	15-21
15.20 Burden of Proof.....	15-22
15.21 Fact Finding, Evidence, Testimony, and Credibility of Witnesses.....	15-22
15.22 Modification or Reduction of Disciplinary Actions Impermissible.....	15-23
15.23 Final Order of the Board.....	15-23
15.24 Remedies.....	15-24
15.25 Administrative Office of the Courts – Hearing to Review Actions of Dismissal, Involuntary Demotion for Cause, or Suspension.....	15-24
15.26 Ex Parte Communications.....	15-25
15.27 Forms.....	15-25

1.2 Notice of Election:

- (1) In accordance with Chapter 2000-445, Laws of Florida, as amended, each agency has the option to either opt out of or opt into any provision of the Act, other than Sections 11 and 12, and each agency has the exclusive authority to determine which corresponding Civil Service Rules shall apply to that specific agency.
- (2) An agency that elects to opt out of any provision of the Act shall provide specific and timely written notice of its election to the Board.
 - a. Such notice shall cite the specific provision of the Act that the agency or authority has elected to opt out of or into and identify the group of employees subject to the opt-out or opt-in election. The notice shall also identify the personnel functions that are covered by the opt-out or opt-in election.
 - b. The initial election period is from July 1, 2014 through July 31, 2014, inclusive, with an implementation date for the election to be October 1, 2014.
 - c. Subsequent election periods will occur each year from December 1 through December 31, inclusive, with an implementation date for the election to be the first day of the next fiscal year (i.e., October 1).
 - d. If an agency does not submit notice of its opt-out or opt-in election to the Board during a designated election period, the provisions of the Civil Service Act and Rules that were applicable to the agency prior to the election period shall remain in effect.
- (3) Annually, the board will adopt an appropriate corresponding service agreement for each agency that elects to opt out of any section(s) of the Act and corresponding rule(s). Each agreement will include but not be limited to the agency's responsibility for compensating the Board for the scope of services described therein, and its proportional share of the annual expenses projected to be incurred by the Board in providing a discipline appeal structure and process for classified employees in the upcoming fiscal year.
- (4) The Civil Service Board may promulgate additional rules, forms, and/or procedures to implement the provisions of the Act.

Definitions:

2.1 Acting:

Interim assignment of a classified employee, to the duties of another position, pending the return of the incumbent or the selection of an eligible applicant.

2.2 Agency:

Any independent unit of Hillsborough County government that is subject to the provisions of the Civil Service Law and Rules. Such agencies are, but not limited to: Arts Council, Aviation Authority, Children's Board, Civil Service Board, Clerk of the Circuit Court, County Administrator, County Attorney, Environmental Protection Commission, Expressway Authority, Law Library, Legislative Delegation, Planning Commission, Port Authority, Property Appraiser, Public Transportation Commission, Hillsborough County Sheriff's Office, Soil and Water Conservation District, Supervisor of Elections, Tampa Sports Authority, Tax Collector, or Victim Assistance Program.

2.3 Agency Head:

The one elected or appointed individual within each Agency whose administrative authority supersedes that of all other individuals employed in that Agency. Such authority may be delegated to subordinate administrators at the discretion of the Agency Head.

2.4 Appointing Authority:

Any person or agency authorized under this act or other statutory authority to employ personnel to carry out the responsibilities of the agency. [CSL Section 5 (1)]

2.5 Beneficiary:

The person(s) designated as the beneficiary, in writing, to receive a specific County benefit or adjusted unpaid earned wages, in the event of the employee's death. In the absence of a designated beneficiary, or if no designated beneficiary survives the employee, the beneficiary shall be the spouse of the deceased, if living. If the employee's spouse is not alive at his or her death, the beneficiary shall be the living children of the employee. If no children survive, the beneficiary shall be the member's father or mother, if living; otherwise, the beneficiary shall be the employee's estate. (Chapter 121.091 (8) Florida Statutes)

2.6 Benefits Date:

Except as provided in Civil Service Rule 7.31(5), the Benefits Date is that date from which an employee has unbroken service as a classified employee of Hillsborough County.

2.7 Break In Service:

Except as provided in CSR 7.31 (5), a break in service is an interruption of continuity of employment in the Hillsborough County Civil Service system as a result of a legal termination or voluntary resignation of such employment. To preclude a break in service an employee accepting employment with another Hillsborough County Agency must be picked up by the gaining Agency the next calendar day following the last day worked at the losing Agency.

2.8 Civil Service:

The terms service and Civil Service system mean the positions established and administered by the Civil Service Board and its staff in accordance with the Civil Service Act, Chapter 2000-445, Laws of Florida. [CSL Section 5(8)]

2.9 Classified Employee:

One whose position is subject to regulation by the Civil Service Board and who accrues appeal rights upon obtaining tenure. [CSL Section 5(9)]

2.10 Conditional Probationary Period:

Normally, a period of six months of conditional probation, immediately following promotion. This period may be extended an additional period of up to six months. Such period of employment does not affect the employee's earned tenured status and rights. [CSL Section 10(2)]

2.11 Demotion:

Movement of an employee from a position in one classification to a position in another classification having a lesser degree of responsibility and a lower pay grade. [CSL Section 5(14)]

2.12 Emergency Temporary:

Employees who are called to work unexpectedly for brief periods and whose employment ceases when the purpose for being called is satisfied. Employee does not occupy a classified position and as such is in the unclassified service.

2.13 Employee:

A person occupying a position in either the classified or exempt (unclassified) service. [CSL Section 6(1)]

2.14 Executive Manager:

An unclassified employee in a position with certain management functions, which is exempt under the Civil Service Law from inclusion in the classified service. [CSL Section 5 (16)]

2.15 Functional Transfer:

A position and its incumbent is transferred from one department/agency to another department/agency. In such instances, continuous performance monitoring in the job classification is not interrupted so as to necessitate the implementation of transfer requirements or procedures according to Civil Service Law and/or Rules.

2.16 Hourly Employee:

An employee whose position is covered by the Fair Labor Standards Act (FLSA); also known as non-exempt. Classifications that have such positions are identified in the Civil Service Classification and Pay Plan with a recommended FLSA Exempt code of "N". [CSL Section 7(2) (o)]

2.17 Initial Probationary Period:

A period of probational employment, in the same position (other than functional or position number change), immediately following initial appointment in the Civil Service system, or following a break in service. Such period of probation shall normally be for six months, which may be extended for an additional six months. During this period, the employee may be dismissed without appeal to the Civil Service Board. Reference CSR 7.31(7) (8) regarding the transfer of employees from the unclassified service to the classified service.[CSL Section 5(19) and 10(1)]

2.18 Limited Duration Employee:

An employee appointed to a position established under a grant agreement, or other specific funding source, having distinct time or funding limitations. Limited Duration employees may accrue tenure and shall be entitled to the benefits of regular appointed classified employees. Their entitlement to the position will be terminated, without appeal to the Civil Service Board, upon the expiration of the funding source or grant agreement.

2.19 Other Class Transfer:

The change of an employee from one classification to another classification without a change in pay grade.

2.20 Part-time Employee:

One who is employed to work less than 50 percent of the normal work period and, as such, is in the unclassified service. [CSL Section 5(21) and Section 6 (2)(e)]

2.21 Performance Increase:

An increase in an employee's hourly rate of pay within the same pay grade and salary range, based on recommendations resulting from the employee's Performance Report.

2.22 Performance Review Date:

The Performance Review Date is that date upon which the employee is normally due a Performance Report.

2.23 Position:

Any employment requiring the services of one person. Positions in the classified or unclassified service, other than temporary positions, shall be only those established and numbered by the Civil Service Board.

2.24 Position Number Change:

The movement of an employee to satisfy training rotations, shifting workload demands, payroll number/Management Information System (MIS) actions, budgetary system changes and similar administrative actions. In such instances, continuous performance monitoring in the job classification is not interrupted such as to necessitate the implementation of transfer requirements or procedures according to Civil Service Law and/or Rules.

2.25 Promotion:

Movement of an employee from a position in one classification to a position in another classification having a greater degree of responsibility and a higher pay grade. [CSL Section 5(23)]

2.26 Proper Notice:

Proper notice to an Appointing Authority of the intended departure of an employee from a position shall not be less than two weeks. The Appointing Authority may waive the two week notification requirement based on personal or professional reasons which justify the employee's inability to provide two week notification; and, when the Appointing Authority determines the employee's early departure will not prejudice the agency/department and is in the best interest of Hillsborough County.

2.27 Reclassification:

An action taken to reassign a position from one job classification to another job classification because of significant changes to the major duties and responsibilities. The classification title and classification code will change as a result of the reclassification action. The pay grade may or may not change as a result of this action.

2.28 Red Circle:

When an employee has been authorized by the Civil Service Board to receive a salary in excess of the established maximum for the classification, the employee's salary is figuratively placed in a red circle to indicate that it shall remain unchanged during employment in that classification until the authorized maximum annualized salary for the classification is increased to an amount that equals or exceeds the red circle salary.

2.29 Reduced-Hour Employment:

Any classified employment scheduled for a least 50% but less than 100% of the regular hours worked by full-time employees in the same agency. All employee benefits which are divisible are earned in the ratio that the reduced-hour employment is to full time. Notwithstanding the foregoing language and with a finding of good cause, the Board may grant exemptions to an Appointing Authority's obligations to offer to reduced hour employees specific paid benefits that are otherwise required by these rules.

2.30 Reemployment:

Appointment of an individual to a classified position within a period of one year following dismissal resulting from a reduction-in-force. [CSL Section 5(24) (25)]

2.31 Regrading:

An action to assign a different pay grade to a classification or series of classifications based on labor market data. The grade change may be to a lower or higher pay grade. A regrade affects all positions allocated to the classification(s) regraded. There is no change to the job duties and responsibilities, however, the title could change to be more descriptive of the job performed.

2.32 Reinstatement:

Appointment of an individual to a classified position within a period of one year following dismissal resulting from a Workers' Compensation job related injury, or in cases involving the return of an employee from active military service. [FS 440.491], [38 USCS 4321-4237 and FS 295]

2.33 Resignation:

The voluntary termination by an employee from the employment of Hillsborough County. [CSL Section 5(26)]

2.34 Restricted Employment:

An employee appointed to replace a classified employee that is on an approved absence. Restricted employees may accrue tenure and shall be entitled to the benefits of regular appointed classified employees. Their entitlement to the position will be terminated, without appeal to the Civil Service Board, by the return of the incumbent after an authorized absence.

2.35 Retitle:

A revision of an existing classification title, identifying it with a new classification name to better describe and/or update the overall job reference.

2.36 Salaried Employee:

An employee whose position meets the criteria established by the Fair Labor Standards Act as being exempt from overtime compensation. Classifications that have such positions are identified in the Civil Service Classification and Pay Plan with a recommended FLSA Exempt code of "Y. [CSL Section 7 (2) (o)]

2.37 Set-Point:

The maximum amount of sick leave accruals payable to an employee under Sick Leave Plan "B". The employee's original set-point was established based on the employee's unused sick leave balance upon entering Sick Leave Plan "B" in February 1997. Such balance may be used, but, shall not be subsequently replaced by additional accruals. (Reference CSR 10.4a(4))

2.38 Substitute Employee:

An employee who is employed to fill the position of a classified employee who is on an approved leave of absence. A substitute employee may work in any one position for a maximum of 120 consecutive calendar days. As long as the substitute employees does not exceed 120 days worked in the same position, the substitute employee may remain on an "on call" roster indefinitely. Substitute Employee is a class of employees that is expressly exempt from the provisions of the Civil Service Law and Rules. However, the Civil Service Law and Rules do define the Substitute Employee Class, require satisfaction of job minimum qualifications and provide for tenure limits. [CSL Section 5(28)/CSL Section 6(2)/Section 9(4)]

2.39 Temporary Employee:

An employee whose employment in one position or any combination of positions is not intended to exceed 120 consecutive calendar days from the first day worked. Temporary Employee is a class of employees that is expressly exempt from the general provisions of the Civil Service Law and Rules. However, the Civil Service Law and Rules do define the Temporary Employee Class, require satisfaction of job minimum qualifications, provide tenure limits, and provide for the extension of those tenure limits. [CSL Section 5(30)/CSL Section 6(2)/Section 9(3)]

2.40 Tenured Employee:

A classified employee who has successfully completed a minimum of six months initial probation in the same position (other than functional or position number change) and any such additional extended probation, not to exceed six months, as required by the Appointing Authority, following initial appointment and no subsequent break in service. [CSL Section 5(31)/Section 10(1)]

2.41 Trainee Classification:

A classification that is paired with a fully skilled classification within a career ladder. Individuals hired into a trainee classification are provided with training, education and/or work experience which, upon completion of the trainee program, qualifies them for promotion to the fully-skilled classification.

2.42 Transfer:

Change of an employee from one position to another position. [CSL Section 5(32)/Section 10(3)(a)]

2.43 Unclassified (Exempt) Employee:

One whose position is in a class enumerated in Section 6(2) of the Civil Service Law as exempt from the classified service, and having such rights as are provided by the Appointing Authority. The terms exempt and unclassified are interchangeable. [CSL Section 5(17)/ Section 6(2)]

Director and Advisors of the Board:**3.1 Director:**

- (1) The Civil Service Board hereby establishes in the exempt service the position of Director to assist the Board in carrying out the purposes of the Civil Service Act. The Director shall be the executive manager for the Civil Service Office and the appointing authority for employees of that office. [CSL Section 7(2) (f)]
- (2) An appointing authority or employee may appeal to the Board for review of any action taken or directive given by the Director in the name of the Board. All appeals must be presented in writing on the Form provided by the Civil Service Board, and must state all relevant facts. Such appeals shall be filed with the Director within thirty (30) calendar days of the date of the announced decision. Any act of the Director, or any other employee of the Board, shall be subject to ~~abrogation~~, reversal, or modification by action of the Board.

3.2 Deputies to the Civil Service Board:

The person in charge of personnel in any agency that is subject to all provisions of the Act and that contains more than 500 classified positions shall be deputized and designated as an agent of the Board to coordinate all personnel actions of those agencies in accordance with these rules, and to perform such other duties as delegated by the Board. [CSL Section 7(2) (k)]

3.3 Employee Advisory Committee:

- (1) The Employee Advisory Committee (EAC) serves as a medium to provide a continuous and meaningful exchange of ideas and practical solutions on personnel matters between the Board and employees. The Board shall determine the composition of the EAC and the method of election of members. [CSL Section 20]
- (2) Members of the EAC shall be chosen by vote of the employees represented. [CSL Section 20]

Establishment and Discontinuance of Positions:**4.1 Establishment of Positions:**

- (1) Each appointing authority shall report to the Director its intention to establish any new position that may be classified. [CSL Section 9(1)]
- (2) No person shall be paid in a classified position until the position is first allocated to a classification by the Director, and the person is duly qualified and properly appointed. [CSL Section 17]

4.2 Inactivation of Positions:

- (1) An appointing authority may, with the concurrence of the Director, inactive any position that no longer meets the requirements of the agency or department. [CSL Section 9(6)]
- (2) Inactivated positions may be re-established under the procedures provided for establishing new positions. (CS Rule 5.3)

4.3 Transition into the Civil Service System:

- (1) This rule addresses the transition into the Civil Service System of new positions or new groups of positions within an existing appointing authority or new offices, departments, agencies, or governmental jurisdictions.
- (2) Employees who are assigned to positions that transition into the Civil Service System and who have on file with the appointing authority at least one completed job performance review that covers a period of not less than 6 months and that indicates that job performance expectations were met, shall be considered tenured, classified employees of the roles they currently fill. No application, qualification, examination or probation process will be required of such individuals. The tenure and other employment statuses of such individuals shall be recognized by the Board.
- (3) Employees who are assigned to positions that transition into the Civil Service System and who do not have on file with the appointing authority at least one completed job performance review that covers a period of not less than 6 months and that indicates that job performance expectations were met, shall be transitioned into the classified service as an initial appointment under the provisions of the relevant rules.

Job Classification; Pay Plan:**5.1 General:**

- (1) It shall be the sole responsibility of each appointing authority to establish the job duties of each position and to direct and control the work of classified employees.
- (2) Every position in each appointing authority is deemed to be classified unless the Director determines that a position satisfies the definition of “exempt” or “unclassified” in accordance with the Civil Service Act. [CSL Section 6(2)]
- (3) When a position is determined to be classified, the Director shall assign the position to a job classification. For the purposes of these rules, a job classification is a group of classified positions that are sufficiently similar as to kind or subject matter of work, level of difficulty or responsibilities, and qualification requirements of the work to warrant, in the opinion of the Director, the same treatment as to title, pay range, and other personnel transactions.
- (4) Each job classification is assigned, by the Board, to a pay range that defines the minimum and maximum rates of pay for assigned employees. Pay ranges are sometimes referred to as pay grades.
- (5) A pay schedule is a group of pay ranges that apply to a specified group of classified employees. The grouping of employees under a pay schedule shall normally be based on logical and job-related criteria such as employees of a common appointing authority, or members of a common collective bargaining unit, or employees in jobs of a common profession or area of expertise. A single job classification may be associated with multiple pay schedules.
- (6) A classification description or specification is a description of the commonalities among all of the positions assigned to a given job classification. As such, a classification description does not and is not intended to prescribe all the duties or responsibilities of any one position or job. The content or lack of content in a classification description does not in any way modify the authority of an appointing authority to assign duties or to direct and control the work of a classified employee. (Rule 5.1(1))
- (7) Subsequent sections of this rule and other rules define the impact on the employee when an action taken by the Board or Director changes the job classification and/or pay range to which a classified position is assigned or changes the designation of a position from unclassified to classified, or from classified to unclassified.

5.1 (Continued)

- (8) In the event of a declared local emergency, employees may be called upon to work outside of their normal job classification as directed by their employer.

5.2 Administration of the Classification and Pay Plan:

- (1) The Classification and Pay Plan (the Pay Plan) is a list of job classifications, pay schedules, and pay grades or pay ranges employed in the Civil Service System and referenced throughout these rules.
- (2) The Board is responsible for the following:
- a. adopting new job classifications and corresponding pay grades; and
 - b. assigning new pay grades to existing job classifications; and
 - c. inactivating existing job classifications. [CSL Section 9]
- (3) The Director is responsible for the publication, maintenance and application of the Pay Plan, to include:
- a. ensuring the currency and ready availability of the Pay Plan to appointing authorities, employees, and citizens; and
 - b. data collection and analysis for use in objectively maintaining the pay schedules, pay grades, and job classifications listed in the Pay Plan; and
 - c. ensuring the currency and ready availability of the classification descriptions or specifications that correspond to the job classifications identified in the Pay Plan.
- (4) When there is a substantial change in the duties and responsibilities of an employee, the corresponding appointing authority shall notify the Director, using the prescribed forms, so that the position may be evaluated for proper classification. (Rule 5.4)

5.3 Establishing New Positions:

- (1) When a new position is to be established, the appointing authority shall submit a description of the duties and responsibilities of the position and a request for action, using the form(s) prescribed by the Director.
- (2) The Director shall ensure the objective evaluation of the described position duties, responsibilities, and other factual information to first determine whether the position meets the definition of an unclassified position.
- (3) The Director shall assign to a job classification each position that is determined to be classified.
- (4) The Director shall maintain a database or other listing of established positions and the classification to which they are currently assigned and have been assigned over time.

5.4 Reclassifying Existing Positions:

- (1) When the Director or the appointing authority has reason to believe that the duties of a position have changed, whether the position is currently classified or unclassified, the Director shall review the position duties and assigned classification.
- (2) Position duties shall be documented using the form(s) prescribed by the Director.
- (3) The Director shall ensure the objective evaluation of the described position duties, responsibilities, and other factual information to first determine whether the position meets the definition of an unclassified position. For classified positions, the Director will take the additional step of assigning the position to the appropriate classification and pay grade. The outcome of this process may or may not result in change. If change results, it may be to a job classification assigned to a higher, same, or lower pay grade.
- (4) Established classified positions may be reclassified from one classification to a different classification under the following conditions:
 - a. there has been a significant change in the assignment of duties and responsibilities; and
 - b. the change in duties and responsibilities is of a long-term nature; and
 - c. the revised position duties match a different classification better than they match the current classification.

5.4 (Continued)

- (5) Reclassification of a position is not appropriate when:
 - a. the requested action is to recognize job performance or qualifications; or
 - b. the added duties and responsibilities are minor in nature and would be a logical function of the current classification; or
 - c. the added duties and responsibilities are temporary in nature; or
 - d. the only change involved is an increase in the employee's workload; or
 - e. the primary purpose is to raise the employee's salary with no change in job duties and responsibilities.
- (6) The effective date of a position reclassification is normally the date of the formal notice by the Director that the position is reclassified. The appointing authority may request that the effective date of a reclassification action be made retroactive for a period not to exceed 60 days from the date of the Civil Service official notification letter approving the reclassification.

5.5 Impact of Position Reclassification on the Position Incumbent:

- (1) The effective date of the position reclassification shall be the effective date of the corresponding personnel action to update the job information, pay rate, and/or status of the position incumbent; without regard to the date that the incumbent establishes eligibility for the new job classification.
- (2) When an occupied position is reclassified, the incumbent must establish eligibility for the new classification within three months of the effective date of the position reclassification action in order to remain in the position. Upon written request by the Appointing Authority, the Director may extend the time period within which the incumbent must establish eligibility.
- (3) Incumbent eligibility may be established by either of the following two methods. The choice of method shall be at the sole discretion of the appointing authority.

5.5 (Continued)**a. Eligibility Method One:**

1. The incumbent shall satisfy all aspects of the minimum qualifications of the new classification and achieve a passing score on all tests normally administered to job candidates. The incumbent need not apply for the new classification, but may be required to update work history information or provide proof of certification/licensure; and
2. Notwithstanding the provisions of Rule 6.3(6), the incumbent shall be given a maximum of three attempts to achieve a minimum passing score on all written tests normally administered to job candidates for the new classification and there shall be a minimum two week waiting period between each testing attempt.

b. Eligibility Method Two:

1. The incumbent must have completed initial probation; and
 2. The incumbent need not apply for the new classification, but the appointing authority shall be required to produce documentation of the incumbent satisfying all minimum qualifications of the new classification that are required by Federal or State Law, Contract, Administrative Code, or Hillsborough County Ordinance; and
 3. The appointing authority shall certify, in writing, to the Director that the incumbent has, for a minimum of six months, successfully performed the current job duties of the position the incumbent occupies.
- (4) When the incumbent of a reclassified position fails to establish eligibility for the new classification, or does not accept another position within three months from the effective date of the position reclassification action, the incumbent shall be processed in accordance with Rule 11.7 (Reduction-In-Force).

5.5 (Continued)

- (5) When the incumbent of a reclassified position establishes eligibility for the new classification, the following shall apply:
- a. When the classification to which a position is assigned, following reclassification, is in a higher pay grade than the classification to which the position was assigned prior to reclassification:
 - 1. The incumbent shall be promoted to the new classification.
 - 2. The effective date of the promotion shall normally be the same as the effective date of the position reclassification.
 - 3. The incumbent shall be awarded an increase in salary in accordance with Rule 8.2(3)c.
 - 4. The incumbent shall serve a period of conditional probation. The period of conditional probation shall begin no sooner than the date of the formal position reclassification notice or the date the incumbent qualifies for the new classification, whichever is later.
 - b. When the classification to which the position is assigned, following reclassification, is in the same pay grade as the classification to which the position was assigned prior to reclassification (lateral reclassification):
 - 1. The incumbent shall be assigned to the new classification.
 - 2. Rule 8.2(3)d governs the award of a pay rate increase, if any, in the case of a lateral appointment of any type.
 - 3. Rule 12.3(3)b addresses the impact on job performance review periods in the case of case of a position reclassification that results in a lateral job change for the position incumbent.
 - c. When the classification to which the position is assigned, following reclassification, is in a lower pay grade than the classification to which the position was assigned prior to reclassification:
 - 1. The incumbent shall be involuntarily demoted, without prejudice, to the new classification.

5.5 (Continued)

2. Rule 8.2(3)f governs the award of a pay rate change, if any, in the case of a demotion appointment of any type.
3. Rule 12.3(4) addresses the impact on job performance review period in the case of a position reclassification that results in a demotion for the position incumbent.

5.6 Regrading Existing Job Classifications:

- (1) When there is reason to believe that the pay range to which a job classification is assigned is significantly higher or lower than the pay range to which similar jobs are assigned by competing employers, the Director may initiate a market study to collect, analyze, and report on the compensation offered by competing employers.
- (2) The Board may authorize a change to the pay range to which a job classification is assigned when the change is supported by the results of a market study.
- (3) When the pay range of a job classification is changed, all positions and employees that are assigned to that job classification are also changed to the new pay range.

5.7 Impact of Job Classification Regrading on the Position Incumbent:

- (1) The effective date of the job classification regrading shall be used as the effective date of the corresponding updates to the positions and position incumbents assigned to that job classification.
- (2) When an occupied position is regraded, there is no change to the job classification and, therefore, the position incumbent need not re-establish eligibility for the job classification.
- (3) When a regrade results in employees being assigned to a higher pay range:
 - a. The employees may be awarded an increase in salary in accordance with Rule 8.2(3)j.
 - b. The employees shall not serve a period of conditional probation.
- (4) When a regrade results in employees being assigned to a lower pay range:
 - a. There shall be no change in pay for the employees Rule 8.2(3)k.
 - b. The employees shall not serve a period of conditional probation.

5.8 Trainee Classification:

- (1) The purpose of trainee classifications is to provide a method for appointing authorities to hire less than fully skilled applicants and, through on-the-job training, enhance their job-related knowledge, skills, abilities, and other characteristics to the point that they can perform the duties of the higher level, fully skilled classification.
 - a. Trainee classifications are paired with a higher level, fully-skilled classification. Further, each Trainee position is paired with a specific position in the higher level, fully skilled classification.
 - b. For funding purposes, a fully-skilled/trainee position pair represents one funded position. Therefore, either the trainee position or the target position may be filled, but both positions may not be filled at the same time.
 - c. Employees may not remain in a trainee position on a permanent basis. Employees who complete the training program are promoted to the fully-skilled classification; those who do not complete the training program are dismissed without right of appeal to the Board (if a new employee) or returned to former classification (if a promoted employee on conditional probation) in accordance with Rule 7.3(2).
- (2) An appointing authority may request the creation of a trainee classification using the Civil Service Office Request for Position/Classification Action form, and providing the proposed minimum qualifications and any other clarifying comments needing to be reflected on the classification description.
- (3) The Civil Service Office, with the approval of the Board, will create the trainee classification, assign it to an appropriate pay grade and create a classification description.

5.8 (Continued)

- (4) Incumbents of trainee positions shall serve a minimum six month training period and successfully complete all training requirements established by the appointing authority, including obtaining any licenses or certifications required to perform the job, as specified on the trainee and fully-skilled classification descriptions.
 - a. The appointing authority may extend the training period to allow additional time to complete training requirements, or obtain required licenses or certifications.
 - b. Trainee periods may not exceed two years.
 - c. Throughout the training program, job performance reports must be completed and submitted to the Civil Service Office in accordance with Rule 12.
- (5) Upon successful completion of all training requirements, the appointing authority shall submit a Personnel Action promoting the incumbent to the fully-skilled classification. In such cases, the incumbent need not be on an active eligible list. A statement shall be entered in the remarks section of the Personnel Action stating that the incumbent has successfully completed all training requirements. A current job application and a copy of all required licenses and certifications shall be attached to the promotion appointment action. The Civil Service Office will verify the employee's eligibility for the fully-skilled classification and retain a copy of all information provided in the employee's official personnel file and employment application file. The promotion will otherwise be governed by Rules 7.2(2) and 8.2(3)c.
- (6) If the appointing authority determines that the employee has performed at a less than successful level following promotion to the fully-skilled classification, the employee must be removed from the fully-skilled classification through one of the following methods, depending on whether the employee entered the trainee classification as a new hire or via an internal promotion.
 - a. If a new hire, the employee shall be terminated without right of appeal to the Board.
 - b. If an internal promotion, the employee shall be returned to a position in the classification the employee held prior to being promoted to the trainee classification. The provisions of Rules 7.3(2)e shall apply.

Student Intern Classification:**5.9 General:**

- (1) The purpose of the intern classification is to provide a method for an appointing authority to establish a paid internship intended to provide a carefully monitored work or service experience in which a student has intentional learning goals and reflects actively on what s/he is learning throughout the experience. Intern positions will be filled by persons who are bona fide students in an accredited educational or vocational program who perform services for the appointing authority in a position set aside strictly for students. An Appointing Authority may choose to utilize a “temporary employee” classification for paid internships not exceeding the time frames described in Rule 7.2(7).
- (2) An appointing authority interested in employing a student intern shall develop a Student Internship Program in accordance with the guidelines set forth below. A description of the Student Internship Program shall be filed with the Civil Service Board thirty (30) days prior to the implementation of the Program, and shall certify that the appointing authority’s use of interns will comply with all relevant federal, state, and local laws.

5.10 Student Internship Program

- (1) The Student Internship Program description shall include, but need not be limited to the following provisions:
 - a. Compensation: The description shall provide the extent to which the intern and appointing authority clearly understand whether there is an expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee and vice versa.
 1. An intern is considered an “unclassified” employee and is not eligible for such benefits as paid vacation, paid sick leave, or health benefits except as required by the Affordable Care Act.
 2. A paid intern who works more than 40 hours per week in a non-exempt capacity may be eligible for overtime compensation in accordance with the Fair Labor Standards Act.
 3. A paid intern may qualify for coverage under the Florida Retirement System under certain circumstances (See Section 121.051, Florida Statutes, as amended, and Chapter 60S-1.004 (5), Florida Administrative Code.)
 4. An intern may receive a stipend to cover parking, travel, and other expenses in accordance with County reimbursement policies.

5.10 **(Continued)**

- b.** Hours of Work: Whether the intern is expected to work **Full Time** (40 hours per week); **Reduced Hours** (20 – 39 hours per week); or **Part-Time** (less than 20 hours per week).
 - 1.** Duration: The total number of weeks or hours the intern will be utilized. The description shall provide that the intern and the employer understand that the internship is conducted without a guaranteed entitlement to a paid job at the conclusion of the internship
 - c.** Non-displacement of paid employees: Internships are intended for learning purposes. The description shall include a statement that indicates the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
 - d.** Restrictive Covenants and Other Standards of Conduct: Interns are subject to the same restrictions relating to confidentiality and other standards of conduct as all County employees.
- (2) Student interns are employed in the unclassified service and need not be on a certified eligibility list. Upon Board approval of an Appointing Authority’s Student Intern Program, it may make a student intern appointment without Board approval, but must notify the Board within five working days of having made the appointment.
- (3) The Civil Service Office will notify the appointing authority of its approval to use the intern classification.
- (4) This Rule will take effect February 1, 2019. A student intern employed prior to the effective date shall be exempt from this Rule.

Recruitments, Applications, Assessments, and Eligibility Lists:**6.1 Recruitment Advertising:**

- (1) At the sole discretion of the appointing authority, a recruitment for a classified position may be advertised as either:
 - a. available only to current tenured, classified employees of any agency that is subject to all provisions of the Act; or
 - b. available to all interested individuals.
- (2) Recruitment bulletins announcing classified position employment opportunities shall be posted a minimum of two weeks for the purpose of accepting applications.
- (3) Recruitment bulletins for classified position employment opportunities shall include the job duties, competencies, and minimum training, experience, and/or certification requirements as reflected in either the classification description or position description, at the discretion of the appointing authority.

6.2 Application for Appointment:

- (1) Application for appointment to a position in the classified service must be made using the Board's internet employment portal. Exceptions to this requirement may be granted by the Director.
- (2) Fraudulent conduct or false statements by an applicant in an application for appointment, or any step in the selection process, may be deemed cause for the exclusion of such applicant from further consideration for appointment to any classified position and, if already employed, immediate termination from employment. [CSL Section 18]
- (3) Applicants must be physically and mentally able to perform the essential functions of the classified position to which the applicant seeks appointment, with or without reasonable accommodation.

6.3 Candidate Assessment:

- (1) Applications for employment received by the specified closing date and time published in the corresponding recruitment bulletin will be evaluated based on the eligibility criteria published in the corresponding recruitment bulletin. [CSL Section 7(2)(m)]
- (2) Applicant qualifications may be further assessed by job-related assessments such as tests, reference checks, background checks, reviews of education training and experience, interviews, etc. as determined to be job-related and otherwise appropriate by the Director and the appointing authority.
- (3) The Director shall rely on and report to appointing authorities only the most recent result of each candidate assessment, notwithstanding that the most recent result may not be the best or highest score obtained by a given candidate for a given assessment.
- (4) Tests and scoring results shall be open to inspection for a period of thirty (30) calendar days after completion of the examination.
- (5) An error in the scoring of any test shall be corrected within thirty (30) calendar days of notification to the Director. If the employee has satisfactorily completed a six-month probationary period, such correction shall not invalidate any appointment made as a result of the error. [CSL Section 8(1)]
- (6) Except as provided for in Rule 5.5(3)2, written examinations may be re-taken two months after the first attempt and after each subsequent attempt, provided such examination is being offered in conjunction with an active recruitment.
- (7) Performance tests (e.g., typing or data entry tests) may be re-taken once per day.

6.4 Eligibility Lists:

- (1) Candidates determined by the Director to meet the published job requirements shall be identified on an eligibility list in the manner determined by the Director.
- (2) At the request of the appointing authority, the Director may certify as eligible for appointment a non-employee or employee who is not able to pass one or more required candidate assessments. In such cases, the appointing authority shall certify to the Director in writing that the individual has, for a minimum of six months, successfully performed the job duties of the position to which the candidate is being considered for appointment.
- (3) The acceptance of an application or placement of a candidate's name on an eligibility list is not an assurance that the applicant will move forward in the selection process or be appointed.
- (4) The Director may remove any applicant's name from the list of those certified as eligible for any job-related reason. Examples of job-related reasons include, but are not limited to false information, unlawful and/or unethical conduct, correction of an error, etc.
- (5) Eligibility lists shall normally be valid for 90 days. Upon request by an appointing authority, the Director may make exceptions to this rule on a case by case basis.
- (6) The Director, with the concurrence of the impacted appointing authority(ies), may extend or cancel eligibility lists.
- (7) Applicants who are entitled to veterans' preference in initial employment shall be clearly identified as such on eligibility lists [FS 295.07, as amended, Florida Administrative Code 55A-7, as amended].

Appointments; Conditions of Employment**7.1 General:**

- (1) All non-temporary appointments to classified positions shall be made by selecting a person certified by the Board as being eligible for employment in the position being filled, except as specifically provided in these rules.
- (2) Appointments shall become effective as of the date the employee reports for duty. [CSL Section 9(2)].
- (3) Discrimination against any person in recruitment, examination, appointment, training, promotion, demotion, retention, or any other personnel action, because of political or religious affiliations, or because of sex, color, age, marital status, disability, race, national origin, citizenship status or any other factor not related to job performance is prohibited. [CSL Section 2(3)]
- (4) No appointment shall be made in violation of the State of Florida anti-nepotism law pertaining to the employment of relatives. [FS 112.3135]
- (5) The movement of a classified employee from an agency covered by this rule to an agency not covered by this rule, notwithstanding that the appointment may otherwise fit the definition of promotion, lateral, or demotion appointment, shall be handled as a voluntary separation in accordance with the provisions of Rule 11.
- (6) A change to the job title and/or pay grade of the position to which a classified employee is appointed (i.e., reclassification) is not an appointment and, therefore, the non-pay-related impacts to the employee are subject to the provisions of Rule 5 (Classification) and not Rule 7 (Appointments).
- (7) Pay-related impacts of both appointments and classification changes are addressed in Rule 8 (classified employee compensation).
- (8) An employee may not be appointed to more than one classified position if the combined regular working hours of the positions exceed forty (40) hours per week.
- (9) A classified employee shall not engage in outside employment that conflicts with the classified appointment in any way; to include interfering with the successful performance of assigned job duties or conflicting with the best interests of the appointing authority.

7.2 Types of Appointments and Assignments:**(1) Initial Appointment:**

- a. This rule applies in the following circumstances:
 1. the first appointment of an individual to a classified position; or
 2. the appointment of an individual to a classified position following a break of more than five consecutive work days from a prior period of service as a classified employee in the same agency or in another agency covered by Rule 7; or
 3. the appointment of a classified employee to a classified position in an agency covered by this rule from an agency not covered by this rule, notwithstanding that the appointment may otherwise fit the definition of promotion, lateral, or demotion appointment. (Rule 7.2(1)e)
- b. The pay rate upon initial appointment to a classified position, as defined in this rule, shall be established in accordance with Rule 8.2(3)a.
- c. Every job candidate who is not a current permanent employee of the State of Florida or any of its political sub-divisions and who is identified on an eligibility list as eligible for veterans' preference in employment shall be granted preference at each step of the appointing authority's employment selection process. [FS 295.07, as amended; Florida Administrative Code 55A-7, as amended]
- d. A person who is not a current, classified employee, and who is initially appointed to a position in the classified service, as defined in these rules, is required to successfully complete a period of initial probation of not less than six months in duration. Rule 7.3(1) governs the conduct of initial probation.
- e. Absent a written agreement between the affected appointing authorities to the contrary, a classified employee who voluntarily accepts an appointment to a classified position in an agency covered by this rule from an agency not covered by this rule shall be handled as an initial appointment by the covered agency, notwithstanding that the appointment may otherwise fit the definition of a promotion, lateral, or demotion appointment. Such an employee is required to successfully complete a period of initial probation in accordance with Rule 7.3(1). Written acknowledgement by the employee of the provisions of this rule must be provided to the Director as a part of

7.2 (Continued)

the appointment documentation. NOTE: Refer to Rule 11 (voluntary separation) in the case of a classified employee who voluntarily accepts an appointment to a classified position in an agency not covered by this rule from an agency covered by this rule.

(2) Promotion Appointment:

- a. This rule governs the situation of a current classified employee, whether tenured or not, who is appointed to a vacant position in the same agency or in another agency covered by Rule 7 that is assigned to a higher pay grade than the position to which the employee was previously assigned (i.e., promotion due to appointment) following a break of 5 consecutive work days or less. Rule 5 defines the effect when the position to which a current classified employee is assigned is reclassified to a higher pay grade (i.e., promotion due to reclassification).
- b. When a classified employee voluntarily seeks a promotion appointment to a different agency under the conditions specified in Rule 7.2(1), the appointment shall be handled as an initial appointment and not as a promotion appointment.
- c. Preference in consideration for appointment shall be granted to current tenured classified employees for whom the appointment would constitute a promotion within a job series.
- d. Upon a promotion appointment, the pay rate will be adjusted in accordance with Rule 8.2(3)c.
- e. Every classified employee who has been reinstated or reemployed following qualifying service in the Armed Forces of the United States shall be given preference in each promotion opportunity applied for until the individual is promoted. This provision applies only to the individual's first promotion following reinstatement or reemployment. [FS 295.09, as amended; FAC 55A-7, as amended]
- f. Upon a promotion appointment, the classified employee shall serve a period of conditional probation of not less than six months in duration. Rule 7.3(2) governs the conduct of conditional probation.
- g. Upon a promotion appointment, if the classified employee has not yet successfully completed initial probation, the employee shall begin a new period of initial probation effective on the date of the promotion appointment. Rule 7.3(1) governs the conduct of initial probation.

7.2 (Continued)**(3) Lateral Appointment:**

- a. A lateral appointment (referred to as a “transfer” in the Civil Service Act) occurs when an employee moves between two positions, both of which are assigned to job classifications that are, in turn, assigned to the same pay grade, including cases where the two job classifications are assigned to different pay schedules following a break of 5 consecutive work days or less. A lateral appointment may be within the same classification (a.k.a. same-class transfer or appointment) or between different classifications (other-class transfer or appointment).
- b. When a classified employee voluntarily seeks a lateral appointment to a different agency under the conditions specified in rule 7.2(1), the appointment shall be handled as an initial appointment and not as a lateral appointment.
- c. An appointing authority may, at its sole discretion, laterally appoint or reassign a classified employee to a new position in the same job classification whether or not the employee is on a current list of certified eligible candidates.
- d. Lateral appointments within the same agency and without a change in job classification shall not result in a pay adjustment or a period of probation.
- e. The pay rate for an employee who is laterally appointed within the same agency to a different classification (other-class transfer) may, at the sole discretion of the appointing authority, be adjusted in accordance with Rule 8.2(3)d.

(4) Demotion Appointment:

- a. This rule defines the impact on a classified employee who voluntarily (i.e., voluntary demotion) or involuntarily (i.e., disciplinary demotion) is appointed to a vacant position within the same agency that is assigned to a lower pay grade than the position to which the employee was previously assigned. (See Rule 5 for positions reclassified to a lower pay grade.)
- b. When a classified employee voluntarily seeks a demotion appointment to a different agency under the conditions specified in Rule 7.2(1), the appointment shall be handled as an initial appointment and not as a demotion appointment.

7.2 (Continued)

- c. Rule 8.2(3) governs the adjustment of an employee's pay rate in response to a demotion appointment within the same agency or to another agency covered by Rule 7.

(5) Appointment to the Classified Service from an Unclassified Position:

The appointment of an unclassified employee to a classified position (or the reclassification of an encumbered unclassified position to the classified service) shall be handled as an initial appointment in accordance with Rule 7.2(1). Written acknowledgement by the employee of the provisions of this rule must be provided to the Director as a part of the appointment documentation.

(6) Acting Assignment:

- a. At the direction of the Appointing authority, a classified employee may assume the job duties and responsibilities of another classified position (i.e., "acting assignment") under the following conditions:
 - 1. The position is vacant and an appropriate candidate is not readily available to appoint to the position; or
 - 2. The regular position incumbent is not performing the position duties due to being on an approved absence or on a special assignment or is acting in another position; and
 - 3. The acting employee meets the published minimum qualifications of the acting assignment job.
- b. When the classification in which the employee is acting is assigned to a higher pay grade than the employee's regular (pre-acting) classification, the employee shall receive a 7% increase in hourly pay for each hour worked in the acting position.
- c. The employee's pay rate may, at the sole discretion of the appointing authority, be increased by 7% when the employee is assigned to act in a classification with a pay grade that is equal to or lower than the employee's pre-acting classification.
- d. Acting assignments shall not exceed 360 days, unless prior approval for an extension is obtained from the Director.
- e. An appointing authority may not end an employee's acting assignment and restart the employee in the same acting assignment within 30 calendar days.

7.2 (Continued)

- f. At the end of an acting assignment, the employee shall be returned to the hourly rate at which the employee was being paid prior to the acting assignment, plus any pay adjustments for which the employee would have been eligible had the employee never left his/her regular or pre-acting position.

(7) Temporary Appointment:

- a. A temporary appointment is not intended to exceed one-hundred twenty (120) calendar days. Such appointment may be on a full-time, reduced hours, or part-time basis. [CSL Section 5(30)/Section 9(3)].
- b. Although persons so employed are in the unclassified service, they must meet the minimum qualifications for the classification of the position to which they are appointed, but need not be on a certified eligibility list. An appointing authority may make any temporary appointment without Board approval. The Board must be notified within five (5) working days of such appointment. [CSL Section 5(30)/Section 9(3)].
- c. One extension of not more than 120 days may be granted by the appointing authority, by certification to the Director that the extension is not an avoidance to properly fill a classified position. Notice of the extension and accompanying certification must be provided to and received by the Director no later than the 120th day of employment.
- d. The employment shall be terminated on the two-hundred fortieth (240) calendar day, unless approval for a second extension has been obtained from the Board prior to that time. It is the responsibility of the appointing authority to initiate a timely request for any desired extension of temporary employment. The request must be submitted sufficiently in advance of the expiration of the first extension that it may be considered by the Board at a regularly scheduled business meeting prior to the expiration.
- e. The time limitations herein for temporary employees apply to all work performed by the temporary employee during a continuous period of employment with an appointing authority, regardless of any change in job classification, assignment, hours of work, or pay.
- f. Absent a showing of special circumstances, total continuous temporary employment, including all extensions, shall not exceed 360 calendar days.

7.2 (Continued)

- g. A temporary employee will be considered to have ended a term of employment when any of the following occur:
 - 1. The appointing authority notifies the Board of the formal termination of the temporary employee.
 - 2. In the event that either a certification by an appointing authority in the case of the first extension, or a request to the Board in the case of a second extension, or a separation action in the case of reaching 360 continuous days of employment, is not provided to the Director on a timely basis, the temporary employee's employment automatically terminates after 120, 240, or 360 days, whichever is applicable. In the event the employee has performed work after the effective expiration of the employment, the employee shall be paid for time actually worked. The Director may grant exceptions to this automatic termination provision.
 - 3. A temporary employee works no hours for the employing agency for a minimum of 60 consecutive calendar days.
- h. Appointment in any temporary role may be terminated at any time by dismissal or cessation of hours worked for a continuous period of not less than 60 calendar days with the same agency or when no timely action is taken by an appointing authority prior to the expiration date of the temporary employment period
- i. A temporary employee may not be separated and rehired for the purpose of circumventing the time limitations herein.
- j. The Director may periodically audit appointing authority payroll records to ensure compliance with the time restrictions herein. [CSL Section 17]
- k. A current classified employee may be also be appointed as a temporary employee provided that:
 - 1. the temporary job does not interfere in any way with the classified position held; and
 - 2. no suitable permanent candidate can be identified after a reasonable recruitment effort and within time limitations incident to accomplishing the work involved.

7.2 (Continued)**(8) Light Duty Assignment:**

- a. When a classified employee is unable to perform the essential functions of his or her regularly assigned duties because of a physical or mental impairment, the appointing authority may approve the assignment of such employee to responsibilities that could be performed within the employee's restrictions. Assignment to such duties shall be at the sole discretion of the appointing authority.
- b. Employees performing light duty work shall receive their regular hourly rate for all hours worked. In no event shall the combined total of Short-Term Disability or Workers' Compensation benefits and the supplement of sick and vacation hours and paid wages for hours worked, exceed the salary of that employee at his or her regular rate of pay for a normal work week.
- c. The Performance Review Date and Benefits Date are not changed as a result of an employee performing light duty work.
- d. Any employee physically able, but unwilling to accept light duty assignments as offered by the appointing authority, shall forfeit the right to Worker's Compensation indemnity payments. [Florida Statute 440.15(6)]

(9) Limited Duration Appointment:

- a. A "Limited Duration Appointment" is an appointment made to fill a classified position that has been established under a grant agreement, or other specific funding source having distinct time or funding limitations.
- b. A person appointed to a limited duration classified position shall be treated in accordance with these rules in all respects, except that the appointment to the position shall be terminated upon the expiration of the funding source or grant agreement without right of appeal to the Board and, in the case of a tenured classified employee who accepts appointment to a restricted classified position, without the right to return to the employee's former job.
- c. A person who is offered appointment to a limited duration classified position, whether or not a current employee, shall be notified in writing, prior to accepting the appointment, of the limitations of that appointment and may only be appointed if the limitations are accepted by indication of the person's signature on the notice. Such notification and acceptance shall be forwarded to the Director for inclusion in the employee's official personnel record.

7.2 (Continued)**(10) Restricted Appointment:**

- a. When the incumbent of a classified position is not available for duty because of an approved leave of absence or other reason, a person may be appointed to that position by selection from a current eligibility list.
- b. A person appointed to a restricted classified position shall be treated in accordance with these rules in all respects, except that the appointment to the position shall be terminated upon the return of the regular position incumbent without right of appeal to the Board and, in the case of a current classified employee being appointed to a restricted classified position, without the right to return to the employee's former job.
- c. A person who is offered appointment to a restricted classified position, whether or not a current employee, shall be notified in writing, prior to accepting the appointment, of the limitations of that appointment and may only be appointed if the limitations are accepted by indication of the person's signature on the notice. Such notification and acceptance shall be forwarded to the Director for inclusion in the employee's official personnel record.

(11) Substitute Appointment:

- a. A person may be appointed to a classified position for a period not to exceed 120 consecutive calendar days, when the classified employee who fills that position is on an approved leave of absence. [CSL Section 5 (28)/Section 9(4)]
- b. Substitute employees must meet the minimum qualifications for the classification of each position to which they are appointed, but need not be on a certified eligibility list.
- c. An appointing authority may appoint any person as a substitute employee without prior Board approval.
- d. The Board must be notified of all substitute employee initial appointments, using the format currently approved by the Director, within five (5) working days. The notice of appointment shall include a statement from the appointing authority concerning the qualifications of the substitute employee relative to the minimum qualifications of the position being filled, and the job code, pay grade, and rate of pay. The notice of appointment shall be accompanied by documentation of the appointee's prior education and experience. [CSL Section 5(30)/Section 9(3)]

7.2 (Continued)

- e. Substitute employees need not be terminated following the last day of work in each classified position. At the discretion of the appointing authority, substitute employees may remain on an "on call" roster indefinitely.
- f. The Board must be notified, using the format currently approved by the Director, within five (5) working days of the date the substitute employee is formally separated.
- g. The time limitations for substitute employees apply to all work performed by the substitute employee in the same position during a continuous period of employment with an appointing authority regardless of any change in job classification, assignment, hours of work, or pay.
- h. A substitute employee may not be separated and rehired for the purpose of circumventing the time limitations herein.
- i. The Civil Service Office may periodically audit agency payroll records to ensure compliance with the time restrictions herein. [CSL Section 17]
- j. Substitute employees are in the unclassified service and, therefore, are otherwise not subject to Civil Service Rules.

7.3 Probation Periods:**(1) Initial Probation Period**

- a. At the successful completion of an initial probation period, the appointing authority shall provide to the Director a completed Job Performance Report with an overall rating indicating that the employee's job performance met the appointing authority's expectations and, when applicable, certification by the appointing authority that the employee has obtained all job-related certifications, licenses, and/or training requirements.
- b. During an initial probation period, the appointing authority may, for job-related reasons, either terminate an employee without right to appeal to the Board, or extend the initial probation for up to an additional six months. Such actions shall be supported by a completed Job Performance Report with an overall rating indicating that the employee's job performance did not meet the appointing authority's expectations and/or, when applicable, certification by the Appointing authority that the employee did not obtain all job-related certifications, licenses, and/or training requirements.

7.3 (Continued)

- c. The appointing authority may notify the Director of successful or unsuccessful completion of extended initial probation at any time following an extension by providing a completed Job Performance Report with an overall rating indicating whether the employee's job performance met the appointing authority's expectations and, when applicable, certification by the appointing authority whether the employee obtained all certifications, licenses, and/or training requirements that the employee lacked at the time of probation extension.
- d. One year initial probation periods may not be extended. However, one year probation periods may be successfully completed sooner than one year, but no earlier than six months, upon notification to the Director by the appointing authority of such completion. Such notification shall include a performance report indicating that the employee's job performance met the appointing authority's expectations and, when applicable, certification by the appointing authority that the employee obtained all certifications, licenses, and/or training requirements
- e. Except for a classified employee who lacks one or more job-related certifications, licenses, and/or training requirements, a probationary employee shall automatically become tenured when the appointing authority does not provide the Director with an evaluation of the employee's job performance during initial probation within 30 days of the probation period end date.
- f. When a classified employee serving on initial probation is promoted, demoted or laterally appointed to a position in a different classification the employee shall begin a new period of initial probation, effective on the date of appointment to the new position.
- g. No classified employee may be required to serve more than one year of initial probation, except in the following circumstances:
 - i. during initial probation the employee voluntarily accepts a promotion, demotion or lateral appointment within the same agency; or
 - ii. the employee voluntarily accepts a promotion, demotion or lateral appointment to or from an agency that is not covered by Rule 7.

7.3 (Continued)**(2) Conditional Probation Period**

- a. At the successful completion of a conditional probation period, the appointing authority shall provide to the Director a completed Job Performance Report with an overall rating indicating that the employee's job performance met the appointing authority's expectations and, when applicable, certification by the appointing authority that the employee has obtained all job-related certifications, licenses, and/or training requirements.
- b. At any time during the conditional probation period, the appointing authority may, for job-related reasons, either terminate the employee, with the right of appeal to the Board, or extend the conditional probation for up to an additional six months. Such actions shall be supported by a completed Job Performance Report with an overall rating indicating that the employee's job performance did not meet the appointing authority's expectations and/or, when applicable, certification by the Appointing authority that the employee did not obtain all job-related certifications, licenses, and/or training requirements.
- c. The appointing authority may notify the Director of successful or unsuccessful completion of extended conditional probation at any time following an extension by providing a completed Job Performance Report with an overall rating indicating whether the employee's job performance meets the appointing authority's expectations and, when applicable, certification by the appointing authority as to whether the employee obtained all certifications, licenses, and/or training requirements that the employee lacked at the time of probation extension.
- d. Except for a classified employee who lacks one or more job-related certifications, licenses, and/or training requirements, a probationary employee shall automatically become tenured when the appointing authority does not provide the Director with an evaluation of the employee's job performance during conditional probation within 30 days of the probation period end date.

7.3 (Continued)

- e. Return to Former Classification:
1. Under the following conditions a classified employee shall be returned to a position assigned to the classification in which the employee was previously employed (i.e., returned to former class):
 - i. When the job performance of an employee on conditional probation did not meet the appointing authority's expectations; or
 - ii. When the employee did not obtain all required certifications, licenses, and training; or
 - iii. When the appointing authority grants the employee's request.
 2. Where a classified employee receives a promotion appointment to a different agency and both agencies are covered by Rule 7, the agency to which the employee will be assigned upon the return to former class is determined as follows:
 - i. The employee will be returned to a position that is assigned to the former classification within the agency that made the promotion appointment, unless the Agency head can certify that the lower classification cannot reasonably be utilized in that agency; or
 - ii. The employee will be returned to a position in the former agency that is assigned to the former classification.
 3. The return of an employee to his or her former classification following unsuccessful performance during the probationary period is not considered a demotion and is not appealable to the Civil Service Board. [CSL Section 10(2)]
 4. Upon return to the former classification the appointing authority may adjust the pay rate in accordance with Rule 8.2(3)h.
 5. Unsuccessful completion of conditional probation does not affect an employee's earned tenured status as provided under Civil Service Law. [CSL Section 10(1)]

7.4 Classified Employees Holding Public Office:

- (1) Unless prohibited by Florida Statutes relating to dual office holding, classified employees may hold elective or appointed public office, without regard to whether such office is compensated or uncompensated, provided the performance of their duties or exercise of their authority in the public office shall not conflict with the performance of their duties in the classified service.
- (2) For the purpose of this rule, a conflict exists between the performance of duties or exercise of authority in public office and the performance of duties in the classified service where:
 - a. there is a conflict between the hours of employment within the classified service and the hours of attendance or performance in the office which affects the employee's attendance in the classified employment;
 - b. the performance of duties or exercise of authority in the office results in an inability to successfully perform in the classified service;
 - c. the office requires the employee to vote upon, implement, administer, or represent the electing constituency with respect to a matter which creates or reasonably appears to create a conflict of interest between performance in the public office and the classified service.
 - d. the occurrence of any other event that creates a real or apparent conflict between performance in the public office and the classified employment.
- (3) In the event an Appointing authority determines that a classified employee's job duties or exercise of authority in the public office conflicts with the performance of the duties in the classified service, the appointing authority shall notify the employee of the reasons that a conflict exists and provide a proposed remedy. In the event of an actual or apparent conflict of interest as provided above, the appointing authority shall consider whether such conflict can reasonably be resolved by the abstention or recusal of the public official.
- (4) An employee who holds a public office and disagrees with the conflict determination made by the Appointing authority may initiate a grievance pursuant to Rule 14 or under any applicable collective bargaining agreement.
- (5) An employee's failure to abide by this rule may result in discipline, up to and including termination from the classified position. Such discipline is appealable to the Board.
- (6) This rule shall be interpreted consistent with general Florida law regulating the ethics of public officials. Substantial weight shall be afforded to any determination of the Florida Ethics Commission by the Board and appointing authorities.

Classified Employee Compensation:**8.1 General:**

- (1) The pay schedules and pay ranges or pay grades contained in the current edition of the Board's Classification and Pay Plan (the Pay Plan) shall be used, in conjunction with these rules to establish and adjust the rates of pay for classified employees.
- (2) Unless otherwise permitted by these rules, prior approval of the appointing authority and the Board must be obtained to establish or adjust the pay rate of a classified employee to a rate that does not fall between the applicable current pay range minimum and maximum rates, inclusive.
- (3) Prior approval of the appointing authority and the Director must be obtained to establish or adjust the pay rate of a classified employee to a rate that does not comply with all of the provisions of these rules.
- (4) Agency heads may authorize incentives and benefits as lawfully permitted, provided they are available to all similarly situated classified employees of that agency.
- (5) Initial pay rates and subsequent pay rate adjustments for classified employees shall consider the need to avoid creating internal inequity among employees in the same classification, or in another classification in the same series.

8.2 Establishing and Adjusting Rates of Pay:

- (1) The appointing authority, or delegate, and the Director, or delegate, shall review and approve the initial pay rates and subsequent pay rate adjustments for classified employees.
- (2) Unless otherwise specified in these rules (e.g., 8.2(3)b.4(a)), initial pay rates and pay rate changes shall be effective as of the effective date of the event that results in the pay rate change (e.g., hire, promotion, etc.).
- (3) In response to the following employment events, these rules, in conjunction with the Board's current Pay Plan, shall be used to establish and adjust the rates of pay for classified employees.
 - a. Initial Appointment: At the discretion of the appointing authority, the pay rate upon the initial appointment of a person to a classified position may be established at any rate between the minimum and mid-point, inclusive, of the pay range to which the position is assigned.

8.2 (Continued)

- b. Agency Initiated Pay Rate Adjustments:
1. Prior to the first day of each fiscal year (October 1 for most covered agencies) or as soon as practical thereafter, it shall be the responsibility of each agency head to communicate, in writing, to the Director, the agency compensation policy that will be in force during the upcoming fiscal year with regard to the following potential pay rate adjustments for classified employees:
 - (a) Performance-based or merit-based rate adjustments (in cycle), to include rate adjustments available at the completion of initial or conditional probation, if any; and
 - (b) Performance-based or merit-based rate adjustments due to extraordinary job performance (out of cycle); and
 - (c) Rate adjustments in response to changes in the cost of living (COLA); and
 - (d) Rate adjustments in response to changes in the rates paid by competing employers (market equity).
 2. Agency fiscal year policies shall impact in a similar manner all similarly situated classified employees of that agency throughout the identified fiscal year.
 3. Agency fiscal year policies shall specifically address the policy impact on a classified employee, whose rate is at or near the pay range minimum or maximum, in a manner that precludes the pay rate falling below the range minimum or exceeding the range maximum. For example, employees at the maximum are not eligible for an increase in base pay, but may be eligible to receive a lump sum equivalent in lieu of a base pay rate increase.

8.2 (Continued)

4. The performance-based or merit-based rate adjustment portion of Agency fiscal year policies, shall, at a minimum, include the following provisions:
 - (a) The effective date for all such pay rate changes shall be the start of the pay period in which the review period end date falls. Exceptions to this requirement may be granted by the Director.
 - (b) Identification of the percent increase(s) and/or dollar amount(s) that will be awarded, based on job performance ratings arrived at through the procedures defined in Rule 12, to a classified employee who completes a job performance review period of the following types during the fiscal year:
 - i. Initial Probation
 - ii. Conditional Probation
 - iii. Non-Probationary (Annual Review)
 - (c) The percent increase(s) and/or dollar amount(s) and eligibility criteria for an extraordinary (out of cycle) job performance-based rate adjustment.
 - (d) Consideration of the need to avoid creating internal inequity among employees in the same classification, or in another classification in the same series,
5. Upon approval by the Director of the specific approach, agencies may also adjust the pay rates of individuals or groups of classified employees in response to documented internal inequity. Such action shall not result in a pay rate reduction for any classified employee.

c. Pay Changes for Promotion or Lateral Appointment

1. An appointing authority may exercise its discretion to adjust the pay rate of a tenured classified employee for the following appointments:
 - a. Promotion Appointment as defined by Rule 7.2(2)a; and Promotion Due to Reclassification as defined by Rule 5.5(5)a shall be adjusted between a minimum of 5%, and up to the maximum pay rate.

8.2 **(Continued)**

- b. Lateral Appointment to a Different Classification and Lateral Classification Change Due to Reclassification as defined in Rule 7.2(3)a:

In such cases, the pay rate may remain unchanged or be increased in accordance with this rule.

- 2. Where a pay rate adjustment for a promotion or lateral appointment results in a pay rate above the rate paid to the highest classified employee in the same classification, the Appointing Authority shall provide the Director with documentation regarding the need to award the increase.
- d. Lateral Appointment within the Same Classification: In such cases, the pay rate shall remain unchanged.
- e. Demotion Appointment (non-disciplinary) and Demotion Due to Reclassification (non-disciplinary):
 - 1. This rule applies to both the voluntary demotion appointment of a person to a classified position and to the reclassification of a filled position that results in a demotion for the position incumbent.
 - 2. In such cases, at the discretion of the appointing authority, the pay rate may remain unchanged or be reduced in accordance with the following provisions:
 - (a) The pay rate shall be no less than the result of the relative position formula defined in Rule 8.2(4) below; and
 - (b) If the employee was previously assigned to the classification to which the employee is being demoted, the pay rate shall be no less than the highest rate paid to the employee when previously assigned that classification; and
 - (c) The pay rate shall not exceed the pay range maximum.

8.2 (Continued)

- f. Demotion Appointment (disciplinary) and Demotion Due to Reclassification (disciplinary):
1. This rule applies to both the discipline-driven demotion appointment of a person to a classified position and to the discipline-driven reclassification of a filled position that results in a demotion for the position incumbent.
 2. In such cases, at the discretion of the appointing authority, the pay rate shall be reduced in accordance with the following provisions:
 - (a) The pay rate that results from the application of the relative position formula defined in Rule 8.2(4) below; or
 - (b) If the employee was previously assigned to the classification to which the employee is being demoted, the pay rate shall be no less than the highest rate paid to the employee when previously assigned that classification.
- g. Return to Former Class: In cases as defined under Rule 7.3(2)e, the pay rate may remain unchanged at the discretion of the appointing authority, or the employee may be placed in the same position of the salary range that was previously held, plus any pay adjustments that the employee would have received in accordance with the agency's current fiscal year compensation policy.
- h. Performance Improvement Program Completion: In such cases, the pay rate shall remain unchanged; including cases where PIP ends and the employee is returned to work.
- i. Classification Assigned to a Higher Pay Range: At the discretion of each impacted appointing authority, and with the concurrence of the Director the pay rates of employees assigned to the classification may remain unchanged or be increased in accordance with the relative position formula defined in Rule 8.2(4) below as a result of a labor market analysis. The pay rates of all employees within each appointing authority shall be adjusted in a like manner.
- j. Classification Assigned to a Lower Pay Range: In such cases, the pay rate shall remain unchanged.

8.2 **(Continued)**

(4) Relative Position Formula: This formula is referenced by other sections of these rules as either an optional or mandatory method to be used in calculating pay rate adjustments for classified employees in a variety of circumstances:

- a. Relative Position Pay Rate = (A / B) x C where:
 - 1. A = Current Pay Rate
 - 2. B = Pre-Action Pay Range Mid-Point
 - 3. C = Post-Action Pay Range Mid-Point
- b. Round to nearest penny using standard rounding rules.

8.3 **Bonus Payments**

(1) Bonus payments may be provided to classified employees provided they are available to all similarly situated classified employees of that agency. Such payments must be approved in accordance with federal and state laws. Bonus payments made to nonexempt employees must comply with the FLSA requirements on overtime compensation. Generally bonuses, other than lump sum discretionary, are included in the regular rate of pay when calculating the overtime rate.

If the funding source is from a sponsored or grant funded program, the award must be reviewed to ensure the bonus payment complies with sponsor/grant requirements and there are no restrictions on bonus payments.

(2) A bonus is defined as a lump sum, non-cumulative cash award that may be granted to an employee in the following situations:

- a. **Performance**: for a significant contribution that substantially benefits the appointing authority, project, or unit, or as a productivity bonus when certain pre-determined productivity measures are met during the performance period;
- b. **Sign-On**: used as an incentive in recruiting employees with high demand skills or key talent requirements. These awards can help avoid higher, ongoing fixed compensation costs when recruiting key, hard to fill positions;
- c. **Retention**: used to retain employees.

8.3 **(Continued)**

- (3) A sign-on or retention bonus may be awarded when such compensation is in the best interest of Hillsborough County and:
 - a. market conditions in the relevant job category justify offering a bonus to obtain or retain the services of qualified personnel; or
 - b. such compensation is justified in order to obtain or retain an employee with outstanding qualifications, and
 - c. the employee receiving the bonus agrees to remain with the agency not less than 12 months, or forfeit and repay the bonus payment.

- (4) Bonus payments cannot be awarded in lieu of paying overtime wages to nonexempt employees that are required by wage and hour law.

8.4 **Overtime:**

- (1) It is the responsibility of the appointing authority to determine whether each position is covered by or is exempt from the Federal Fair Labor Standards Act [FLSA].

- (2) In accordance with the FLSA, employees who fill roles that are defined as non-exempt shall receive overtime at a rate of not less than one and one-half times the base pay rate (as defined in the FLSA) for each hour worked in a workweek which exceeds 40 hours (except in the case of public safety workers, in which case the number of weekly hours may vary). Such overtime may be paid in cash or as compensatory leave (within the parameters set forth in the FLSA and Rule 10).

- (3) Overtime work shall be authorized at the sole discretion of the appointing authority.

- (4) The opportunity for overtime work shall be extended in a similar manner to all similarly situated employees within an agency.

- (5) Employees who refuse to perform directed overtime work or perform overtime work without prior authorization may be subject to disciplinary action as provided in Rule 11.

8.4 (Continued)

- (6) For overtime compensation purposes, authorized holidays, vacation, and sick leave, may be considered as time actually worked. Other absences, including administrative leave, bereavement leave, civic leave, military leave, newborn leave, previously earned compensatory leave, and any other time not worked, shall be excluded from time worked in computing basic hours beyond which premium overtime rates are paid. [NOTE: For the purpose of this rule, vacation and sick leave may be counted as time worked at the end of the work week it is taken. Accordingly, the amount of vacation and sick leave charged may be adjusted to preclude the payment of overtime, provided the adjustment is made within the same work week as the overtime is performed.]

8.5 Special Forms of Compensation:**(1) Stand-by Assignments:**

- a. An Appointing Authority may require any classified employee of that agency to accept stand by assignments.
- b. Employees on stand-by assignment are required to maintain a state of readiness to work during other than regularly scheduled hours, may be compensated at the rate of one hour's salary at the employee's regular rate of pay, for each eight hour period of such availability. Fractional periods of stand by duty shall be compensated proportionately. Any employee who performs work for the employer during the period of stand-by status (i.e. phone calls, paperwork etc.) shall be compensated for all such time actually worked.
- c. This provision shall be equally applicable to employees equipped by the appointing authority with electronic communication devices and to those who are required to otherwise promptly acknowledge and/or react to messages or telephone calls received during the stand by period.
- d. While the time spent on stand-by duty is not considered hours worked for overtime purposes, all compensation paid to an FLSA non-exempt employee for stand-by duty shall be included in calculating that employee's base pay rate for overtime purposes.
- e. Eligibility for stand by pay is not affected by a concurrent paid holiday.

8.5 (Continued)**(2) Call-In from Stand-by Assignment:**

- a. If, while serving on stand-by status, an employee is required to perform work on behalf of the appointing authority (on-site or remotely), such employee shall be compensated on a portal-to-portal basis for all time actually worked.
- b. A minimum of two hours compensation shall be paid to the employee each time that he or she is required to report to a work site during the period of stand-by status, except that total paid hours shall not exceed the total hours of the corresponding stand-by period.
- c. All hours paid in accordance with this provision shall be included in the total hours worked when determining eligibility for payment of overtime at premium rates.
- d. Compensation for this purpose is separate and distinct from that authorized in Rule 8.3(1) for stand by assignment Compensation for stand-by assignment and call-in from stand-by assignment shall not be paid simultaneously for the same time period.

(3) Emergency Call-In:

- a. An off-duty employee, not on stand-by status and not otherwise scheduled to work that day, who is required to report to a physical worksite in an emergency situation shall be compensated on a portal-to-portal basis for all such time actually worked.
- b. A minimum of two hours compensation shall be paid to the employee each time that he or she is required to a physical worksite, or be compensated for the actual number of hours worked, if such time worked exceeds the two hour minimum.
- c. All hours paid shall be included in the total hours worked when determining eligibility for payment of overtime at premium rates.

(4) Shift Differential: At the sole discretion of the appointing authority, a pay rate differential may be paid to employees who work a shift that includes hours between the hours of 6:00 p.m. to 7:00 a.m.

8.6 Deferred Compensation:

- (1) Appointing Authorities shall provide classified employees who, on or before February 2, 1997, elected to participate in Sick Leave Plan “B”, as legal consideration for this change, contribution to a County Deferred Compensation Program an amount equal to one percent (1%) of the employee’s wages received for working all regularly scheduled hours. This contribution shall be in addition to all other wages paid and will begin the month after an employee notifies the Agency that a deferred compensation account has been opened.

- (2) In addition to the required contribution in (1) above, the agency may provide classified employees a contribution to a County Deferred Compensation program in an amount it deems appropriate.

Hours of Work and Attendance of Employees:**9.1 Hours of Duty:**

- a. The standard work week shall be comprised of 40 hours, except for those classifications in the fields of law enforcement, fire protection, and emergency medical service which normally have a greater number of regularly scheduled hours.
- b. The Appointing Authority of each agency shall prescribe the hours of duty during which attendance of employees in the organization shall be required with due regard to uniformity and equitability of treatment.
- c. When it becomes necessary to permanently change an employee's established working hours, the Appointing Authority shall provide the employee as much advanced notice as possible.
- d. Rest periods of reasonable duration, defined by the Appointing Authorities and provided in accordance with good work practice for each type of work, shall be regarded as included within the total required hours of work.

9.2 Holidays:

- a. Full-time classified employees on the payroll on January 1 of the year in which holidays are observed shall be granted ninety-six hours of paid holiday time annually. Classified (Reduced Hour) employees scheduled to work between 20 and 40 hours per week are granted holiday hours in the same proportion as their scheduled hours are to full time. Unless operating necessities demand otherwise, all Appointing Authorities will recognize those holidays designated by the Board of County Commissioners.
- b. Permanent employees are not expected to work on authorized holidays except for minimum staffing of essential operations or in declared emergencies.
 - (1) When the holiday is observed, the employee is paid at the regular rate of pay for an eight-hour day, provided the employee was in a paid status (e.g. working, on paid sick leave, annual leave, compensatory leave, or using Floating Holiday(s) on either the regularly scheduled work day preceding the holiday or immediately following the holiday.[CSL Section 7(2)(o)
 - (2) If the employee is required to work on the authorized holiday, another day may be substituted as a paid holiday by the Appointing Authority who shall reasonably consider the employee's preferences in that selection.

9.2 (Continued)

- (3) If another day is not substituted for a holiday worked, the employee will be paid at the regular rate for eight hours in addition to being paid for hours actually worked, or at the overtime rate appropriate for the class if the total hours paid for work, sick, vacation, and holiday time exceeds forty in the work week.
- c. Holiday pay is not authorized for temporary or part-time employees unless those employees are actually performing duty on any specified holiday.
- d. Floating holiday(s) may be authorized as paid holidays each calendar year by the Board of County Commissioners. Employees may select the specific date(s) on which they desire to observe the floating holiday(s) in accordance with the following criteria:

 - (1) Classified employees who were on the payroll on January 1 of the year in which a floating holiday is authorized shall be granted two (2) floating holidays which may be observed by the employee on any day during the calendar year with the approval of the Appointing Authority or their designated representative.
 - (2) Classified employees who were not on the payroll on January 1, but were on the payroll on July 1 of the year in which a floating holiday is authorized, shall be granted one (1) floating holiday which may be observed by the employee on any day during the remainder of the calendar year with the approval of the Appointing Authority or their designated representative.

Leaves of Absence:

Leaves of absence, as defined in this Chapter, are subject to the approval of the Appointing Authorities or their designated representatives. Based upon the needs of the Appointing Authority, leaves of absence shall be granted at the time desired by the employee.

10.1 Kinds of Leaves of Absence:

There are fourteen types of paid and unpaid leaves of absence. Such leaves of absence and related rules are as follows: [CSL Section 5(20)/Section 7 (2) (o)]

<u>TYPE</u>	<u>PAY STATUS</u>	<u>REFERENCE</u>
Administrative Leave	Paid	CSR 10.14
Annual Leave	Paid	CSR 10.5
Bereavement Leave	Paid	CSR 10.11
Civic Leave	Paid	CSR 10.7
Compensatory Leave	Paid	CSR 10.6
Emergency Leave	Paid	CSR 10.3h and CSR 10.4h
Family and Medical Leave Leave Without Pay - Other Cogent Reasons	Paid/Unpaid Unpaid	CSR 10.13 CSR 10.10
Medical Leave of Absence	Paid/Unpaid	CSR 10.3i and CSR 10.4i
Newborn Leave (Plan "B")	Paid	CSR 10-4j
Military Leave	Paid/Unpaid	CSR 10.8 & 9
Sick Leave (Plan A)	Paid	CSR 10.3
Sick Leave (Plan B)	Paid	CSR 10.4
Uni-Leave	Paid	CSR 10.12

10.2 Eligibility for Leaves of Absence:

- a. The maximum allowances specified for sick leave and annual leave are those for full-time, classified employees. Employees employed on a reduced-hour basis shall accrue sick leave and annual leave allowances based on the number of hours actually worked. Charges for authorized absences shall be made against these allowances in proportion to their actual days of duty. When reference is made in these Rules to a work day or work week, these terms shall be construed to mean eight hours or forty hours respectively. Charges of leave used shall be computed in hourly increments and so reflected in applicable records.
- b. No allowances for leave with pay shall be made for an employee holding a temporary appointment.

10.2 (Continued)

- c. An employee who is reinstated within one year following separation resulting from a Workers' Compensation job related injury shall be credited with sick leave accruals to which the employee was entitled on the date of separation and for which not otherwise compensated and shall have all creditable service before that date considered in determining the rates of sick leave accrual. An employee who is reinstated on return from authorized military leave shall receive full credit for the period of military service in determining the rates of leave accrual.
- d. Allowances for military leaves of absence for training shall be provided to any employee whose employment is regulated through the Civil Service system. [FS 115.07]
- e. No leave of absence with pay shall be granted in anticipation of future leave allowances.
- f. Any employee who is transferred from a permanent classified position to another such position without a break in service shall retain any unused sick leave or annual leave which has been accrued, and shall be eligible for accrual of such leave based on the hire date from which continuity of County Civil Service is computed. No employee shall be paid for accrued leave when transferred. Scheduling of annual leave for transferred employees remains the prerogative of the receiving Appointing Authority.
- g. The Appointing Authority, or their designated representative, may require an employee to exhaust all accrued sick and annual leave, as appropriate, prior to granting a leave of absence without pay.

10.3 Sick Leave - Plan "A": (Employees hired before the first day of the pay period which includes February 2, 1997, and Who Elected Not to Transfer to Plan "B")**a. General:**

- (1) Sick leave allowances for all classified employees hired prior to the BEGIN DATE, as defined in CSR 10.4a(1), and who elected, in writing, not to transfer to Sick Leave Plan "B" effective on the BEGIN DATE, shall be computed each pay period by multiplying the paid hours in that pay period which do not exceed the total number of hours regularly scheduled by the Appointing Authority times a decimal factor of 0.0462. For example, an employee who is regularly scheduled to work and is paid for a standard 40 hour work week, or 2080 hours annually, would earn 96 hours (12 days) of sick leave each year.
- (2) Allowances accrued and not used may be accumulated without limit with respect to use, but shall not be paid or converted except as specifically provided in CS Rule 10.3f and 10.3g.

10.3 (Continued)

b. Authorized Use of Sick Leave Accruals:

- (1) Sick leave allowances accrued by an employee in accordance with this rule are intended for use in case of that employee's incapacitation caused by injury or illness which is not job-related, or for health maintenance appointments (other than Worker's Compensation) with dentists, physicians, or other professionals in the field of mental or physical health.
- (2) Accumulated sick leave allowances may also be used in the same manner as above by the employee for the employee's spouse, child, as defined by Wage and Hour Division, U.S. Department of Labor (including where the employee has a relationship of in loco parentis), parent, or parent-in-law (includes not only the biological parent, but any individual who acted as a parent of the employee or spouse when the employee or spouse was young). Sick leave allowances may also be used for the same purposes as stated above for any relative residing in the employee's household.
- (3) Accumulated sick leave allowances may also be used by the employee for:
 - (a) the birth of a son or daughter of the employee.
 - (b) the placement of a son or daughter with the employee for adoption or foster care.

NOTE: Sick leave taken for the birth or adoption of a son or daughter must be completed within twelve months of such birth or adoption. This rule may not reflect the employee's entitlements under the Family and Medical Leave Act (FMLA).

- (4) Sick leave may be used otherwise only to the extent provided hereinafter to supplement allowances paid for job-related incapacitation, donations to authorized Sick Leave Banks, upon entering the Long-Term Disability Program and, in certain emergencies as provided for in CS Rule 10.3h.

c. Notification Requirement of Absences:

In every case of absence resulting from sickness or injury, the employee shall notify the immediate supervisor promptly, normally prior to his or her regular scheduled reporting time, stating the nature of illness or injury. Failure to comply with this provision may be grounds for denial by the Appointing Authority of sick leave with pay.

10.3 (Continued)**d. Statement From Attending Medical Physician:**

A statement from the attending physician must be presented upon return to work in cases required by the Appointing Authority. Should it be discovered that an employee is taking sick leave under false pretenses, it shall be deemed grounds for disciplinary action, up to and including dismissal.

e. Supplement of Worker's Compensation Benefits:

An employee incapacitated by a job-related injury or illness as defined by the Worker's Compensation Act is entitled to the benefits provided by that Act. At the request of the incapacitated employee, the Agency Head shall allow the incapacitated employee to use accumulated hours of annual or sick leave to supplement Worker's Compensation benefits to prevent a loss of income. Nothing in this section shall be construed as preventing the Agency Head from establishing any other form of disability or wage continuation plan to supplement such Worker's Compensation benefits. The combined total of Worker's Compensation benefits and payment under any plan of compensation shall not exceed the salary of that employee at the regular rate for a normal week.

f. Compensation for Unused Sick Leave Accruals:

Upon the conditions of death or retirement (Immediate or Deferred) under a recognized retirement system, an employee, or in case of death, the employee's designated beneficiary, or in the absence of a designated beneficiary, the employee's survivor, as defined in Chapter 121.091(8), Florida Statutes, shall be paid for unused sick leave according to the following:

- (1) employees who are dismissed for cause, other than for mental or physical impairment, shall not be paid for unused sick leave hours.
- (2) employees shall provide proper notice of their intention to retire in order to be eligible for payment of unused sick leave hours. Proper notice shall normally be considered to be at least two weeks.
- (3) employees who are laid off and who are otherwise eligible for retirement may at any time during the initial year of layoff give written notice of their intention to take retirement and receive payment for unused sick leave hours, as provided for in CSR 10.3f(4) below.
- (4) unused sick leave hours of employees who retire or die prior to retirement, shall be paid based on the following:

10.3 (Continued)

- (a) up to 480 hours of unused sick leave shall be paid at 100% of the employee's regular hourly rate of pay being earned at the time of separation.
 - (b) unused sick leave hours above 480 hours and up to and including 960 hours shall not be paid.
 - (c) one half of all unused sick leave that exceeds 960 hours shall be paid at 100% of the employee's regular hourly rate of pay being earned at the time of separation.
- (5) payment of unused sick leave hours for those employees who die during their employment with Hillsborough County shall be according to one of the following:
 - (a) the employee's designated beneficiary as identified on CS Form 4 (Designation of Beneficiaries to Receive Unused Leave Accruals and Adjusted Unpaid Earned Wages).
 - (b) in the absence of a designated beneficiary, the employee's survivor, as defined in Florida Statute 121.091(8) as follows: (spouse, living children (equally), parents (equally), or the legal representative of the employee's estate.
- (6) Employees who enter the Deferred Retirement Option Program (DROP) shall not be eligible for the payment of their unused sick leave accruals until he or she leaves the employment of Hillsborough County.

g. Attendance Award Program:

The Attendance Award Program permits classified employees to convert a portion of unused sick leave to annual leave under circumstances specified in this rule.

- (1) The Appointing Authority may elect to adhere to a calendar year, fiscal year, or year based upon the individual employee's Benefits Date, provided all classified employees of that authority are allowed to request conversion based upon equivalent twelve-month periods.
- (2) Maximum conversion shall be one-third of the number of hours of sick leave accrued annually under these Rules; e.g., 32 hours annual conversion for employees regularly scheduled to work 40 hours per week, or 44.8 hours annual conversion for a regular schedule of 56 hours per week. For reduced-hour classified employees, that maximum shall be in the ratio that the employee's regularly scheduled hours are to full-time of 40 hours per week.

10.3 (Continued)

- (3) Except donations to authorized Sick Leave Banks, all other sick leave used for personal or family use during the year shall reduce the number of convertible hours. As examples only:

40-hour per week employees

<u>Sick Leave Used</u>	<u>Convertible Hours</u>
0	32
8	24
16	16
24	8
32	0

56-hour per week employees

<u>Sick Leave Used</u>	<u>Convertible Hours</u>
0	44.8
8	36.8
24	20.8
30.5	14.3
44.8	0

NOTE: Sick leave usage may include any number of hours or hourly increments and reduce convertible hours accordingly.

- (4) Conversion of the difference between the number of hours sick leave used during the year and the maximum convertible hours during that year shall normally be automatic, except that provisions shall be made by Appointing Authorities to allow individuals who do not desire conversion to continue the unused sick leave in the sick leave account.
- (5) No conversions shall be made for leave-usage experience during a period of less than twelve months except upon transfer of an individual from the jurisdiction of one Appointing Authority to another where a different annual cycle is in use. In such a circumstance, the losing authority may consider conversion based upon experience from the last preceding conversion date to the date of transfer, and the gaining authority may grant conversion at the next regular conversion date even though that date is less than twelve months after the transfer.

h. Emergency Leave:

In each event of a personal or family emergency that involves an individual for which the use of sick leave is not permitted under CSR 10.3b, paid absence of not more than 25% (3 days) of an employee's annual sick leave accrual may be permitted by the appointing authority, provided:

10.3 (Continued)

- (1) the paid absence will be considered as use of sick leave and deducted from hours accrued according to CSR 10.3a prior to conversion computation as provided in CSR 10.3g above,
- (2) the emergency circumstances are of a nature which precludes being reasonably foreseen and of such urgency as to require the employee's immediate presence away from the work location during normal working hours,
- (3) the employee obtains at least oral permission for the absence at the earliest practicable time consistent with the nature of the emergency, and
- (4) the employee presents such evidence of the compelling nature of the circumstances as the Appointing Authority deems necessary to justify the granting of emergency leave prior to payment for the hours of absence.

i. Medical Leaves of Absence Without Pay:

- (1) In the case of extended sickness or injury, the Appointing Authority may place an employee on a leave of absence, without pay, and such employee shall retain all of the rights which were held at the initiation of that absence. Requests by the employee for such absences must be accompanied by a medical statement, certified by a recognized practicing physician, which attests to the sickness or injury and the necessity for the employee to be on extended leave of absence. Medical documentation shall be maintained by the Appointing Authority. Such absences shall be for a period not to exceed twelve months unless further extended with the approval of the Civil Service Board. The placement of an employee on a medical leave of absence without pay, and any extension thereto, may be approved based upon written justification by the Appointing Authority which supports all of the following:
 - (a) the circumstances creating the need for the leave of absence still exists;
 - (b) approving the extension would benefit the department or agency;
 - (c) denying the extension would create a personal hardship on the employee;
 - (d) the employee's overall performance warrants such action;
 - (e) approving the extension would be in the best interest of Hillsborough County.

10.3 (Continued)

- (2) Appointing Authorities may, but are not required to, pay the employee's cost of health insurance premiums during an approved medical leave of absence, if all accumulated sick leave and annual leave are exhausted by the employee.
- (3) Appointing Authorities may require employees to maintain regular contact with the Appointing Authority, or their designated representative, consistent with the employee's medical condition and may require the employee to provide additional medical documentation of his or her status as is required to evaluate the employee's continued need for currently approved leave or future leave.
- (4) An employee who does not return to work after the completion of an approved leave of absence and any extension thereof, or who does not maintain contact with the Appointing Authority as required, or who fails to provide medical certification as required by the Appointing Authority, shall be deemed absent without leave.
- (5) Normally, medical leaves of absence, including all extensions, shall not exceed 36 months.

j. Long-Term Disability Program:

The Agency shall provide all classified employees enrolled in this sick leave plan a Long-Term Disability Program, providing for payment of 50% of the employee's salary at no cost to the employee. At the request of the incapacitated employee, the Agency Head, or their designated representative, shall, unless prohibited by contract with the Long-Term Disability provider, allow the incapacitated employee to use accumulated hours of annual or sick leave to supplement Long-Term Disability benefits to prevent a loss of income. The combined total of Long-Term Disability benefits and the supplement of sick and annual leave hours shall not exceed the salary of that employee at his or her regular rate of pay for a normal work week.

10.4 Sick Leave Plan "B": (Employees hired on or after the first day of the pay period which includes February 2, 1997, and employees who were hired before the first day of the pay period which includes February 2, 1997, who elected to transfer to Sick Leave Plan "B")

10.4 (Continued)**a. General:**

- (1) The beginning date for Sick Leave Plan "B" shall be the first day of the pay period which includes February 2, 1997, and shall be referred to in these rules as the "BEGIN DATE".
- (2) Sick leave allowances for all classified employees hired on or after the BEGIN DATE and those employees hired before the BEGIN DATE who elected, in writing, to transfer to Sick Leave Plan "B" shall be computed each pay period by multiplying the paid hours in that period which do not exceed the total number of hours regularly scheduled by the Appointing Authority times a decimal factor of 0.0308. For example, an employee who is regularly scheduled to work and is paid for a standard 40 hour work week, or 2080 hours annually, would earn 64 hours (8 days) of sick leave each year.
- (3) Sick leave accrued and not used may be accumulated without limit with respect to use, but shall not be paid or converted except as specifically provided for in CS Rule 10.4f and CS Rule 10.4g.
- (4) Sick leave earned prior to the BEGIN DATE (prior allowances) shall be accounted for separately from those allowances earned on or after the BEGIN DATE. Allowances earned on or after the BEGIN DATE shall be expended in total before prior allowances are expended. Prior allowances used may not subsequently be replaced. For example, an employee who had an unused sick leave balance of 500 hours on the BEGIN DATE and subsequently used 100 hours of that set aside balance, shall not be allowed to restore sick leave above the remaining 400 hours.

b. Authorized Use of Sick Leave Accruals:

- (1) Sick leave allowances accrued by an employee in accordance with this rule are intended for use in case of that employee's incapacitation caused by injury or illness which is not job-related, or for health maintenance appointments (other than Worker's Compensation) with dentists, physicians, or other professionals in the field of mental or physical health.
- (2) Accumulated sick leave allowances may also be used in the same manner as above by the employee for the employee's spouse, child, as defined by Wage and Hour Division, U.S. Department of Labor (including where the employee has a relationship of in loco parentis), parent, or parent-in-law (includes not only the biological parent, but any individual who acted as a parent of the employee or spouse when the employee or spouse was young). Sick leave allowances may also be used for the same purposes as stated above for any relative residing in the employee's household.

10.4 (Continued)

- (3) Accumulated sick leave allowances may also be used by the employee for:
 - (a) the birth of a son or daughter of the employee.
 - (b) the placement of a son or daughter with the employee for adoption or foster care.

NOTE: Sick leave taken for the birth or adoption of a son or daughter must be completed within twelve months of such birth or adoption. This rule may not reflect the employee's entitlements under the Family Medical Leave Act (FMLA).

- (4) Sick leave may be used otherwise only to the extent provided hereinafter to supplement allowances paid for job-related incapacitation, upon entering the Short-Term Disability Program or Long-Term Disability Program and, in certain emergencies as provided for in CS Rule 10.4h.

c. Notification Requirement of Absences:

In every case of absence resulting from sickness or injury, the employee shall notify the immediate supervisor promptly, normally prior to his or her regular scheduled reporting time, stating the nature of illness or injury. Failure to comply with this provision may be grounds for denial by the Appointing Authority of sick leave with pay.

d. Statement From Attending Medical Physician:

A statement from the attending physician must be presented upon return to work in cases required by the Appointing Authority. Should it be discovered that an employee is taking sick leave under false pretenses, it shall be deemed grounds for disciplinary action, up to and including dismissal.

e. Supplement of Worker's Compensation Benefits:

An employee incapacitated by a job-related injury or illness as defined by the Worker's Compensation Act is entitled to the benefits provided by that Act. At the request of the incapacitated employee, the Agency Head shall allow the incapacitated employee to use accumulated hours of annual or sick leave to supplement Worker's Compensation benefits to prevent a loss of income. Nothing in this section shall be construed as preventing the Agency Head from establishing any other form of disability or wage continuation plan to supplement such Worker's Compensation benefits. The combined total of Worker's Compensation benefits and payment under any plan of compensation shall not exceed the salary of that employee at the regular rate for a normal week.

10.4 (Continued)**f. Compensation for Unused Sick Leave Accruals:**

Upon the conditions of death or retirement (Immediate or Deferred) under a recognized retirement system, an employee, or in case of death, the employee's designated beneficiary, or in the absence of a designated beneficiary, the employee's survivor, as defined in Chapter 121.091(8), Florida Statutes, shall be paid for unused sick leave earned prior to the BEGIN DATE, according to the following:

- (1) employees who are dismissed for cause, other than for mental or physical impairment, shall not be paid for unused sick leave hours.
- (2) employees shall provide proper notice of their intention to retire in order to be eligible for payment of unused sick leave hours. Proper notice shall normally be considered to be at least two weeks.
- (3) employees who are laid off and who are otherwise eligible for retirement may at any time during the initial year of layoff give written notice of their intention to take retirement and receive payment for unused sick leave hours, as provided for in CSR 10.4f(4) below.
- (4) unused sick leave hours of employees who retire or die prior to retirement, which were earned prior to the BEGIN DATE and not used, shall be paid based on the following:
 - (a) up to 480 hours of unused sick leave shall be paid at 100% of the employee's regular hourly rate of pay being earned at the time of separation.
 - (b) unused sick leave hours above 480 hours and up to and including 960 hours shall not be paid.
 - (c) one half of all unused sick leave that exceeds 960 hours shall be paid at 100% of the employee's regular hourly rate of pay being earned at the time of separation.
- (5) Unused sick leave accrued on or after the BEGIN DATE shall not be eligible for payment.
- (6) Pay of unused sick leave hours for those employees who die during their employment with Hillsborough County shall be according to one of the following:
 - (a) the employee's designated beneficiary as identified on CS Form 4 (Designation of Beneficiaries to Receive Unused Leave Accruals and Adjusted Unpaid Earned Wages).

10.4 (Continued)

- (b) in the absence of a designated beneficiary, the employee's survivor, as defined in Florida Statute 121.091(8) as follows: (spouse, living children (equally), parents (equally), or the legal representative of the employee's estate).
- (7) Employees who enter the Deferred Retirement Option Program (DROP) shall not be eligible for the payment of their unused sick leave accruals until he or she leaves the employment of Hillsborough County.

g. Attendance Award Program:

The Attendance Award Program permits classified employees to convert a portion of unused sick leave to annual leave under circumstances specified in this rule.

- (1) The Appointing Authority may elect to adhere to a calendar year, fiscal year, or year based upon the individual employee's Benefits Date, provided all classified employees of that authority are allowed to request conversion based upon equivalent twelve-month periods.
- (2) Maximum conversion shall be one-half of the number of hours of sick leave accrued annually under these Rules; e.g., 32 hours annual conversion for employees regularly scheduled to work 40 hours per week, or 44.8 hours annual conversion for a regular schedule of 56 hours per week. For reduced-hour classified employees, that maximum shall be in the ratio that the employee's regularly scheduled hours are to full-time of 40 hours per week.
- (3) Except for donations to authorized Sick Leave Banks, all other sick leave used for personal or family use during the year shall reduce the number of convertible hours. As examples only:

<u>40-hour per week employees</u>	
<u>Sick Leave Used</u>	<u>Convertible Hours</u>
0	32
8	24
16	16
24	8
32	0

10.4 (Continued)

<u>56-hour per week employees</u>	
<u>Sick Leave Used</u>	<u>Convertible Hours</u>
0	44.8
8	36.8
24	20.8
30.5	14.3
44.8	0

NOTE: Sick leave usage may include any number of hours or hourly increments and reduce convertible hours accordingly.

- (4) Conversion of the difference between the number of hours sick leave used during the year and the maximum convertible hours during that year shall normally be automatic, except that provisions shall be made by Appointing Authorities to allow individuals who do not desire conversion to continue the unused sick leave in the sick leave account.
- (5) No conversions shall be made for leave-usage experience during a period of less than twelve months except upon transfer of an individual from the jurisdiction of one Appointing Authority to another where a different annual cycle is in use. In such a circumstance, the losing authority may consider conversion based upon experience from the last preceding conversion date to the date of transfer, and the gaining authority may grant conversion at the next regular conversion date even though that date is less than twelve months after the transfer.

h. Emergency Leave:

In each event of a personal or family emergency that involves an individual for which the use of sick leave is not permitted under CSR 10.4b, paid absence of not more than 25% (2 days) of an employee's annual sick leave accrual may be permitted by the appointing authority, provided:

- (1) the paid absence will be considered as use of sick leave and deducted from hours accrued according to CSR 10.4a prior to conversion computation as provided in CSR 10.4g;
- (2) the emergency circumstances are of a nature which precludes being reasonably foreseen and of such urgency as to require the employee's immediate presence away from the work location during normal working hours;
- (3) the employee obtains at least oral permission for the absence at the earliest practicable time consistent with the nature of the emergency, and

10.4 (Continued)

- (4) The employee presents such evidence of the compelling nature of the circumstances as the Appointing Authority deems necessary to justify the granting of emergency leave prior to payment for the hours of absence.

i. Medical Leaves of Absence Without Pay:

- (1) In the case of extended sickness or injury, the Appointing Authority may place an employee on a leave of absence, without pay, and such employee shall retain all of the rights which were held at the initiation of that absence. Requests for such absences by the employee must be accompanied by a medical statement, certified by a recognized practicing physician, which attests to the sickness or injury and the necessity for the employee to be on extended leave of absence. Medical documentation shall be maintained by the Appointing Authority. Such absences shall be for a period not to exceed twelve months unless further extended with the approval of the Civil Service Board. The placement of an employee on a medical leave of absence without pay, and any extension thereto, may be approved based upon written justification by the Appointing Authority which supports all of the following:
 - (a) the circumstances creating the need for the leave of absence still exists;
 - (b) approving the extension would benefit the department or agency;
 - (c) denying the extension would create a personal hardship on the employee;
 - (d) the employee's overall performance warrants such action;
 - (e) approving the extension would be in the best interest of Hillsborough County.
- (2) Appointing Authorities may, but are not required to, pay the employee's cost of health insurance premiums during an approved medical leave of absence, if all accumulated sick leave and annual leave are exhausted by the employee.
- (3) Appointing Authorities may require employees to maintain regular contact with the Appointing Authority, or their designated representative, consistent with the employee's medical condition and may require the employee to provide additional medical documentation of his or her status as is required to evaluate the employee's continued need for currently approved leave or future leave.

10.4 (Continued)

- (4) An employee who does not return to work after the completion of an approved leave of absence and any extension thereof, or who does not maintain contact with the Appointing Authority as required, or who fails to provide medical certification as required by the Appointing Authority, shall be deemed absent without leave.
- (5) Normally, medical leaves of absence, including all extensions, shall not exceed 36 months.

j. Newborn Leave:

- (1) Upon written request, the Appointing Authority, or their designated representative, shall grant any classified employee forty hours of absence with pay under the following circumstances:
 - (a) the birth of the employee's child, or
 - (b) the employee's adoption of a child under the age of eighteen (18).
 - (c) the placement of a child with the employee when the relationship will be that of in loco parentis.
- (2) The Appointing Authority, or his or her designated representative, shall take whatever measures are necessary to verify the eligibility of the employee for leave with pay under the provisions of this rule. Such leave shall be granted and used during the first thirty (30) calendar days following the birth or adoption of the employee's child unless delayed due to medical complications or other extenuating circumstances, as determined by the Appointing Authority.
- (3) Except as provided in CSR 104j(2) above, newborn leave is of a special nature and shall not be deferred beyond the first thirty (30) calendar days following the birth or adoption of the employee's child. Such leave is not charged against any other leave account, and is not accumulated in the manner of sick or annual leave. The frequency with which it is granted shall be governed only by necessity.

k. Short-Term Disability Program:

The Agency, with the exception of those with an adopted Uni-Leave Plan, shall provide all classified employees enrolled in this sick leave plan, a program of Short-Term Disability at no cost to the employee. At the request of the incapacitated employee, the Agency Head, or their designated representative, shall allow the incapacitated employee to use accumulated hours of annual or sick leave to

10.4 (Continued)

supplement Short-Term Disability benefits to prevent a loss of income. The combined total of Short-Term Disability benefits and the supplement of sick and annual leave hours shall not exceed the salary of that employee at his or her regular rate of pay for a normal work week.

i. Long-Term Disability Program:

The Agency, with the exception of those with an adopted Uni-Leave Plan, shall provide all classified employees enrolled in this sick leave plan a Long-Term Disability Program, providing for payment of 66 2/3% of the employee's salary at no cost to the employee. At the request of the incapacitated employee, the Agency Head, or their designated representative, shall, unless prohibited by contract with the Long-Term Disability provider, allow the incapacitated employee to use accumulated hours of annual or sick leave to supplement Long-Term Disability benefits to prevent a loss of income. The combined total of Long-Term Disability benefits and the supplement of sick and annual leave hours shall not exceed the salary of that employee at his or her regular rate of pay for a normal work week.

10.5 Annual Leave:

- a. Annual leave allowances of 80 to 160 hours are provided according to the length of continuous classified service completed in the Hillsborough County Civil Service system by the employee, except that, allowances shall be proportionately larger for those employees whose payroll schedule is regularly based on a 42 or 54 hour work week. Accumulation shall be computed each pay period by multiplying the paid hours in that pay period which do not exceed the total number of hours regularly scheduled by that Appointing Authority times a decimal factor as follows: (Illustrations are based on a regularly scheduled 40 hour work week)
- (1) for less than five full years of continuous classified service, paid hours shall be multiplied by 0.0385 (80 hours or 10 days);
 - (2) for more than five years, but less than ten full years of continuous classified service, paid hours shall be multiplied by 0.0462 (96 hours or 12 days);
 - (3) for more than ten years, but less than fifteen full years of continuous classified service, paid hours shall be multiplied by 0.0577 (120 hours or 15 days);
 - (4) for fifteen or more years of continuous classified service, paid hours shall be multiplied by 0.0769 (160 hours or 20 days).

10.5 (Continued)**b. Annual Leave During Initial Probation:**

No employee shall ordinarily be considered eligible for annual leave with pay until he or she has successfully completed initial probation in the Civil Service system and obtained the rights of a tenured employee. Exceptions may be granted by the Appointing Authority based on written justification by the employee which supports all of the following:

- (1) denying the leave would create a personal or financial hardship on the employee;
- (2) approving the leave would not adversely impact the operation of the department or agency;
- (3) accrued annual leave is available;
- (4) approving the leave would be in the best interest of Hillsborough County.

c. Approval of Annual Leave Request by Appointing Authority:

All annual leave requests, and changes thereto, must be approved by the Appointing Authority or their designated representative. The amount of advance notification employees must provide to their department or agency shall be determined by the Appointing Authority. In scheduling and granting annual leave, the Appointing Authority shall give due consideration to work requirements of the department or agency, the wishes of the employee, and the potential for loss of annual leave to the employee, as stipulated in CS Rule 10.5d below.

d. Maximum Accrual and Use of Annual Leave:

- (1) Except as provided in CSR 10.5d(5), beginning on the employee's Benefits Date in calendar year 1997, or the employee's hire date, if hired on or after the BEGIN DATE, as defined in CS Rule 10.4a(1), all tenured employees, except those employees whose payroll schedule is regularly based on a 42 or 54 hour work week, shall be required to use a minimum of 40 hours of annual leave each benefits year. Employees whose payroll schedule is regularly based on 42 hours per week shall be required to use a minimum of 42 hours of annual leave each benefits year; and, employees whose payroll schedule is regularly based on 54 hours per week shall be required to use a minimum of 54 hours of annual leave each benefits year. On the employee's next Benefits Date, and on each Benefits Date thereafter, annual leave required herein, but not taken, shall be lost. For example, an employee that is required to use a minimum of 40 hours of annual leave each benefits year and used only 32 hours, would lose 8 hours.

10.5 (Continued)

- (2) Employees hired before the BEGIN DATE and who had an unused annual leave balance below 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week) on the BEGIN DATE shall be allowed to accrue annual leave up to a maximum of 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week) during the employee's period of employment with Hillsborough County. On the employee's Benefits Date in calendar year 1998, and on each Benefits Date thereafter, all unused annual leave required (40 hours) by CSR 10.5d(1) above, plus, all unused annual leave held by the employee in excess of 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week) shall be lost.
- (3) Employees hired before the BEGIN DATE and who had an unused annual leave balance in excess of 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week) on the BEGIN DATE shall be allowed to maintain, but not exceed, that higher amount for the remainder of that employee's employment with Hillsborough County. On the employee's Benefits Date in calendar year 1998, and on each Benefits Date thereafter, all unused annual leave above the balance held by the employee on the BEGIN DATE shall be lost.
- (4) Employees hired on or after the BEGIN DATE may accrue annual leave up to a maximum of 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll is regularly based on a 54 hour work week) during the employee's period of employment with Hillsborough County. On the employee's next Benefits Date, and on each Benefits Date thereafter, all unused annual leave required by CSR 10.5d(1) above, plus, all unused annual leave held by the employee in excess of 320 hours (336 hours for those employees whose payroll is regularly based on a 42 hour work week or 432 hours for those employees whose payroll is based on a 54 hour work week) shall be lost.
- (5) Employees serving on initial probation on or after the BEGIN DATE shall have two years from the employee's date of hire to use all annual leave (80 hours for employees whose payroll schedule is regularly based on a 40 hour work week; 84 hours for employees whose payroll schedule is regularly based on a 42 hour work week; and, 108 hours for employees whose payroll schedule is regularly based on a 54 hour work week) required in these rules.

10.5 (Continued)**e. Compensation for Unused Annual Leave Other Than The Deferred Retirement Option Program (DROP):**

With proper notice, and upon the conditions of death or retirement, voluntary resignation or layoff, any tenured employee, or in case of death, the employee's designated beneficiary, or in the absence of a designated beneficiary, the employee's survivor as defined in Chapter 121.091(8), Florida Statutes, shall be paid for any unused annual leave accrued that does not exceed 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week). Employees who are dismissed for cause, other than for mental or physical impairment, shall forfeit all rights for the payment of all annual leave accrued, but not used.

NOTE: Should an employee die while serving on initial probation, the employee's designated beneficiary, or in the absence of a designated beneficiary, the employee's survivor, as defined in Chapter 121.091(8), Florida Statutes, shall receive payment for any annual leave accrued, but not used, as provided herein.

f. Compensation, Maximum Accrual, and Use of Annual Leave for Employees Enrolled in the Deferred Retirement Option Program (DROP):

(1) Any employee entering the Deferred Retirement Option Program (DROP) shall be allowed to be paid for any unused annual leave accrued that does not exceed 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week). Employees entering the DROP and elect such payout will not be eligible to receive a second payout upon termination, except to the extent the employee has earned an additional amount of annual leave, which combined with the original payout, does not exceed the maximum payout allowed herein.

(2) Employees hired before the BEGIN DATE and who had an unused annual leave balance below 320 hours (336 for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week) and, upon entering the Deferred Retirement Option Program (DROP) receives a payout of his or her unused annual leave, shall be allowed to accrue annual leave that when combined with that payout does not exceed 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week), or 100 hours, whichever is higher (See Example Below). On the employee's Benefits Date

10.5 (Continued)

in 1998, and on each Benefits Date thereafter, all unused annual leave required (40 hours for employees whose payroll schedule is regularly based on a 40 hour work week; 84 hours for employees whose payroll schedule is regularly based on a 42 hour work week; and, 108 hours for employees whose payroll schedule is regularly based on a 54 hour work week), plus, all unused annual leave held by the employee that, when combined with the payout upon entering DROP, is in excess of 320 hours (336 hours for those employees whose payroll is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week), or exceeds 100 hours, whichever is less, shall be lost (See Example Below):

Example:

Bal on BEGIN DATE	320	336	320	336	1000	1000
Paid Out at DROP	<u>320</u>	<u>336</u>	<u>200</u>	<u>200</u>	<u>320</u>	<u>336</u>
Bal After Payout	0	0	120	136	680	664
MaxBal on BenDate	100	100	120	136	680	664

- (3) Employees hired before the BEGIN DATE and who had an unused annual leave balance above 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week) and, upon entering the Deferred Retirement Option Program (DROP) receives a payout of his or her unused annual leave, shall be allowed to accrue annual leave than when combined with that payout does not exceed the amount of unused annual leave held by the employee on the BEGIN DATE. On the employee's Benefits Date in 1998, and on each Benefits Date thereafter, all unused annual leave required (40 hours for employees whose payroll schedule is regularly based on a 40 hour work week; 42 hours for employees whose payroll schedule is regularly based on a 42 hour work week; and, 54 hours for employees whose payroll schedule is regularly based on a 54 hour work week), plus, all unused annual leave held by the employee that when combined with the payout upon entering DROP is in excess of the balance held by the employee on the BEGIN DATE shall be lost (See Example Above).
- (4) Annual leave paid out to an employee at the time he or she enters the Deferred Retirement Option Program (DROP) shall not constitute the use of such hours for the benefits year in which they enroll in the program (i.e. not counted as used hours toward vacation leave required for that benefit year).

10.5 (Continued)

- (5) Should an employee die while enrolled in the Deferred Retirement Option Program (DROP), the employee's designated beneficiary, or in the absence of a designated beneficiary, the employee's survivor as defined in Chapter 121.091(8), Florida Statutes, shall receive payment for any unused annual leave as provided herein.

g. Management Responsibilities:

When properly requested in advance by the employee, it shall be the responsibility of management to insure that employees are provided the opportunity to use all annual leave required under these rules. In cases where the denial of leave by management will result in the employee losing annual leave, or in those cases where the employee was not available to use the required annual leave because of an approved leave of absence, workers' compensation absence, enrollment in the Performance Improvement Program, or other compelling reasons, the maximum accrual and minimum usage requirements may be temporarily adjusted by the Agency Head on an individual case by case basis as follows:

- (1) temporary adjustments may be made for a maximum period of up to twelve months beyond the employee's Benefits Date.
- (2) the employee must use (or lose) the required minimum usage and reduce their maximum accruals to 320 hours (336 hours for those employees whose payroll schedule is regularly based on a 42 hour work week or 432 hours for those employees whose payroll schedule is regularly based on a 54 hour work week) during the benefits year immediately following the adjusted period. Minimum usage requirements include the amount initially not used because of the temporary adjustment, as well as the amount required during the adjusted period.
- (3) temporary adjustments by the Agency Head of the maximum accrual rate will not increase the maximum hours eligible for compensation as provided for in CSR 10.5(e) above.

10.6 Compensatory Leave:**a. General:**

Compensatory Leave is defined as paid time off in lieu of monetary overtime compensation. Compensatory Leave is earned and accrued by any non-exempt (classified) employee for work performed in excess of the standard hours for which overtime compensation is required. Compensatory Leave is earned at a rate of not less than one and one-half hours of Compensatory Leave for each hour of overtime worked.

10.6 (Continued)**b. Compensatory Leave for Salaried Employees:**

Employees who have been designated as salaried employees [FLSA Exempt] are not eligible for compensatory leave.

c. Agreement or Understanding Prior to Performance of Work:

As a condition for use of Compensatory Leave in lieu of monetary overtime compensation, the Fair Labor Standards Act requires an agreement or understanding between the employer and employee prior to the performance of work. This can be accomplished pursuant to a collective bargaining agreement, a memorandum of understanding or any other agreement between the employer and representatives of the employee. If the employee does not have a representative, Compensatory Leave may be used only if such an agreement or understanding has been arrived at before the performance of work.

d. Limitations and Use of Compensatory Leave:

Accrual of Compensatory Leave is limited to 240 hours except for employees engaged in fire protection, law enforcement or detention duties. In these cases the limit is 480 hours. These limitations include the time-and-one-half [1 1/2] computation reflected in CS Rule 10.5a.]

- (1) Employees who accrue the maximum amount of Compensatory Leave as specified above, must be compensated in cash payment for all subsequent overtime hours worked until the employee's Compensatory Leave balance falls below the specified limitation.]
- (2) If an employee with more than 240 accrued hours of Compensatory Leave transfers from employment in fire protection, law enforcement or detention duties, the larger accrual may be retained. The employee, however, must be compensated in cash payment for any subsequent overtime hours worked until the balance falls below the 240-hour limitation.
- (3) An employee who has accrued Compensatory Leave and requests use of the time, shall be permitted to use such time within a "reasonable period", or according to the Appointing Authority's policy after making the request, if it does not unduly disrupt the operation of the Agency/Department.

e. Payment for Accrued Compensatory Leave:

Payment for accrued hours of Compensatory Leave may be made at any time at the discretion of the Agency Head or their designated representative. Payment for Compensatory Leave shall be at the regular rate of pay earned by the employee at the time the employee receives payment. Upon termination of employment, an employee shall be paid for unused hours of Compensatory Leave figured at:

10.6 (Continued)

- (1) the average regular rate of pay received by such employee during the last three (3) years of employment or,
- (2) the final regular rate of pay received by such employee, whichever is higher.

NOTE: The phrase "last three years of employment" means the three years immediately prior to termination, so that, if an employee has a break in service, the period of employment after the break will be treated as a new employment. [FLSA 560]

10.7 Civic Leave:

- a. An Agency Head, or their representative, may grant an employee Civic Leave with full pay for any absence necessary for serving on a jury, voting in an election, training for or service as an election official, or conducting official personnel actions under the provisions of these Rules. Civic Leave with full pay may also be granted to an employee to respond to any subpoena involving a criminal matter, except in those specific instances in which the employee, or any immediate family member is a charged party. An employee may also be granted Civic Leave with full pay to attend Court as a witness under subpoena in Civil matters unless the employee is a named party, or when the matter before the Court involves a member of the employee's immediate family.
- b. An employee subpoenaed in line of duty in response to Hillsborough County management as a witness or defendant shall not be granted Civic Leave. Appearances in such cases shall be considered as part of the employee's job assignment and on work pay status. The employee shall be paid per diem and travel expenses as lawfully permitted. Employees in a work pay status shall be required to turn over to the County any fees received from the Court.

10.8 Military Leave of Absence:

- a. Any employee holding a classified position shall be granted a leave of absence to serve in the uniformed services of the United States of America. For purposes of this rule, service in the uniformed services or "military service" shall include voluntary or involuntary service in the uniformed services for active duty, initial or subsequent active duty for training, inactive duty training, full-time National Guard duty, and any time necessary for determination of fitness for such duty or for performing funeral honors or other ceremonial duty, in the Armed Forces (Army, Navy, Air Force, Marines, and Coast Guard) or their Reserves, National Guard, commissioned corps of the Public Health Service, or other category designated by the United States of America. [CSL §7(2)(p); 38 USC §4303 (13) & (16); 4316(b)(1)(a)]

10.8 (Continued)

- b. Any classified employee who expects to leave such employment for a period of military service shall give such notice and provide such information as is practical under the circumstances of the military service. The employee shall also advise whether the employee seeks benefits continuation during the leave. The Appointing Authority shall notify the Civil Service Board of the commencement of military service so that the rights of the employee may be observed. [CSL §7(2)(p); 38 USC §4312 (a)(1) & (b)]

- c. During military leave, the employee shall be entitled to protection of seniority, performance ratings and benefits as provided herein, unless the employee provided clear written notice of intent not to return prior to leaving for military service:
 - (1) The employee's performance review date shall not be adjusted to reflect the leave. Each tenured employee who is on military leave at the time of his or her performance review date shall be given a rating of no less than "successful" by operation of this rule and shall be entitled to receive any salary increases attributable to such rating. The employee shall also receive any market equity increases or other increases that may be awarded to similarly situated employees. Probationary employees whose military service during leave is less than 30 days shall have any unserved probation extended to resume upon the employee's return from military service as provided by Civil Service Rule 8.6c(3). Probationary employees whose period of military service while on leave is 30 days or more shall be deemed to have completed probation by operation of this rule. CSL §7(2)(o)&(p); 38 USC §4316(b)(1)(B)&(C)

 - (2) The employee's benefits date shall not be adjusted to reflect the leave. The employee shall retain all rights to participate in benefit programs, including the continuation of Appointing Authority contributions for such benefit programs, as otherwise provided by Appointing Authority policy. Such policy must, at a minimum, comply with 38 USC §4317, and shall treat employees at least as favorably as similarly situated employees who are on leave of absence for reasons other than military service. [CSL §7(2)(o)&(p); 38 USC §4316(b)(1)(B)&(b)(4),4317]

 - (3) If the employee provided clear written notice of intent not to return prior to leaving for military service, but requests reemployment after the completion of military service, the employee must be provided retroactive adjustments to seniority, performance ratings, and benefits date as if the employee had remained employed.

- d. Except as provided in subsection (3) below, any classified employee who is absent on military leave, or who leaves the employment of Hillsborough County as a result of military service and is discharged or separated from military service under honorable conditions, shall be reemployed, provided such employee exercises his or

10.8 (Continued)

her reemployment rights within the time prescribed by this rule. The employee shall provide proof of military service and discharge status if required. The returning employee shall be entitled to reemployment and protection of seniority, performance ratings, and benefits as provided in this rule.

- (1)** After the conclusion of military service, the employee shall report for work, or provide notice of intent to return to work, within the following amount of time, depending upon the duration of the military service:
 - (a)** if the employee is absent for military service of less than 31 days, or is absent for examination for fitness for duty, the employee shall report to work no later than the first regularly scheduled work shift the employee would normally work commencing on or after the first full calendar day that begins after (1) eight or more hours after the completion of the military service, plus (2) any time necessary for travel from the location of military service to the employee's residence:
 - (b)** if the employee is absent for military service of more than 30 but less than 181 days, the employee shall report to work or give notice of intent to return to work no later than 14 days after the completion of military service:
 - (c)** if the employee is absent for military service of more than 180 days, the employee shall report to work or give notice of intent to return to work no later than 90 days after the completion of military service:
 - (d)** for the purpose of this rule, any period of time spent in hospitalization for, or in rehabilitating or recovering from an illness or injury received or aggravated during the course of military service or in travel to an from military service, and in which it was impossible or unreasonable for the employee to report or to give notice of intent to return to work, shall extend the time for reporting or giving notice of intent to return:
 - (e)** if the employee cannot reasonably report to work or give notice of intent to return within the time provided by subsections (a) through (c) through no fault of the employee, the employee may report or give notice by the first calendar day when it is reasonably possible to do so.

(Continued)

- (2) The failure of an employee to give timely notice shall not automatically disqualify an employee from reinstatement or reemployment. An employee who reports to work or provides notice of intent to return after the time provided by this rule may be considered absent without authorized leave, and if so considered, shall be treated consistent with the Appointing Authority's disciplinary policy for similarly situated individuals.
 - (3) An Appointing Authority is not required to reinstate or reemploy an employee returning from military leave under the following circumstances:
 - (a) the Appointing Authority's circumstances have so changed as to make reinstatement or reemployment impossible or unreasonable:
 - (b) in the case of an employee who is not qualified to return to either the position the employee would have held or previously held, reinstatement or reemployment of the employee in another position would be an undue hardship:
 - (c) the prior employment of the employee was in a temporary or limited duration appointment and there is no reasonable expectation that the appointment would continue indefinitely or for a significant period.
 - (4) If an Appointing Authority denies reinstatement or reemployment on the grounds in subsection (3) above, the Appointing Authority must notify the Civil Service Board of the denial so that alternative positions within the Civil Service system may be considered. Nothing in this subsection shall preclude the employee from exercising any rights to challenge the Appointing Authority's decision to deny reinstatement or reemployment under the Civil Service Law or Rules or any other law.
- e. The employee shall be reinstated to the classified service in the following priority of positions:
- (1) The employee shall be reemployed in the classification which he or she would have held had the military leave not been taken, including any reclassification or regrades thereof, so long as the employee is qualified or can be requalified for the classification with reasonable efforts and within a reasonable time with or without reasonable accommodation.
 - (2) If the employee is not qualified for the classification the employee would otherwise have held, and cannot be requalified with reasonable efforts and within a reasonable time with or without a reasonable accommodation, then the employee shall be reinstated in the last classification the employee held

10.8 (Continued)

prior to leaving on military leave, if this classification is different from that provided in the preceding part (1), provided the employee remains qualified or can be requalified with reasonable efforts and within a reasonable time with or without reasonable accommodation.

- (3) If the employee has been on military leave for longer than ninety (90) days and there are no vacant positions in the classification the employee would otherwise be returned to under this rule, the employee may be reemployed in any classification for which the employee is qualified that is equivalent in seniority, pay, and benefits.
 - (4) If the employee is unable to qualify for the classification the employee would otherwise have held on account of a disability incurred or aggravated during the military service, the employee shall be reinstated to the classification for which the employee is qualified or can be qualified with reasonable efforts and with a reasonable time with or without reasonable accommodation that is the equivalent, or most nearly equivalent, in seniority, pay, and benefits to the classification the employee would have held.
 - (5) If the employee is not qualified for either the classification the employee would have held, or the classification held at the time of taking leave for reasons other than a service-related disability, and cannot be requalified for either classification with reasonable efforts and within a reasonable time with or without reasonable accommodation, the employee shall be reemployed in the classification for which the employee is qualified or can be qualified with reasonable efforts and within a reasonable time with or without reasonable accommodation (i) that is the most nearly equivalent in seniority, pay and benefits to the classification the employee would have held; but if no such position exists, then the employee shall be reinstated to (ii) the classification that is most nearly equivalent in seniority, pay, and benefits to the classification the employee last held prior to commencement of the leave.
 - (6) In the event that an employee is reinstated to or reemployed in a lower classification because of the employee's inability to qualify for the higher classification the employee would otherwise have been entitled to, the Appointing Authority may request to maintain the employee's prior salary as provided by Civil Service Rule 8.10.
- f. Upon return to classified employment, the employee shall be reinstated to any benefits that were not continued during the military leave. The employee may not be required to serve an additional waiting period, and no-pre-existing condition exclusion may be imposed for any health plan, unless the exclusion would have applied notwithstanding the military service. [CSL §7(2)(o); 38 USC §4316(A), 4317, 4318]

10.8 (Continued)

- g.** No Appointing Authority shall take any employment action against a classified employee because of the employee's past, present, or future military status, service, or leave. An employee may grieve or appeal any employment action subject to the Civil Service Board's grievance or appeal jurisdiction on the grounds that the action was taken because of the employee's military status, service, or leave, or that the action did not comply with this rule. Nothing in this rule shall prevent an Appointing Authority from taking any employment action that otherwise would have been taken notwithstanding the employee's military status, service, or leave. [CSL §§2m 7 (1)(n)(s) &(t); 38 USC §§4311(a)]
- h.** This rule is intended in part to implement the protections of the Uniformed Services Employment and Reemployment Rights Act of 1994 and Florida Law. No provision of this rule shall be interpreted or applied in such a manner as to provide lesser protection or rights to an employee requesting leave for military service than as otherwise provided by state or federal law.

10.9 Paid Military Leave:

- a.** Military leaves of absence as provided in CSR 10.8 shall generally be without pay, except that employees may use accrued paid leave at the employee's option. However, certain employees serving in the uniformed services shall be entitled to leave with pay as provided in this rule.
- (1)** Any employee serving in the National Guard of the State of Florida or other reserve component of the Armed Forces of the United States shall be entitled to paid leave for up to 240 working hours in any one calendar year. A request for military leave of absence with pay must be accompanied by official military orders that include the employee's name, social security number and inclusive dates of training. When blanket travel orders are issued in lieu of individual orders, such orders must be endorsed to include the above information and shall be signed by an official representative of the military unit involved. Payment of County wages or salary during such leave period should equal, but not exceed, the amount which normally would have been earned during that same period had the reservist not been ordered to military duty. [FS115.07]
 - (2)** Any employee serving in the National Guard of the State of Florida or other reserve component of the Armed Forces of the United States activated by Federal Order shall be entitled to paid leave for forty (40) consecutive hours in any one annual period when returning to employment from active duty.

10.9 (Continued)

- (3) Except as provided by CSR 10.9a(1) above, classified employees who are absent on military leave shall be paid as provided by agency policy or County law. [CSL §7(2)(o); Hillsborough County BOCC Resolution 98-021]
- b. During any period of military leave, employees shall accrue annual, sick, and other paid leave as provided by agency policy or County law.

10.10 Leave Without Pay - Other Cogent Reason:

When it is in the best interests of the County and the employee concerned, appointing authorities are authorized to approve leaves of absence without pay that is not provided for in other sections of the Civil Service Rules for periods not to exceed twelve months, provided the employee substantiates cogent reasons therefore such as extended family illnesses requiring the employee's presence, participation in educational programs beneficial to the employee's growth in his or her present or projected classification, or other compelling personal hardships where the employee's absence from work is necessary. Such leave shall not be granted solely for reasons involving the engagement in other employment or income producing business. Any request exceeding twelve months shall be forwarded for consideration by the Civil Service Board prior to the expiration date approved by the Appointing Authority.

10.11 Bereavement Leave:

- a. Upon written request, the Appointing Authority, or designated representatives, may grant any classified employee up to twenty-four hours of absence with pay, in the event of the death of a member of the employees' family as defined in CS Rule 10.11b below. The request shall cite whether relationship or place of residence, is the basis for the leave. The Appointing Authority or a designated representative shall take whatever measures are necessary, to satisfy themselves of the eligibility of the employee for leave with pay under the provisions of this rule.
- b. The family is defined as the employee's spouse, child (including step-child), parent (includes not only the biological parent, but any individual who acted *in loco parentis* of the employee when the employee was under 18), step-parent, siblings (includes step-siblings and half-siblings), grandchild, grandparent, grandparent-in-law, great grandparent, great grandparent-in-law, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, or any relative residing within the employee's household.
- c. Bereavement leave may also be granted to an employee who is the parent of a still born child of twenty (20) weeks or more gestation.
- d. Bereavement Leave is of a special nature and may not be deferred or converted to any other purpose. It is not charged against any other leave account, and is not accumulated in the manner of annual or sick leave. Payment in lieu of Bereavement Leave is not authorized. The frequency with which it is granted shall be governed only by necessity.

10.11 (Continued)

- e. Annual leave, if accrued, or leave without pay may be granted in conjunction with Bereavement Leave.

10.12 Uni-Leave:

- a. In lieu of the sick leave, annual leave, and holiday provisions set forth by these rules, each agency may propose and the Board may adopt for that agency a Uni-Leave program which provides for the accrual, use, and payment of leave hours. The adoption of such a program shall be subject to the following guidelines:
 - (1) Participation in the uni-leave program must be available to all classified employees of that agency.
 - (2) Employees hired prior to the effective date of the uni-leave programs adoption shall initially have the option of continuing to participate in the sick leave, annual leave, and holiday programs, as provided for by these rules, or participating in the uni-leave program.
 - (3) New hires and employees promoted/transferred from an agency that has not adopted a uni-leave program to an agency that has adopted a uni-leave program shall be required to participate in the established uni-leave program.
 - (4) The uni-leave program shall have a method for the conversion of current sick and annual leave accruals.
 - (5) The uni-leave program shall provide for accrual of uni-leave days based on an employee's length of service.
 - (6) Employees promoted/transferred from an agency which has adopted a uni-leave program to an agency which has not adopted a uni-leave program shall have their uni-leave accruals converted to sick leave and annual in the same ratio as they will be accruing sick and annual leave. [For example: An employee with 16 years of service accrues 20 days of annual leave and 12 days of sick leave per year. Should that employee have 46 days of uni-leave and be promoted/transferred to an agency which does not have a uni-leave program, the employee's uni-leave days would be converted to 28.75 annual leave days and 17.25 sick leave days].

10.13 Family and Medical Leave Act (FMLA) Leave:**a. General:**

In accordance with the Family and Medical Leave Act of 1993 [FMLA]; and, in compliance with the Agency's policies, any eligible employee shall be granted up to 12 weeks of family and medical leave during any 12 month period. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the policy of the Agency. Section 585 (a) of the National Defense Authorization Act (NDAA) amended the FMLA to provide two new leave entitlements:

10.13 (Continued)

- (1) **Military Caregiver Leave:** Eligible employees who are family members of covered service members will be able to take up to 26 weeks of leave in a single 12-month period to care for the service member with a serious illness or injury incurred in the line of duty on active duty.
- (2) **Qualifying Exigency Leave:** Allows eligible employees, with a covered military member serving in the National Guard or Reserves who is called to active duty or on active duty in support of a contingency operation, up to 12 weeks of leave to manage their affairs.

b. Eligibility:

To be eligible, an employee must have been employed within the Hillsborough County Civil Service system for at least twelve [12] months; and, must have worked a minimum of 1250 hours during the twelve-month period preceding the commencement of the requested leave.

c. Entitlements:

In order to qualify for FMLA leave, an eligible employee must be taking the leave for one of the reasons listed below:

- (1) the birth of the employee's son or daughter (including where the employee has a relationship of in loco parentis) or to care for or bond with the infant;
- (2) the placement of a son or daughter with the employee for adoption or foster care;
- (3) the care of the employee's spouse, son or daughter (including where the employee has a relationship of in loco parentis), or parent with a serious health condition.
- (4) the employee's own serious health condition which makes the employee unable to perform the functions of his or her job:
- (5) the care of a covered service member with a serious illness or injury incurred in the line of duty on active duty;
- (6) qualifying exigencies are broad categories such as short-notice deployment; military events and related activities; childcare and school activities; financial and legal arrangements; counseling; rest and recuperation; post-deployment activities; additional activities not encompassed in the other categories, but agreed to by the employee and management.

10.13 (Continued)**d. Employee Obligations:**

In accordance with the FMLA; and, in compliance with the Agency's policies, eligible employees may be required to provide advance leave notice, medical certification, and re-certification. The granting of such leave may be denied if such requirements are not met.

e. Continuing of Health Benefits:

During any period that an eligible employee takes leave under the provisions of the FMLA, the Agency by which the employee is employed shall maintain coverage under any group health plan for the duration of such leave. Such coverage shall be at the level and under the same conditions that coverage would have been provided if the employee had not departed on leave. The employee shall continue to be responsible for his or her portion of the premium, co-payments, deductibles and any other out-of-pocket cost.

f. Adjustment of Benefits Date and Performance Review Date:

The employee's Benefits Date and Performance Review Date shall be adjusted according to Civil Service Rule 8.6c[1] [2] and [3].

g. Re-Establishment of Benefits Following Leave of Absence:

All benefits to which the employee was entitled as required by Civil Service Law and Rules on the date the leave commenced; and, for which not otherwise compensated, shall be reestablished on the date the employee returns from such leave. No further benefits accrue during the actual period of unpaid leave.

h. Other Leaves of Absence:

Nothing in this rule shall preclude an employee, who is otherwise eligible for a leave of absence for personal medical reasons, or dependent care, as provided for in CS Rule 10.3, 10.4 or 10.10, from applying for such leave in addition to any Family and Medical Leave of absence to which the employee may be entitled.

10.14 Administrative Leave:

- a. In the event of alleged misconduct or where the continued presence of the employee in the workplace may constitute a substantial interference, the Agency Head, or designated representative, may immediately place the employee on administrative leave with pay without the benefit of advanced written notification. The employee shall remain on administrative leave for the remainder, if any, of the workday. At the earliest practicable time, the Agency Head, or designated representative, shall communicate with the employee to determine the next course of action.

10.14 (Continued)

- b.** If there is a need to initiate and complete a formal investigation for violation of a Civil Service Rule(s), or any operational or administrative rule(s) or established Procedure(s), the employee may be placed on administrative leave with pay not to exceed 30 consecutive calendar days. This leave may be extended for an additional period of time if deemed necessary by the Agency Head, or designated representative, so that the total time does not exceed 90 consecutive calendar days. Extensions beyond 90 consecutive calendar days must be submitted sufficiently in advance for approval by the Civil Service Board prior to the 90th day.
- c.** The placement of an employee on administrative leave with pay under the provisions of CSR 10.14a or 10.14b above is not a disciplinary measure and is not appealable to the Civil Service Board.
- d.** Administrative leave may be granted in order to provide compensation to employees for situations when the employee is denied the opportunity to work by County officials because of extraordinary events beyond the employer's control. Such events may include weather conditions, fire, evacuation, loss of electrical power, or other similar situations as determined by the Appointing Authority. Administrative leave granted under this provision is of a special nature and may not be deferred or converted to any other purpose. It is not charged against any other leave account, and is not accumulated in the manner of annual or sick leave. The frequency with which it is granted shall be governed only by necessity.
- e.** Any classified employee who has been rated by the United States Department of Veterans Affairs, or its predecessor, to have incurred a service-connected disability and, has been scheduled by the United States Department of Veterans Affairs to be reexamined or treated for such disability, may be granted Administrative Leave not to exceed forty-eight (48) hours in any one calendar year for such reexamination or treatment.

Dismissals, Suspensions, Involuntary Demotions for Cause, Resignations, and Pre-Disciplinary/Administrative Due Process Hearings

11.1 General Provisions for Dismissals, Suspensions, and Involuntary Demotions for Cause:

- a. Personnel actions contemplated in this rule are those which diminish or eliminate, either permanently or temporarily, the salary of a tenured member of the classified service. Those actions include involuntary demotion for cause, suspension without pay, and dismissal from employment.
- b. A classified employee may be suspended with or without pay, demoted for cause, or dismissed by his or her Agency Head or their designated representative, when such action will promote the efficiency of the classified service. Any adverse action taken by the Agency Head, or their designated representative, must be based on just cause.
- c. Any non-tenured employee in the classified service may be suspended or dismissed for any cause if that suspension or dismissal will promote the efficiency of the classified service. Such adverse actions shall not be appealable to the Civil Service Board. [CSL Section 11 (1)]
- d. No disciplinary action shall be based on an employee's sex, color, age, marital status, national origin, citizenship status, disability, political or religious affiliations, or any other non-performance factor. [CSL Section 2(1) (2) (3) or IRCA]

11.2 Reasons for Dismissals, Suspensions, or Involuntary Demotions for Cause:

Employees in the classified service may be suspended, involuntarily demoted, or dismissed for cause. Cause may include but is not limited to situations where the employee during the scope of employment or, when applicable, in any other capacity or under circumstances that adversely affect an agency's or Hillsborough County's interest has:

- (1) violated the Civil Service Rules, or any operational or administrative rules or procedures established by or for the Agency Head or their designated representative, which are not inconsistent with these rules.
- (2) exhibited incompetence; or continued rendering of unsatisfactory service, after instruction and/or counseling.
- (3) failed to maintain competence or legal capacity to perform the duties required of the classification/position.
- (4) demonstrated a gross neglect of duty or a specific serious failure to perform assigned duties.
- (5) committed an act of insubordination.

11.2 (Continued)

- (6) violated any lawful official regulation or order, or failed to obey any proper direction made and given by a superior.
- (7) committed harassment, including but not limited to sexual harassment, or actions which, although not amounting to a cause of action for harassment, are inappropriate actions of a sexual, hostile, abusive or interfering nature towards another employee, customer, vendor, citizen, or any other person with whom the employee comes into contact as a result of employment.
- (8) failed to acquire or maintain a valid license, registration or certification, as required by Federal or State law, or applicable Hillsborough County Agency policy, when such license, registration or certification is required in the class specification or the position description.
- (9) improperly used or possessed, sold, distributed, dispensed or manufactured a controlled substance, or an illegal drug while at work, on Hillsborough County property, in a County vehicle or other vehicle utilized in the service of the County, or while off the premises performing work for the County.
- (10) indulged in an intoxicating beverage, an hallucinogen, or a controlled stimulant or depressant drug while on duty or preceding duty so that such indulgence can be discerned after the time for commencement of duties. [The professional opinion of one licensed physician, or the signed statements of two or more other persons, shall suffice for determination of discernment of intoxication].
- (11) engaged in a physical fight at the work site or has engaged in a verbally abusive and/or intimidating confrontation with a supervisor, peer, employee, or a member of the public.
- (12) negligently operated a County owned or other vehicle used in the service of the County.
- (13) violated, or failed to enforce, safety practices including the performance of unsafe acts, failure to wear and/or use safety equipment, or failure to comply with safety rules.
- (14) failed to immediately report a work related personal injury or damage to property or equipment.
- (15) used or threatened to use, or attempted to use, bribery, personal or political influence of his or her position for personal gain. [CSL Section 18]
- (16) in connection with official duties, accepted compensation other than that specifically authorized by Civil Service Rules. [CSL Section 18]

11.2 (Continued)

- (17) misappropriated County funds, appropriated County property, services, or personnel for his/her personal use, or illegally disposed of County property.
- (18) damaged County property through negligence.
- (19) made false claims or misrepresentations on behalf of oneself or another in an attempt to obtain County provided benefits, workers' compensation benefits, or other payments or credits.
- (20) been absent without leave, failed to give proper notice of absence, or failed to report after a leave of absence has expired.
- (21) failed to maintain a satisfactory attendance record.
- (22) committed or been convicted, or entered a plea of guilty or nolo contendere, to an act which constitutes a felony or a misdemeanor having specific relevance to the duties of the employee's classification.
- (23) falsified or omitted information as part of the qualifying application for employment and/or promotion, or any other document of Civil Service or the using agency, for the purpose of personal gain or reward. [CSL Section 18]
- (24) violated established security procedures during the qualifying examination process or has obtained information, through unauthorized or illegal means, which provides an unfair advantage on any qualifying examination.
- (25) without approval, knowingly and willfully modified, used or accessed data, communications systems, programs or supplies used or intended to be used in County computers, computer systems, communications systems, or network.
- (26) exhibited actions or conduct prejudicial to good order, or detrimental to the interest of Hillsborough County.
- (27) demonstrated mental or physical impairment that prevents the employee, with or without reasonable accommodation, from performing the essential functions of his or her position.
- (28) engaged in activities while not on duty in the classified service, including but not limited to activities in other employment or elected office, which are inconsistent with or create a conflict of interest with the requirements of performing or serving in the classified service. If discipline is imposed under this rule without the Appointing Authority providing prior notice to the employee that it considers an action to be inconsistent with or to create a conflict of interest with performance or service in the classified service, and the

11.2 (Continued)

activities are not otherwise improper, unlawful, or a violation of these rules, the Appointing Authority must demonstrate that immediate discipline is justified by compelling circumstances.

- (29) disrupted, disturbed, or in any way interfered with an agency investigation, including but not limited to: knowingly having made false allegations which were investigated; knowingly having made or caused to be made false statements or misrepresentations during the course of an investigation; having taken or destroyed documents relevant to an investigation; knowingly having spread false information concerning an investigation; or having inappropriately influenced, or having attempted to inappropriately influence, witnesses, potential witnesses, or investigators in an agency investigation.
- (30) knowingly made or caused to be made a false statement or misrepresentation in a matter of official county business, including but not limited to an agency's mission or activities, the employee's work performance, or dealings with customers.
- (31) refused to repay monies to or enter into a reasonable repayment agreement with an agency which mistakenly paid or gave monies or benefits to or on behalf of the employee as a result of an administrative error or incorrect information and to which the employee was not entitled.
- (32) any other properly substantiated cause that is in the best interest of Hillsborough County.

11.3 Immediate Suspensions In The Best Interest of Hillsborough County:

- a. Upon determination that the conduct of an employee creates a situation requiring the removal of the employee from a duty station, the Agency Head or designated representative may immediately suspend the employee, with or without pay; and, without the benefit of advanced written notification. [CSL Section 11 (3)]
- b. Situations may include, but are not limited to those situations in which the retention of the employee would:
 - (1) result in damage to County property; or,
 - (2) be injurious to the employee, a fellow employee, or to the general public; or,
 - (3) substantially impair management's ability to maintain decorum and discipline; or,
 - (4) there is a need to initiate or complete a formal investigation regarding action by the employee that may lead to discipline; or,

11.3 (Continued)

- (5) be otherwise detrimental to the interest of Hillsborough County.
- c. Employees suspended under these provisions shall be provided written notice of the action taken, stating the reason(s) therefor; and, the effective date(s). The notice shall also provide the employee an opportunity to respond at a Pre-Disciplinary hearing schedule for that purpose. The notice shall be provided the employee within three (3) working days or five (5) calendar days of their suspension date, whichever is sooner.
 - d. In the event the Agency Head or designated representative does not schedule a Pre-Disciplinary hearing within a 60-day calendar period from the effective date of suspension, the Agency Head, or designated representative, will provide the employee and the Civil Service Board a status report with reasons as to the delay in scheduling of a Pre-Disciplinary hearing. Thereafter, a status report will be sent to the employee and the Civil Service Board every 30 days until a Pre-Disciplinary hearing is scheduled.

11.4 Pre-Disciplinary and Administrative Due Process Hearing Requirements:

When dismissal, suspension, or involuntary demotion for cause action against a tenured employee is contemplated by an Agency Head or their designated representative, it is the responsibility of that authority or designated representative to provide the employee with written notice of the intended action, detailing the reasons therefor, and providing the employee an opportunity to respond at an informal Pre-Disciplinary or Administrative Due Process hearing scheduled for that purpose.

- (1) The hearing shall be scheduled no sooner than five working days from the date of the written notice to administer the dismissal, suspension, or involuntary demotion, unless the employee waives this time and requests an earlier hearing.
- (2) After hearing the employee's response at the scheduled Pre-Disciplinary or Administrative Due Process hearing, the Agency Head or their designated representative, may lessen, or rescind the action first intended, or may proceed.
- (3) If the final decision is to impose the dismissal, suspension, or involuntary demotion, the Agency Head or their designated representative, shall provide the employee, as soon as possible, with written notification of such action using Civil Service Form 5 [Notice of Employment Suspension, Involuntary Demotion for Cause, or Dismissal]. Such notification must be signed and dated by the employee indicating his or her acknowledgment. Should the employee refuse to sign the notification, a statement to that effect shall be placed in the space provided for the employee's signature and be authenticated by the Agency Head or their designated representative.
- (4) Where the CS Form 5 cannot be personally presented to the employee, the Agency Head or duly authorized representative, shall mail such notification to

11.4 (Continued)

the employee's last known address using Certified Mail [return receipt requested]; and, shall afford the employee an opportunity to file an appeal within ten [10] calendar days from receipt. In these cases, the employee's acknowledgement of receipt shall constitute the official date of receipt of the final notice of suspension, demotion, or dismissal. In cases where the notification is returned unclaimed, the "date of first attempted delivery" indicated on the returned mailed document shall be used as the employee's official date of notification of dismissal, suspension, or involuntary demotion for cause.

- (5) A copy of the Civil Service Form 5, signed by the employee, along with Civil Service Form 2 [Status Form] changing the status of the employee, shall normally be forwarded to the Civil Service Office within five [5] working days of imposing dismissal, suspension, or involuntary demotion for cause action.

11.5 Resignation of Position:

- a. An employee may leave the service of Hillsborough County voluntarily by resignation. Whenever possible, a resignation should be in writing and submitted to the Appointing Authority in a timely fashion.
- b. The effective date of a resignation submitted by an employee, whether orally or in writing, should provide for sufficient notice to allow for proper replacement. Sufficient and proper notice shall normally be considered to be at least two weeks.

11.6 Abandonment of Position:

- a. An employee may be deemed to have abandoned his or her position of employment, if the employee does not return to work at the properly appointed time. Three consecutive working days of unauthorized absence constitute the normal period of absence taken as an indication of abandonment. However, termination of employment is not mandatory and circumstances of each case must be carefully examined by the Agency head or their designated representative before a report of dismissal of employment is entered in the record.
- b. In cases involving a tenured employee, the Agency Head or their designated representative shall provide the employee with written notification of the intention to initiate termination action as a result of abandonment of position. Such notification shall be mailed to the employee's last known address using Certified Mail [return receipt requested]; and, shall afford the employee an opportunity [normally ten (10) calendar days from the date of receipt] to respond justifying the unauthorized absence. Should the final period end on either Saturday, Sunday or Hillsborough County designated legal holiday, the period shall be extended until the end of the next day which is neither a Saturday, Sunday nor Hillsborough County designated legal holiday.

11.6 (Continued)

- (1) After considering the employee's response, the Agency Head or their designated representative may rescind the action first intended or initiate disciplinary action.
- (2) If the final decision is to discipline, the Agency Head or his/her designated representative shall comply with the requirements stipulated in Civil Service Rule 11.4.
- (3) Should the employee fail to respond to the original notification letter, the Agency Head or his/her designated representative, may consider this as an indication of abandonment and shall initiate dismissal action. In these cases, a copy of the notification letter with evidence of mailing, along with CS Form 2 changing the status of the employee, stating the effective date and reason, shall be forwarded to the Civil Service Office as soon as possible.
- (4) Any employee who is dismissed as a result of abandoning his or her position, and was properly notified of the Agency Head's intention to dismiss and who failed to respond to that notification, shall forfeit all rights for the payment of all sick and annual leave accrued, but not used.

11.7 Reduction-In-Force:

- a. Each Agency Head shall develop and file with the Civil Service Board a Reduction-In-Force Plan, to include a method of reemployment. Such plan shall be filed with the Civil Service Board no later than sixty (60) days prior to the effective date of the reduction-in-force.
- b. The Agency Head of the agency in which the reduction-in-force will occur, shall identify the number of positions to be reduced within each affected classification.
- c. Before any tenured employee in the classification to be reduced is laid off, employees on initial probation in the affected classification and, all temporary and substitute employees performing like work shall be dismissed..
- d. The Agency Head shall certify the names of those to be laid off in the classification to be reduced, based upon seniority and other factors, as established by the Agency Head's Reduction-In-Force Plan. Special consideration in the retention of employees shall be given those persons eligible to receive veterans' preference, as defined in Civil Service Rule 7.1c.
- e. The Agency Head shall furnish each classified employee to be laid off, written notification of the intended action. The notification shall be provided to the employee

11.7 (Continued)

a minimum of two weeks in advance; and, state the reason for the layoff and the effective date. Concurrently, a copy of the notice shall be forwarded to the Civil Service Office for appropriate action and inclusion in the employee's permanent record.

- f.** Before any RIF'd employee is placed in a position of promotion, a Closed Promotional Opportunity or an Open Recruitment process must be completed in accordance with applicable Civil Service Rules. To be considered for these recruitments, the employee must apply through the Civil Service Office and be certified as qualified for special consideration on employment eligibility lists.
- g.** Employees that are laid off due to a reduction-in-force may apply for Closed Promotion Recruitments within one year of lay off.
- h.** Any tenured employee who is reemployed in a classified position within one year after having been laid off from a classified position shall have their tenure status restored. The employee's benefits date and performance review date will be adjusted for the total number of days between the last day of work and the date of reemployment.
- i.** All benefits to which the tenured employee was entitled, as required by Civil Service Law or Rules, on the date of lay off; and, for which not otherwise compensated, are reestablished on the date of reemployment. No further benefits accrue during the actual period of lay off.
- j.** Upon reemployment in the same classification, the employee shall receive the same rate of pay held at the time of lay off, or the minimum of the pay range, whichever is higher.
- k.** Upon reemployment in a lower classification, the employee shall be paid in accordance with Civil Service Rule 7.3c.
- l.** Employees reemployed in a higher classification shall receive an increase in salary as provided for in Civil Service Rule 8.2a (1). The employee's Performance Review date shall be established based on the probation period of the new job classification (normally six months). In the event that the conditional probation period is unsuccessful, return to former class is not an option.
- m.** Upon reemployment in a different classification, without promotion or demotion, the employee shall receive the same rate of pay held at the time of lay off, or the minimum of the pay range, whichever is higher.

11.8 Workers' Compensation Dismissal and Return to Work Program

- a. The Agency Head shall file notice with the Civil Service Board whenever it becomes necessary to dismiss any classified employee qualified for wage loss benefits, as defined in the State Workers' Compensation Statute, or any classified employee who is unable to perform the essential functions of their job with or without reasonable accommodation(s).
- b. Each classified employee to be dismissed shall be given a written notice of dismissal by the Agency Head at least two weeks prior to the date of effect. The notice shall state the reason for dismissal and the date it is to become effective. Concurrently, a copy of the notice shall be forwarded to the Civil Service Office for inclusion in the employee's permanent record.
- c. In cases where Civil Service is not actively recruiting; and, in order to assist the employee in gaining other employment, they will be certified; and, their names referred for consideration to those departments/agencies having vacancies in the classification for which they qualify. Before any such employee is placed in a position of promotion, a Closed Promotional Opportunity, or an Open Recruitment process must be completed in accordance with applicable Civil Service Rules.
- d. The name of each classified employee dismissed shall be placed on the Open Recruitment Eligibility List for any classification which qualified; and, shall be retained thereon for three months or until reinstated, whichever occurs first.
- e. Any person who is reinstated in a classified position after having been dismissed from any such position in the Civil Service system, shall have their tenure status restored, if applicable. All service which was creditable on the date of dismissal will be included when computing the employees length of service, provided the employee is reinstated within one year from the effective date of dismissal.
- f. In all cases of dismissal, the employee's Benefits Date will be adjusted by adding the length of the dismissal, regardless of the length of that period.
- g. All benefits to which the employee was entitled, as required by Civil Service Law or Rules, on the date of dismissal; and, for which not otherwise compensated, are reestablished on the date of reinstatement. No further benefits accrue during the actual period of dismissal.
- h. Upon reinstatement in the same classification, the employee shall receive the same rate of pay held at the time of dismissal, or the minimum of the pay range, whichever is higher. The Performance Review Date will be adjusted by adding the length of the dismissal, regardless of the length of that absence.

11.8 (Continued)

- i.** Upon reinstatement in a lower classification, the employee shall be paid as provided for in Civil Service Rule 7.3c. The employee's most recent Performance Review Date and conditional probationary period, if applicable, will be adjusted by adding the length of the dismissal, regardless of the length of that absence

- j.** Employees reinstated in a higher classification shall receive an increase in salary as provided for in Civil Service Rule 8.2a(1). The employee's Performance Review Date shall be established at the successful completion of conditional probation, normally six months from the date of reinstatement.

- k.** Upon reinstatement in a different classification, without promotion or demotion, the employee shall receive the same rate of pay held at the time of dismissal, or the minimum of the pay range, whichever is higher. The Performance Review Date will be adjusted by adding the length of the dismissal, regardless of the length of that absence.

- l.** As an exception to the procedures prescribed above in Civil Service Rule 11.8h through 11.8l, the Agency Head may, when budgetary necessity dictates, reinstate any employee at any pay level within the pay range that does not exceed the employee's rate of pay at the time of dismissal.

Rule 12: Performance Management**12.1 General:**

- (1) Hillsborough County Government pursues the goal of economical delivery of high quality services to County citizens. Accomplishment of this goal requires that the job performance of each County employee be coached and measured for continuous improvement.
- (2) The Board is mandated to establish a system for the management of classified employee job performance [CSL Section 2(2)]. Individual agency heads are responsible for establishing systems for managing the performance of unclassified employees.
- (3) Throughout these rules, the term "rater" refers to an individual who provides job performance direction to one or more classified employees. The term "reviewer" refers to the individual who supervises the rater and reviews evaluations of the job performance of the rater's direct reports.
- (4) In general, each classified employee's job performance is evaluated on an annual cycle. The end date of each cycle is referred to as the employee's Performance Review Date (PRD). The rules concerning establishing and adjusting PRD are found at Rule 12.3.
- (5) When an individual who has been serving as an employee's rater is no longer available to perform the duties of rater, the reviewer shall assume the duties of that rater on an interim basis until a new rater is identified. In this event, the provisions of Rule 12.4 shall be followed.
- (6) The Board's Performance Management Process (PMP) and corresponding Handbook and forms are established and shall be utilized for classified employees as prescribed herein and in the PMP Handbook. In general, the PMP requires that:
 - a. raters provide employees with clear job performance expectations;
 - b. job performance be objectively monitored;
 - c. timely and constructive feedback be frequently delivered; and
 - d. a written evaluation of the employee's job performance over the course of the review period be prepared.

12.1 (Continued)

- (7) The training of raters in the techniques of performance management is essential to the successful implementation of the PMP. It is equally important that raters receive periodic follow-up training to ensure the continuing effectiveness of the PMP.
- (8) The procedures and reports identified in these rules are minimum requirements. The Board and individual agencies may adopt additional performance management policies that do not conflict with these rules. For additional information on the techniques of effective performance management and current procedures and forms, individuals are encouraged to refer to the most current edition of the PMP Handbook published by the Board that is available on the Board's web site.
- (9) Each agency may, with the concurrence of the Director, adopt alternative job performance management procedures and forms, to include alternatives to the PMP; defining job performance review periods; and procedures for adjusting review period end dates. Such alternative approaches must be applied consistently to all similarly situated classified employees within the agency.

12.2 Responsibilities:

- (1) The Director is responsible for:
 - a. Ensuring that current PMP Handbooks are made available to agencies in a timely manner.
 - b. Reviewing performance reports for completeness.
 - c. Filing completed performance reports in the official personnel file.
 - d. Tracking rating patterns and providing summary reports to agency management, upon request.
 - e. Reviewing requests from agencies for use of alternatives to the PMP.

12.2 (Continued)

- (2) The Agency Head or Delegate is responsible for:
- a. Designating a rater and reviewer to coach and measure the job performance of each classified employee. The designation of raters and reviewers shall conform to the following guidelines:
 1. Designated raters shall be selected from within the Agency.
 2. Designated raters shall have frequent opportunities to observe and coach the job performance of the employees to whom they are assigned as rater.
 3. Reviewers shall normally be the rater of the rater for a given employee.
 4. The designation of separate individuals as rater and reviewer is not required if the employee works directly for, and is rated by an agency head.
 - b. Ensuring that all employee, raters, and reviewers receive on-going performance management training.
 - c. Ensuring that current performance management documentation and forms are available to employees, raters, and reviewers;
 - d. ensuring that performance management is initiated, conducted and completed in accordance with the procedures currently in effect for the agency's classified employees.
 - e. reviewing and approving each performance report prior to the report being signed by the employee. The purpose of this review is to:
 1. ensure that the performance report is properly completed in accordance with the procedures currently in effect for the agency's classified employees.
 2. address differences between the rater and reviewer; and
 3. provide a signature indicating the performance report is final.

12.2 (Continued)

- (3) The employee is responsible for:
 - a. Clearly understanding the rater's expectations for the employee's job performance.
 - b. Doing his/her best to meet and exceed the rater's job performance expectations.
 - c. Participating in the completion of the performance report through conferences with the rater at the beginning, mid-point, and end of the review period. Employees are also responsible for reviewing the completed job performance report, providing written comments on the appropriate form, and signing the report to acknowledge receipt.

- (4) The rater is responsible for:
 - a. Completing a minimum of one performance report for each rated employee during each performance review period in accordance with the procedures currently in effect for the agency's classified employees.
 - b. Forwarding performance reports to the reviewer in accordance with in accordance with the procedures currently in effect for the agency's classified employees.
 - c. Conducting job performance coaching meetings with each rated employee in accordance with the procedures currently in effect for the agency's classified employees.

- (5) The reviewer is responsible for:
 - a. Ensuring that raters implement performance management in accordance with the procedures currently in effect for the agency's classified employees.
 - b. Being involved in the completion of each job performance report through conferences with raters during review periods in accordance with the procedures currently in effect for the agency's classified employees.
 - c. Reviewing each final job performance report for completeness and concurrence in accordance with the procedures currently in effect for the agency's classified employees.

12.3 Establishing and Adjusting Performance Review Date:

- (1) The Performance Review Date (PRD) is first established as the end date of the employee's initial probation period. This includes employees appointed pursuant to Rule 7.2(1)e.
- (2) Initial and conditional probation periods are either six months or one year in duration, depending on the job classification to which the employee is assigned. The Board's current Classification and Pay Plan identifies initial probation periods by job classification.
- (3) Following initial appointment, the PRD is adjusted in response to the following events (events that do not result in an adjustment to PRD are listed in sub-section 12.3(4):
 - a. Successful completion of initial probation:
 1. Six Month Initial Probation: adjusted to a date that is six months from the successful completion of probation. This review period is referred to as a "Second 6 Month Review."
 2. One Year Initial Probation: adjusted to a date that is one year from the successful completion of probation.
 - b. Successful completion of a Second 6 Months Review Period: adjusted to a date that is one year from the end of the review period.
 - c. Promotion that results in a Conditional Probation Period: adjusted to the end date of the conditional probation period.
 - d. Successful completion of Conditional Probation: adjusted to a date that is one year from the successful completion of probation.
 - e. Disciplinary Suspension (without pay):
 1. adjusted by the total length of the disciplinary suspension without pay.
 2. Adjustments shall be made in eight-hour equivalents. For example, suspension from one 24-hour work shift becomes an adjustment of three calendar days in the Performance Review Date.
 3. Suspension for the number of working hours normally worked in a week shall cause an adjustment of the Performance Review Date by seven days (one full calendar week).

12.3 (Continued)

- f. Return from a qualifying military duty leave of absence. [38 USC 4316(b)(1)(B)]: No change, unless the number of consecutive leave days is less than 30 days. In such cases, the PRD is adjusted for the total leave days.
- g. Return from a non-disciplinary absence without pay of 30 or more consecutive calendar days, other than military or Worker's Compensation related:
 - 1. adjusted by the total length of the absence without pay.
 - 2. The total length of an absence without pay is the number of days between the leave begin and end dates as follows:
 - (a) Begin Date - the date an employee is on leave and either
 - i. is a member of Sick Plan A and is no longer using accrued sick or annual leave to replace 100% of normal work hours; or
 - ii. is a member of Sick Plan B and is no longer supplementing short-term or long-term disability payments with sufficient accrued sick or annual leave to equal 100% of normal work hours.
 - (b) End Date - the date an employee returns to work from a leave.
- h. Return to Former Classification (before completing conditional probation following a promotion) [CSL Section 5(19)/Section 10]:
 - 1. adjust to the pre-promotion PRD; or
 - 2. if the pre-promotion PRD has already passed, the performance management process shall be completed in accordance with these rules, as if the employee was not promoted.
- i. Performance Improvement Program (PIP): adjust by the length of time enrolled in PIP.

12.3 (Continued)

- (4) Following initial hire, PRD is NOT adjusted in response to the following events:
 - a. assignment change (other than promotion) that does not result in a conditional probation period (e.g., lateral or demotion appointment); or
 - b. rater change (see also Rule 12.4); or
 - c. return from a qualifying Worker's Compensation leave of absence; or
 - d. receipt of an extraordinary performance increase in accordance with agency current fiscal year compensation policy.

12.4 Change in Rater-Employee Relationship:

- (1) This rule applies to a change in the rater-employee relationship that results from any of the following:
 - a. a different person moves into the role of the employee's rater;
 - b. the employee moves to a new position in the same job classification and the same agency, but under a different rater; or
 - c. the position to which the employee is assigned is moved, with the employee, under a different rater.
- (2) The following procedures apply to rater changes for employees on either Initial or Conditional Probation:
 - a. If the rater change occurs at any time prior to the final 30 days of the performance review period:
 - 1. The performance report which was begun by the original rater shall be completed by the original rater and forwarded to the new rater. The original rater's report shall be referred to as the Interim Performance Report.
 - 2. The employee and new rater shall meet as soon as possible to review the previously established performance rating dimensions, competencies, and expectations; establish expectations for the remainder of the current review period; and sign a new performance report.

12.4 (Continued)

3. The new rater shall be responsible for completing the performance report and all related actions throughout the remainder of the performance review period.
 4. When assigning dimension and overall ratings, the new rater shall take into consideration the Interim Performance Report prepared by the original rater.
- b. If the rater change occurs within the final 30 days of the performance review period:
1. The performance report which was begun by the original rater shall be finalized by the original rater as quickly as possible. The timing of the finalization process may be adjusted to fit the circumstances. However, the performance report shall normally be received by the Civil Service Office within 30 days of the employee's PRD.
 2. The new rater shall not prepare a performance report for the current Performance Review period, nor shall the new rater have input into the process as a rater.
 3. For practical purposes, the employee and new rater should view the remainder of the current performance review period as the beginning of a new performance review period and begin a new performance report as soon as possible.
- (3) The following procedures apply to rater changes for employees who are neither on initial or conditional probation:
- a. If the rater change occurs within the first 89 days of the beginning of the performance review period:
1. The performance report which was begun by the original rater becomes invalid.
 2. The employee and new rater shall meet, review performance ratings for the appropriate job dimensions, competencies, and performance expectations and sign a new performance report.
 3. The remainder of the performance review period shall be in accordance with the procedures defined in the current edition of the PMP Handbook.

12.4 (Continued)

- b. If the rater change occurs after the first 90 days and before the final 90 days of the performance review period:
 - 1. The performance report which was begun by the original rater shall be completed by the original rater and forwarded to the new rater. The original rater's report shall be referred to as the Interim Performance Report.
 - 2. The employee and new rater shall meet as soon as possible to review the previously established performance ratings for the appropriate job dimensions, competencies, and performance expectations; establish expectations for the remainder of the current review period and sign a new performance report.
 - 3. The new rater shall be responsible for completing the performance report and all related actions throughout the remainder of the performance review period.
 - 4. When assigning dimension and overall ratings, the new rater shall take into consideration the Interim Performance Report prepared by the original rater.

- c. If the rater change occurs within the final 89 days of the performance review period:
 - 1. The performance report which was begun by the original rater shall be finalized by the original rater as quickly as possible. The timing of the finalization process may be adjusted to fit the circumstances. However, the performance report shall normally be received by the Civil Service Office no later than 30 days after the employee's PRD.
 - 2. The new rater shall not prepare a performance report for the current performance review period, nor shall the new rater have input into the process as a rater.
 - 3. The employee and new rater shall meet and initiate a new performance report. This will result in the new performance review period beginning prior to the PRD and the performance review period being somewhat longer than one year.

12.5 The Performance Improvement Program (PIP):

- (1) The performance management process described in this rule emphasizes that, in order to perform well, employees require instruction from their raters as to the nature of the work to be performed, and feedback on the effectiveness of their efforts. However, not all employees are able to meet expectations without more detailed instruction and feedback than is generally given, even though the employee may be entirely willing and able to perform at a successful level following a period of closer supervision.
- (2) The rater of an employee whose performance does not meet the desired standards should, as soon as practicable, without waiting until the end of the performance review period, place the employee in the Performance Improvement Program (PIP) and inform the employee of the provisions of the program.
- (3) Basic PIP Components include, but are not limited to the following:
 - a. Clear communication to the employee of performance expectations.
 - b. Objective observation and counseling of the employee and a sincere effort to assist the employee in improving job performance.
 - c. An adequate, but not overly prolonged, opportunity for the employee to improve job performance to a level that meets management's expectations.
 - d. A realistic evaluation of the employee's resulting level of performance, followed by appropriate action.
- (4) Enrollment in PIP shall not abridge the rights of a classified employee.
- (5) Employees may initially be placed on PIP for a period of not less than 30 calendar days and not more than 180 calendar days. However, PIP may be extended or canceled at any time, at the discretion of the rater, with concurrence from the appointing authority. Total time enrolled in PIP may not exceed 270 days.

12.5 (Continued)

- (6) PIP will be implemented as follows:
- a. The rater will provide the employee with an in person notice of the rater's intention to enroll the employee in PIP. The rater shall inform the employee of the reasons for enrollment in PIP by noting the employee's work related strengths and weaknesses.
 - b. A written record shall be made of the employee's enrollment in PIP, including the reasons for enrollment. The employee shall be asked to sign the written record to indicate knowledge of its contents. A copy of the signed, written record will be provided to the employee and a copy furnished to the Civil Service Office.
 - c. During the time the employee is on PIP, the rater will emphasize frequent observation of employee performance and frequent coaching to improve performance. Depending on the nature of the performance deficiency, the rater may provide the employee with additional training.
 - d. The rater and employee shall meet at least every 30 days to formally discuss and document the changes in the employee's performance since enrollment in PIP. Written records of these counseling sessions, setting forth the specific improvements still required, shall be furnished to the employee and to the Civil Service Office.
 - e. At the end of the initial PIP enrollment period and any subsequent extensions, the employee will be notified, in writing, of one of the following and a copy of this notification furnished to the Civil Service Office.
 1. That job performance has improved to meet expectations and PIP is discontinued.
 2. That job performance has not improved to meet expectations, and one of two actions may be taken by the supervisor:
 - (a) Extension of PIP for a specified period of time (not to exceed a cumulative total of 270 consecutive days of enrollment in PIP).
 - (b) Appropriate disciplinary action in accordance with Rule 11, up to and including dismissal.

Department Reports:**13.1 Types of Reports:**

For the proper maintenance of lists, registers, and records, as required by law, the appointing authority shall report to the Board the following:

- a. Creation of any position in the office.
- b. Request for certification when vacancy is to occur.
- c. Report of appointment.
- d. Report of promotion, demotion, transfer, or lay off.
- e. Refusal of certified eligible to accept position or failure of the eligible to report for duty in the position.
- f. Separation or expected separation from the service of any employee and reason therefor.
- g. Notice of suspension.
- h. Necessity for reduction in force.
- i. Employee Performance Ratings.

13.2 Form and Manner of Reports:

All such notices and reports required above shall be submitted in the form and manner prescribed by the Board.

Complaints and Grievances:

14.1 General:

a. Classified Employees Eligible to File Formal Grievances:

- (1) Any member of the classified service shall have the right to secure consideration of any complaint or grievance, formal or informal, as provided in these rules. Matters of concern to employees should be treated seriously, promptly, and with as much confidentiality as possible by those persons in a position to provide redress.
- (2) It is the intent and desire of the Hillsborough County Civil Service Board to encourage discussion of any employee complaint or grievance on an informal basis between the supervisor and an employee. Such discussion should be held with a view to reach an understanding which will resolve the matter without the need for recourse to the formal grievance procedures contained herein.
- (3) It shall be a violation of these rules to interfere with, restrain, coerce or otherwise retaliate against a classified employee for filing or pursuing a grievance under these rules, or for giving testimony in connection with the filing or pursuit of a grievance under these rules.

b. Members Covered by Collective Bargaining Agreements:

Employees who are members of a bargaining unit shall be allowed to grieve any single action through either the collective bargaining grievance procedures or the Civil Service Board grievance procedures. Once a grievance is initiated in either process it shall be resolved in that process. [FS 447.401]

14.2 Formal Grievance Documentation, Process, and Time Limitations:

a. Documentation Requirements:

The standard form to be used in the grievance process is CS Form 6. This document is a four part form and shall be completed by the employee, or their designated representative, and forwarded to the appropriate management official(s) for redress as follows:

<u>Form</u>	<u>Forwarded to:</u>
CS Form 6A	Immediate Supervisor
CS Form 6B	Second-line-Supervisor

14.2 Continued

Form

Forwarded to:

CS Form 6C (See Note)

Next in-line Supervisor, in succession, up to and including the Agency Head, or their designated representative

CS Form 6D

Civil Service Office

NOTE: Should the Agency Head, or his or her designated representative, not have been one of the management officials responding as either the Immediate or Second-line-Supervisor, then CS Form 6C may be used for each level of management beyond the Second-line-Supervisor. Should extra copies be necessary, the employee shall make additional copies of the original CS Form 6C as necessary.

b. Processing Requirements:

- (1) The affected employee, or a designated representative of the employee, may initiate a grievance by filing the CS Form 6A to the most immediate supervisor within the time provided in CS Rule 14.2c(1) below. If the matter pertains to the misapplication of Civil Service Law or Rules, or a violation of the Appointing Authority's policies, the employee must cite the specific law, rule, or policy that he or she believes has been violated.
- (2) The employee, or his or her designated representative, may present the written grievance to the next level of management, in succession, up to and including the Agency Head, or his or her designated representative, if the grievance is not resolved in the initial step, or is delayed beyond the specified periods of time stipulated in CS Rule 14.2c(1) below.
- (3) If it is believed that the grievance involves a matter related to the violation or misapplication of the Civil Service Law or Rules; and, the grievance is not satisfactorily resolved within the employee's Agency, the employee, or their designated representative, may present the grievance to the Director of the Civil Service Board for review to determine the propriety of affording the employee a hearing before the Civil Service Board.

c. Time Limitations:

- (1) The initial grievance must be filed with the immediate supervisor within five working days or one calendar week, whichever occurs later, following an occurrence of an incident, or the most recent occurrence of any series of related incidents upon which a grievance is based.

14.2 (Continued)

- (2) Upon receipt of the decision provided in any step, the grievant, or his or her designated representative, shall have five working days, or one calendar week, whichever occurs later, to appeal to the next higher level of management in the grievance process, including the Civil Service Office. Likewise, except as provided for in Civil Service Rule 14.2c(3) below, each level of management shall have five working days, or one calendar week, from receipt of the grievance to respond to the employee. In the event that management at any level fails to respond in a timely manner, the grievant may appeal to the next step. The time limits specified herein shall be tolled in cases where the grievant or management official is unavailable due to an authorized absence.
- (3) Grievances forwarded to the Agency Head, or his or her designated representative, shall be responded to within ten working days, or two calendar weeks, whichever occurs later, unless the grievant and the Agency Head, or their designated representatives, are then jointly engaged in seeking a suitable solution.
- (4) The time periods specified herein begin on the day following receipt of the grievance. Should the final period end on either Saturday, Sunday, or Hillsborough County designated legal holiday, the period shall be extended until the end of the next day which is neither a Saturday, Sunday, nor Hillsborough County designated legal holiday.

14.3 Director's Review of Grievance:

- a. Upon the filing of a grievance in the Civil Service Office, the Civil Service Board Director shall review the grievance to determine whether the facts alleged in the grievance and supporting documents, if taken to be true, constitute, or may constitute, a violation or misapplication of the Civil Service Law or Rules. The Director shall notify the parties of his decision in writing.
- b. If the decision of the Director is that the grievance does not state a violation or misapplication of the Civil Service Law or Rules, he shall deny a grievance hearing. A decision to deny a hearing is subject to appeal to the Board pursuant to Civil Service Rule 3.2.
- c. If the decision of the Director is that the grievance does or may state a violation or misapplication of the Civil Service Law or Rules, he shall so notify the parties, indicating the issues that he finds are properly raised in the grievance.
- d. If the Director determines that more information from the grievant or Appointing Authority is necessary in order to decide whether the grievance does or may state a violation or misapplication of the Civil Service Law or Rules, he may request such information prior to making a decision.

14.4 Basis for Formal Grievance Hearing:

The documents which forms the basis for the grievance hearing by an employee is the CS Form 6 [Hillsborough County Civil Service Employee Grievance], including all subparts and all attachments thereto. The information contained in the Civil Service Form 6, and the Civil Service Rule or Law violations identified therein, are the only subject matter appropriate for consideration during the grievance hearing.

14.5 Scheduling of Formal Grievance Hearing:

- a. The Civil Service Board shall make every reasonable effort to hear any grievance as soon as possible consistent with other Civil Service matters and priorities. The Director shall serve notice(s) of the time, date and location of the Pre-Hearing Conference and subsequent grievance hearing. The Director's notice regarding the granting of a hearing shall take into account other Board matters and priorities.
- b. Any request for enlargement of deadlines or continuance or rescheduling of a grievance hearing must be submitted in writing with full justification by the grievant or Appointing Authority so as to reach the Civil Service Office by the end of that business day which is five working days prior to the hearing date. All such requests, whether or not prepared and signed by counsel or other representative of the party, must be signed by the grievant or the Agency Head. This signature requirement cannot be delegated.
- c. Continuances and extensions will be granted only upon a showing of good cause. The first request for extension of any deadline, or continuance or rescheduling of a grievance hearing or pre-hearing conference, may be granted by the Civil Service Board Director. The second request may be granted by the Civil Service Board Chairman, or, in his or her absence, the Board Vice-Chairman. Any further request for continuance or rescheduling, or any request received after the five working days stated above, shall be presented in person by the employee, the Agency Head, or their respective representative, to the Board when it next convenes and the same shall be granted by the Board only upon a showing of good and compelling cause.

14.6 Pre-Hearing and Hearing Procedures:

The procedures and standards to be used in a grievance hearing shall be those contained in CSR 15.7 (Subpoena Authority and Powers of the Civil Service Board), CSR 15.8 (Pre-Hearing Conference Requirements), CSR 15.9 (Marking and Listing of Exhibits), CSR 15.10 (Findings of Fact), CSR 15.12 (Hearing Procedures), CSR 15.14 (Fact Finding, Evidence, Testimony, and Credibility of Witnesses) and CSR 15.16 (Final Order of the Civil Service Board), except as follows:

- a. Motions for Summary Judgment shall not be permitted in a grievance.

14.6 (Continued)

- b. The time for hearing grievances shall be 25 minutes per side, and may be increased pursuant to Civil Service Rule 15.8e.

14.7 Civil Service Board Composition During Grievance Hearings:

The composition of the hearing panel shall be determined by the Chairman of the Civil Service Board. The panel shall consist of a least three Board members.

14.8 Burden of Proof:

It is the responsibility of the grievant to prove his or her case by a preponderance of the evidence. A "preponderance of the evidence" simply means that amount of evidence which is enough to persuade the Board that the facts asserted by the grievant are more likely true than not true. The grievant must then show that those facts constitute a violation of the Civil Service Board Law or Rules.

14.9 Remedies:

- a. A prevailing grievant shall be entitled to be made whole from any adverse action inconsistent with the Civil Service Law or Rules. The remedy provided shall meet the substance of the grievance and the Board's findings. The scope of relief may include, but, may not be limited to the following:
 - (1) the revocation of any action taken in violation of Civil Service Law or Rules;
 - (2) reinstatement of lost compensation or benefits;
 - (3) issuance of a statement of findings and the ordering of any action within the Board's powers.
- b. Attorney fees and cost of litigation will not be recoverable by either party to a grievance.

Appeal Hearing Procedures**15.1 General/Powers of the Board:**

- (1) The employee appeal procedure mandated in Sections 11 and 12 of the Civil Service Act (Chapter 2000-445, L.O.F., as amended) is implemented by this rule and the relevant provisions contained in Civil Service Rules 2, 3, and 11 which are hereby incorporated by reference.
- (2) The Board will utilize electronic filing in employee appeals. Parties to any action shall electronically file (e-file) all documents using the Board's online e-Filing procedures. It is intended that such electronic filing shall be consistent with Florida Rules of Judicial Administration as appropriate and to the extent feasible. Self-represented individuals who do not have the means to file electronically may submit paper documents in person or via U.S. mail.
- (3) The Board, acting in concert or through its Chair, may delegate certain responsibilities to the Director or the General Counsel from time to time. Such delegation shall be in writing and will be subject to review and renewal on an annual basis.
- (4) **Review of Any Action:** An appointing authority or employee may appeal to the Board for review of any action taken or directive given by the Director or General Counsel on behalf of the Board. All such appeals must be presented in writing within the time frame directed by the General Counsel or the Chair. The Board's final judgment is subject to review in accordance with the Florida Rules of Appellate Procedure.

15.2 Appointing Authority:

- (1) The Appointing Authority shall notify the Director of all disciplinary actions which it imposes upon a classified employee(s) resulting in a suspension, demotion, or dismissal within 3 business day of issuing a Notice of Discipline (CS Form 5).
- (2) When an employee submits a request to the Board for an appeal hearing, the Board may request from the Appointing Authority additional documentation which may be needed to determine the employee's eligibility for an appeal hearing under the applicable provisions of the Civil Service Act and Rules. The Authority shall provide the requested information to the Board within five (5) business days. These documents should be provided electronically in accordance with this Rule.

15.3 Employees:

- (1) **Employees Eligible for Appeal Hearing:** Any classified employee who has satisfactorily completed the required initial probationary period, and is thereafter involuntarily demoted for cause, suspended, or dismissed from employment, may request a formal hearing before the Board to appeal said action.

- (2) **Employees Not Eligible for Appeal Hearing:**
 - a. An employee who has not satisfactorily completed the required initial probationary period shall have no right to a Pre-disciplinary or Administrative Due Process hearing, or to an appeal hearing before the Board. [CSL Section 11(1)]

 - b. Unsuccessful completion of the required conditional probationary period following promotion is not appealable to the Board. [CSL Section 10 (2)]

 - c. Employees not holding a classified position shall not be eligible for an appeal hearing. This shall include any employee within the Administrative Office of the Courts (Court Administrator) who holds a position which was not classified as of January 1, 1998, and funded by Hillsborough County Board of County Commissioners. [CSL Section 13]

 - d. The Director will notify an employee who is not eligible to receive a formal appeal hearing of the employee's ineligibility within seven (7) working days from the receipt of the employee's request for hearing.

- (3) **Employees Covered by Collective Bargaining Agreements:**

Classified employees who are members of a bargaining unit shall be allowed to appeal any single action through either the applicable collective bargaining appeal procedures or the Board's appeal process. Once an appeal is initiated in either process it shall be resolved in that process. [FS 447.401]

- (4) **Employee Rights During Appeal Hearing:**

During the appeal hearing, the employee initiating the appeal shall have the right to be heard publicly, to present evidence, to cross examine witnesses, and to be represented by legal counsel, or an individual of the employee's choice, as provided for in 15.3(5). In all cases, the employee shall be responsible for any and all expenses that he or she may incur in these proceedings.

15.3 (Continued)

- (5) An employee may be represented in a grievance or appeal proceeding by any individual who is not a witness to the proceeding. Such representative may not be compensated for their assistance, unless the individual is licensed or admitted to practice law in the state of Florida, another state, the District of Columbia, or a federal court, or unless the individual is compensated in his or her capacity as an employee or representative of a duly recognized bargaining agent.

15.4 Basis for Appeal:

- (1) The document which forms the basis for the appeal by a classified employee is the CS Form 5 [Notice of Employment Suspension, Involuntary Demotion for Cause, or Dismissal]. This document must include the action which is being taken, the factual basis for imposing the action, the effective date or dates of the action, and the specific Civil Service Rule(s), and/or internal agency policy(ies) or regulation(s) which the Agency Head claims have been violated.
 - a. Where the Agency Head claims that an internal policy or regulation has been violated, a copy of such internal policy(ies) or regulation(s) shall be provided to the Board.
- (2) The facts contained in the Civil Service Form 5, and the Civil Service Rule violations, and/or internal agency policy(ies) or regulation identified therein, are the only subject matter litigated during the appeal hearing.
- (3) Should an Agency Head, or designated representative who initiated the action, desire to present a violation of a different Civil Service Rule(s), and/or internal agency policy(ies) or regulation, than those which appear in the initial Civil Service Form 5 which forms the basis of the appeal, or a different factual basis for finding a violation based on newly acquired evidence discovered subsequent to the issuance of the initial Form 5, the Board will remand the appeal back to the Agency Head for further proceedings on the new factual material or Rules.

15.4 (Continued)

- (4) Except for the requirement of the Agency Head to provide an opportunity for the employee to respond at a Pre-disciplinary or Administrative Due Process hearing, the Board shall not consider other aspects of the Pre-disciplinary or Administrative Due Process procedures of the Agency Head in any way, including questions such as whether the appellant received adequate notice of the hearing, whether the appellant was adequately represented at the Pre-disciplinary or Administrative Due Process hearing, or whether the Agency Head followed its own internal procedures leading up to the Pre-disciplinary or Administrative Due Process hearing. Evidence introduced by either side at the Pre-disciplinary or Administrative Due Process hearing may be admissible to determine whether the grounds listed on the Civil Service Form 5 are within the scope of matters addressed by the Pre-disciplinary or Administrative Due Process hearing. In addition, evidence introduced at the Pre-disciplinary or Administrative Due Process hearing may be admitted to impeach a witness regarding an inconsistent statement; or for other purposes not inconsistent with this Rule, the Civil Service Law or applicable legal precedent.

15.5 Request for Appeal [CSL Section 11(4)]:

- (1) The request for an appeal hearing must be received by the Civil Service Office within ten (10) calendar days following the employee's official date of receipt of CS Form 5. Should the final period end on either Saturday, Sunday or Hillsborough County designated legal holiday, the period shall be extended until the end of the next day which is not a Saturday, Sunday or Hillsborough County designated legal holiday.
- (2) The request for an appeal hearing must be submitted electronically using an Appeal Request CS Form 5A; and shall be electronically signed by the employee and/or his or her authorized representative. Electronic filing forms and instructions may be accessed at www.hccsb.org. Self-represented individuals who do not have the means to file electronically may submit the Appeal Request Form (5A) in person or via U.S. mail.
- (3) The CS Form 5A shall provide the telephone number, E-mail address, and U.S. mail address to which a copy of the notice of hearing and other pleadings or papers filed in the appeal action should be mailed or sent electronically.
- (4) The CS Form 5A shall state clearly and simply the reason(s) the employee believes the suspension, involuntary demotion for cause, or dismissal was not for just cause.

15.5 (Continued)

- (5) Within three (3) working days from the receipt of the employee's request for appeal hearing, the Board Director shall send a Notice of such request to the Agency Head, or authorized representative, who initiated the action. [CSL Section 11(4)] Such Notice shall also include the dates and requirements as provided for in CSR 15.9 Scheduling of Appeal Hearing, CSR 15.12 Motion for Summary Judgment, and CSR 15.14 Pre-Hearing Conference.

15.6 E-filing Consent, Exception, Service, and Technology:

- (1) Consent of the parties required: After the Director has accepted the employee's request for appeal, documents may be electronically filed and served, but only by, and upon, a party or parties who have consented thereto by submitting a Consent to Electronic Service and Filing form provided by the Board.
- a. One party's failure to consent to participation in electronic filing and service shall not bar any other party to the action from filing documents electronically with the Board, or serving documents upon any other party who has consented to participation.
- Where a party does not have the means to file electronically, the Board reserves the right to convert paper filings into electronic form as appropriate.
- b. A party who does not have the means to file electronically shall file documents, and serve and be served with documents, in hard copy. When an e-filing party serves a document in hard copy on a nonparticipating party, the document served shall bear full signatures of all signatories and proof of such service shall be filed electronically.
- c. An Appointing Authority may provide a blanket consent to electronic filing and service.
- (2) Exceptions: Hard copy or paper documents and other submissions may be manually submitted to the Board:
- a. when the Board does not have the ability to accept and retain documents by electronic filing;
- b. when submitting evidentiary exhibits or filing non-documentary materials, including demonstrative aids for use at hearing;

15.6 (Continued)

- c. when the filing involves documents in excess of the appropriate size limitations specified by the County's Information and Innovation Office. For such filings, documents may be transmitted using an electronic storage medium that the Board has the ability to accept, which may include a CD-ROM, flash drive, or similar storage medium;
- d. when filed as permitted by the Board during a hearing, or pre-hearing conference;
- e. if the Director, upon consultation with the General Counsel, determines that justice so requires.

15.7 Filing Sensitive Information Minimization:

- (1) Limitation for Filings. The following information is designated to be "sensitive" and filing it with the Board must be limited as follows:
 - a. A person known to be a minor will be cited only by their initials;
 - b. A person's birth date will only include the year of birth;
 - c. No portion of any of the items listed below may be included:
 - 1. social security number,
 - 3. credit card account number,
 - 4. charge account number, or
 - 5. debit account number;
 - d. Only the last four digits of the following items should be cited:
 - 1. taxpayer identification number (TIN),
 - 2. employee identification number,
 - 3. driver's license number,
 - 4. passport number,
 - 5. telephone number,
 - 6. financial account number, except as set forth in paragraph (1)c,
 - 7. brokerage account number,
 - 8. insurance policy account number,
 - 9. loan account number,
 - 10. customer account number, or
 - 11. patient or health care number;
 - e. Only a truncated version of any the following items may be cited
 - 1. email address,
 - 2. computer user name,
 - 3. password, or
 - 4. personal identification number (PIN); and

15.7 (Continued)

- f. Only a truncated version of any other sensitive information as provided by Board order may be cited.
- (2) Exceptions: Paragraph (1) does not apply to the following:
 - a. An account number which identifies the property alleged to be the subject of a proceeding;
 - b. The record of an administrative or agency proceeding;
 - c. The record in appellate or review proceedings;
 - d. all information necessary for the proper issuance and execution of a subpoena;

15.8 Accessibility of Information and Technology:

Any document that is or will become a record of the Board, and that is transmitted in an electronic form, must be formatted in a manner outlined by Section 3.1 of the Florida Court Standards found at the following link

www.flcourts.org/core/fileparse.php/624/urlt/Updated-E-Access-Standards-November-2016-v17-clean.pdf.

Such documents shall comply with all state and federal laws requiring that electronic records be accessible to persons with disabilities, including the Americans with Disabilities Act, and Section 508 of the federal Rehabilitation Act of 1973 as incorporated into Florida law by section 282.603(1), Florida Statutes (2010), and any related federal or state regulations or administrative rules.

15.9 Scheduling of Appeal Hearing:

- (1) The Board shall make every reasonable effort to hear any timely filed appeal of demotion or dismissal within 30 working days of receipt of the notice of appeal, unless an extension of time is requested by the employee or the Agency Head, or their respective representative. At no time shall the initial hearing of an appeal of dismissal be delayed beyond sixty (60) calendar days without the consent of both parties involved, unless otherwise required by general law. [CSL Section 12(2)]
- (2) Requests for appeal hearings involving suspensions shall be scheduled as soon as possible consistent with other Board matters and priorities. [CSL Section 12(2)]

15.9 (Continued)

- (3) After an appeal is filed, the Director shall provide notice to all parties of the time, date, and location of all hearings and pre-hearing proceedings to take place in an appeal. Such notice shall specify:
- a. that any motions for summary judgment must be filed no later than 20 calendar days after the date the appellant filed the Civil Service Form 5A;
 - b. the date of the Pre-Hearing Conference, which shall normally be held within one week after the summary judgment deadline unless a summary judgment motion is filed; and
 - c. the date of a hearing before the Board on the appeal which may be scheduled as early as two weeks after the Pre-Hearing Conference. The Director shall serve such further notices as may be required. [CSL Section 12(2)]
 - d. that any deadline that ends either Saturday, Sunday or Hillsborough County designated legal holiday, shall be extended until the end of the next day which is not a Saturday, Sunday or Hillsborough County designated legal holiday.
- (4) Any request for extension of deadlines to file a motion or response, or for a continuance, or rescheduling of a hearing or pre-hearing conference must be electronically submitted in writing except for a party is an employee who is self-represented and does not have the means to file electronically. The request shall include a full justification and must reach the Civil Service Office by the end of that business day which is five (5) working days prior to the hearing date, or deadline for submission. All such requests, except when prepared and signed by counsel or other representative of the party, must be signed by the appellant or the Agency Head.
- a. Continuances and extensions will be granted only upon showing of good cause. The first request for extension of any deadline, or continuance, or rescheduling of any hearing or pre-hearing conference may be granted by the Director. The second request may be granted by the Board Chairman, or in his or her absence, the Board Vice-Chairman.
 - b. Any further request for continuance or rescheduling, or any request received after the five working days stated above, shall be presented in person by the appellant, the Agency Head, or their respective representative, to the Board when it next convenes and the same shall be granted by the Board only upon a sufficient showing of good and compelling cause.

15.10 Abandonment of Right to Appeal:

The appellant, or his/her representative, shall at all times keep the Director informed, in writing, of his or her current telephone number, email address, and mailing address. It shall be the responsibility of the appellant, or his/her representative, to inquire of the Director bi-weekly as to all scheduling matters. Failure to comply with the foregoing may constitute an abandonment of any further right to appeal.

15.11 Use of Communication Equipment:

- (1) **Definition.** Communication equipment means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other, provided that all conversation of all parties is audible to all persons present.
- (2) **Use by All Parties.** The Board may, upon its own motion or upon the written request of a party, direct that communication equipment be used for a hearing, pre-hearing conference, or a status conference. The Board must give notice to the parties and consider any objections they may have to the use of communication equipment before directing that communication equipment be used. The decision to use communication equipment over the objection of parties will be in the sound discretion of the Board, except as noted below.
- (3) **Testimony.**
 - a. **Generally.** The Board may allow testimony to be taken through communication equipment if all parties consent or if permitted by another applicable rule of procedure.
 - b. **Procedure.** Any party desiring to present testimony through communication equipment shall, prior to the hearing at which the testimony is to be presented, contact all parties to determine whether each party consents to this form of testimony. The party seeking to present the testimony shall move for permission to present testimony through communication equipment, which motion shall set forth good cause as to why the testimony should be allowed in this form.
 - c. **Oath.** Testimony may be taken through communication equipment only if a notary public or other person authorized to administer oaths in the witness's jurisdiction is present with the witness and administers the oath consistent with the laws of the jurisdiction.
 - d. **Video Testimony.** If the testimony to be presented utilizes video conferencing or comparable two-way visual capabilities, the Board in its discretion may modify the procedures set forth in this rule to accommodate the technology utilized.

15.11 (Continued)

- (4) **Burden of Expense.** The cost for the use of the communication equipment is the responsibility of the requesting party unless otherwise directed by the Board.
- (5) **When Court Reporting Requested by a Party.** A court reporter is required to be present at all Board meetings and hearings. The Board may provide a court reporter at any other Board proceeding at its discretion. Where the Board does not provide a court reporter, a party may request that a court reporter be present at a proceeding. The party so requesting shall pay the reporting fees, but this requirement shall not preclude the taxation of costs as authorized by law.
- (6) **Record.** When hearing proceedings are being reported in a transcript, no part of the proceedings shall be omitted unless all of the parties agree to do so and the Board approves the agreement.
- (7) **Ownership of Records.** The Board is the owner of all records and electronic records made in any proceedings required to be recorded or reported at its expense, and proceedings reported or recorded for the Board's own use.
- (8) **Fees.** Copies of any reports shall be provided and charged in accordance with the Board's public records policy.
- (9) **Transcripts.** Transcripts of all proceedings, shall be uniform in all matters and shall be stored in an electronic format sufficient to communicate the information contained in proceedings in a readable format, and capable of being transmitted electronically. Any transcripts stored in electronic form must be capable of being printed as dictated by Rule 2.530 of the Florida Rules of Judicial Administration.
- (10) **Court Reporting Services at the Board's Expense.**
 - a. **When Reporting Is Required.** All proceedings required by law, court rule, or administrative order to be reported shall be reported at the Board's expense.
 - b. **When Reporting May Be Required.** Proceedings reported for the Board's own use may be reported at the Boards expense.

15.11 (Continued)

- (11) Safeguarding Confidential Communications When Electronic Recording Equipment Is Used:
- a. The Director shall provide notice to participants in a Board proceeding that electronic recording equipment is in use and that they should safeguard information they do not want recorded.
 - b. Parties shall take all reasonable and available precautions to protect against disclosure of confidential communications during recorded proceedings. Such precautions may include muting microphones or going to a designated location that is inaccessible to the recording equipment.
 - c. Participants have a duty to protect confidential information.

15.12 Motion for Summary Judgment:

- (1) Any party may move for summary judgment when it is believed that there is no genuine issue of material fact; and, that he or she is entitled to prevail as a matter of law.
- (2) The Appointing Authority, or designated representative, may move for a summary judgment based upon all or any part of the Civil Service Rules, or the Appointing Authority's operating or administrative rules(s) violations cited on CS Form 5.
- (3) The Appellant, or designated representative, may move for a summary judgment in that party's favor based upon all of the Civil Service Rules, or the Appointing Authority's operating or administrative rule(s) violations cited on CS Form 5.
- (4) Unless electronically filed, the original and 10 hard copies of a Motion for Summary Judgment, including affidavits, must be filed with the Director and served by hand delivery, or first class mail on the opposing party, or their designated representative, no later than 20 calendar days from the date the appellant filed the CS Form 5A.
 - a. Any request for extension of deadlines or continuance or rescheduling of a hearing must be submitted in writing with full justification by the Appellant or Appointing Authority so as to reach the Civil Service Office by the end of that business day which is no later than five working days prior to the deadline or hearing date. All such requests, except when prepared and signed by counsel or other representative of the party, must be signed by the appellant or the Agency Head. Such requests may be filed in accordance with the Board's electronic filing procedures.

15.12 (Continued)

- b. Where an extension is requested and granted to either party, all deadlines shall be extended for both parties accordingly.
- (5) Motions for Summary Judgment shall comply with the following requirements:
- a. the motion shall state with particularity the grounds upon which the moving party will rely for summary judgment and the substantial matters to be argued;
 - b. all facts argued in support of the motion must be supported by written testimony as described below in CSR 15. 12(5)(d), by affidavit(s) or otherwise sworn or certified evidence, stipulation(s), documents or other admissible evidence. Admissions contained in CS Form 5 and CS Form 5A may be utilized to support a Motion for Summary Judgment. Live testimony will not be taken at a hearing on a Motion for Summary Judgment;
 - c. any documents supporting the motion must be properly authenticated;
 - d. evidence submitted through written testimony shall be under oath or under penalty of perjury; and, in the form of an affidavit, or declaration, or a deposition or hearing transcript from other proceedings; except that testimony offered as an admission by the opposing party need not be sworn if properly authenticated;
 - e. evidence should be of the same quality that the Board would admit at an evidentiary hearing.
- (6) If the opposing party desires to file a response, including opposing affidavits or other evidence, he or she shall file such response with the Director and serve it on the opposing party, or their designated representative, within fifteen (15) calendar days of receipt of the Motion for Summary Judgment, but in no event, no later than five (5) calendar days prior to the scheduled hearing. A party opposing summary judgment may not rely solely upon the allegations or assertions of its CS Form 5 or CS Form 5A. A party opposing summary judgment which disputes any fact offered by the moving party must offer in its response admissible evidence which controverts such facts. Any material facts which are uncontroverted or undisputed by competent evidence as of the date of the hearing may be found to be true by the Board. Such responses shall be filed in accordance with the Board's electronic filing procedures.

15.12 (Continued)

- (7) Affidavits or other testimony shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant or witness is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached to the affidavit or served simultaneously with the affidavit.
- (8) If it appears from the affidavit(s) of a party opposing the motion, that the party cannot for reasons stated, present facts essential to support opposition to the motion by affidavit, the Board may order a continuance to permit affidavits to be obtained, or may make such other order as is just.
- (9) The Board will schedule a hearing to consider oral arguments as soon as possible consistent with other Board matters. Board Exhibit 1 sets forth the Board's authority to conduct the hearing and consists of the termination status form, the CS Form 5, and the CS Form 5A.
- (10) In the event that the party opposing the motion does not file a response and does not appear at the hearing (either in person or via a chosen representative), the Board shall dismiss the appeal for lack of prosecution. The Board Chair may reopen the case if good cause for the lack of appearance is provided within 30 days of the hearing date.
- (11) The party, or designated representative, having introduced the Motion for Summary Judgment will have fifteen (15) minutes to present oral arguments to the Board supporting such motion, to include rebuttal.
- (12) The party opposing the motion, or designated representative, shall also have fifteen (15) minutes to present oral arguments to the Board opposing the motion.
- (13) The Board members may ask questions of either party, or their designated representative, at the conclusion of that party's oral presentation.
- (14) The judgment sought shall be rendered if the moving party presents sufficient evidence that shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Genuine issues which will preclude the granting of a summary judgment are issues which can be supported by substantial competent evidence. The Board shall vote separately on each rule violation for which a party is pursuing summary judgment. The concurrence of the majority of the Board members present and voting at the summary judgment hearing shall be necessary for a summary judgment motion to be granted. Therefore, in the event of a tied vote, the motion for summary judgment is denied.

15.12 (Continued)

- (15) Should the Appointing Authority prevail on its Motion for Summary Judgment, the disciplinary action imposed by the Appointing Authority shall be considered upheld and the appeal dismissed. The decision of the Board shall constitute a final Agency action.
- (16) Should the Board deny the Appointing Authority's or the Appellant's Motion for Summary Judgment, an evidentiary hearing shall be scheduled as soon as possible.
- (17) Should the Appellant prevail on his or her Motion for Summary Judgment, the disciplinary action imposed by the Appointing Authority shall be considered vacated in its entirety and the appellant placed in the same position that he or she would have been in had the action not been taken. The scope of relief provided by the Civil Service Board shall be in accordance with Rules 15.22 and 15.24.

15.13 Subpoena Authority and Powers of the Board:

- (1) The Director and/or a member of the Board is authorized to issue subpoenas to compel the attendance of witnesses and the production of books, accounts, records and documents at a final evidentiary hearing. [CSL Section 12(4)]
- (2) The Board, or any member thereof, may administer oaths and compel testimony. [CSL Section 12(4)]
- (3) Persons who disobey an order to testify or a subpoena to appear or produce evidence, issued by the Board or any member thereof, can be compelled to obey said order or subpoena through contempt proceedings. The Director and/or member may initiate contempt proceedings in a court of competent jurisdiction.
- (4) It shall be the responsibility of any party seeking to compel the attendance of a witness through subpoena to take the following steps:
 - a. Blank subpoena forms shall be obtained from the Civil Service Office, shall be completed by the party, and returned to the Civil Service Office for issuance in accordance with the electronic filing provisions of this Rule.
 - b. Upon issuance, the party shall be responsible for obtaining service of the subpoena by a person over the age of 18 years who is not a party to the action, including the payment of any compensation for the service of the subpoena. Service of the subpoena, including witness fee and expenses, shall be made as provided in general Florida law.

15.13 (Continued)

- c. The party serving a subpoena shall be responsible for payment of the witnesses' fee and expenses as set by general Florida law. [CSL Section 12(4)]

The Board may also compel the attendance through subpoena of a witness or other person at any hearing or regular Board meeting on its own initiative. In such case, the Board shall be responsible for all costs of the service of the subpoena, including any service fees and witness fees, which shall be audited and paid in the same manner as other expenses. [CSL Section 12(4)]

15.14 Pre-Hearing Conference Requirements:

- (1) To facilitate the formal appeal hearing proceedings, the Director shall coordinate with the parties to schedule a Pre-Hearing Conference with the General Counsel and provide notice. Such Pre-Hearing Conference shall normally be scheduled within seven (7) calendar days after the expiration of the deadline for filing Motions for Summary Judgment and shall be attended by each party to the appeal hearing, or their designated representative.
- (2) A pre-hearing conference will be continued in matters where a party has filed a Motion for Summary Judgment.
- (3) The failure of either party, or their designated representative, to comply with the requirements set forth herein shall give the Board cause to continue the hearing, dismiss the appeal, or to impose other appropriate hearing related sanctions. Should the hearing be delayed due to the appellant or the appellant's designated representative's unexcused failure to participate in the Pre-Hearing Conference, and the Appointing Authority be overturned at a later date; make whole remedies as defined by CS Rule 15.24 will not apply to the period from the delayed hearing to the date of the Board's final decision to uphold the appeal.
- (4) In any case in which a Pre-Hearing Conference is scheduled, it shall be the responsibility of all parties, or their designated representatives, to meet together no later than six (6) calendar days before the date of the Pre-Hearing Conference (or at such other time as the Director may direct) in a good faith effort to:
 - a. discuss the possibility of a settlement;
 - b. stipulate to as many facts or issues as possible;
 - c. examine all exhibits or documents and other items of tangible evidence to be offered by any party at the hearing and exchange a list thereof;

15.14 (Continued)

- d. exchange the names, addresses, and telephone numbers of all witnesses who may be called at the hearing; and, to the extent possible, resolve any scheduling conflicts of such witnesses;
 - e. determine those issues of fact which are admitted and will require no proof at the hearing; and, those issues of fact which remain to be considered by the Board at the hearing; and
 - f. prepare a Pre-Hearing Statement in accordance with subsection (5) of this rule.
- (5) The Pre-Hearing Statement shall be filed with the Board no later than three (3) calendar days before the date of the Pre-Hearing Conference, (or at such other time as the Director may direct) and shall contain:
- a. a concise statement of the nature of the action;
 - b. a brief, general statement of each party's case;
 - c. a list of all exhibits to be offered at the hearing with notation of all objections thereto;
 - d. a list of all witnesses who may be called at the hearing;
 - e. a concise statement of those facts which are admitted and will require no proof at the hearing, together with any reservations directed to such admissions;
 - f. a concise statement of those issues of fact which remain to be litigated (without incorporation by reference to prior pleadings and memoranda);
 - g. a list of all motions or other matters which require action by the Board; and
 - h. the signature of each party, or their designated representatives.
- (6) The Director may dispense with the requirement to hold a Pre-Hearing Conference in cases where the parties, or their designated representatives, timely submit a Pre-Hearing Statement in compliance with CSR 15.14 4(5) (Items a through h) or pending the outcome of a Motion for Summary Judgment.

15.14 (Continued)

- (7) The General Counsel shall address all preliminary, non-dispositive motions and make evidentiary rulings on any objections designated in the Pre-Hearing Statement to the exhibits, documents, or other documentary evidence offered by either party, either at the Pre-Hearing Conference or thereafter or, if the requirement to hold a Pre-Hearing Conference has been vacated, in a pre-hearing order prior to the day of the evidentiary hearing. The General Counsel shall also set the amount of time in which the hearing in the case may be tried. The time allotted to hear appeals of suspensions will be 45 minutes per side. The time allotted to hear appeals of demotions or terminations will be 60 minutes per side. If either party shows good cause, the Board Chairman may increase these time limits. Any rulings made by the General Counsel at the Pre-Hearing Conference or thereafter may be appealed to the Board at the time of the appeal hearing.
- (8) The Pre-Hearing Statement and the pre-hearing order, if any, will control the course of the hearing and may not be amended except by order of the Board in the furtherance of justice. If new evidence or witnesses are discovered after filing of the Pre-Hearing Statement, the party desiring to call the same shall immediately notify all other parties, or their designated representatives, and the Director, and such use shall be permitted only by order of the Board in the furtherance of justice.

15.15 Marking and Listing of Exhibits:

- (1) Each party, or their designated representative, shall properly mark all exhibits proposed to be offered into evidence at the appeal hearing proceedings. Exhibits, whether or not stipulated into evidence, shall be prepared and submitted as follows:
- a. Stipulated Exhibits:
1. Each exhibit shall be marked and tabbed separately (i.e. Joint Exhibit 1, Joint Exhibit 2, etc.)
 2. An indexed list of such exhibits, with a descriptive notation sufficient to identify each separate number exhibit shall be included.
 3. All exhibits and the index shall be combined into an electronic binder or, if not filed electronically, shall be fastened in a folder, along with a memorandum signed by each party, or their designated representative, signifying agreement to the offering of such documents.

15.15 (Continued)**b. Unstipulated Exhibits:**

1. Each exhibit shall be marked and tabbed separately (i.e. Appointing Authority Exhibit 1, Appointing Authority Exhibit 2, etc, or Appellant Exhibit 1, Appellant Exhibit 2, etc, as applicable.)
 2. An indexed list of such exhibits, with a descriptive notation sufficient to identify each separately numbered exhibit shall be included.
 3. All exhibits and the index shall be combined into an electronic binder or, if not filed electronically, shall be fastened in a folder.
- (2) Pre-Hearing Conference: Unless electronically filed, each party, or their designated representative, shall furnish a hard copy of the stipulated exhibits to the opposing party, or their designated representative, and ten (10) hard copies to the Board's Clerk, no later than five (5) calendar days prior to the hearing date, or the date set at the Pre-Hearing Conference.
- (3) Hearing Before the Board: Unless electronically filed, each party, or their designated representative, shall furnish the opposing party, or their designated representative, a hard copy of those exhibits which have not been stipulated, not later than five (5) calendar days prior to the hearing, and shall furnish ten (10) hard copies to the Board's Clerk at the commencement of the hearing.

15.16 Findings of Fact:

Each party may electronically submit proposed findings of fact to the Director not later than the commencement of the appeal hearing. Self-represented employees who do not have the means to electronically file, may submit proposed findings by hard copy. These may be utilized in the drafting of findings of fact, and will not be distributed to the Board prior to the hearing.

15.17 Board Composition During Appeal Hearings:

- (1) The Chair or Vice Chair, and General Counsel will be present at appeal hearings. In the absence of both the Chair and the Vice Chair, the most senior member of the Board present shall assume the role of Chair. However, in no case shall a hearing proceed in the absence of the General Counsel.
- (2) The concurrence of the majority of the Board members present and voting at such hearings shall be necessary for any action to be taken.

15.18 Accommodations for Persons with Disabilities:

- (1) **Reasonable Accommodation:** Qualified individuals with a disability will be provided, at the Board's expense, with reasonable accommodations, modifications to rules, policies, or practices, or the provision of auxiliary aids and services, necessary to participate in appeal process provided by the Board. A request will be considered in accordance with paragraph (e) below.
- (2) **Definitions:** The definitions encompassed in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, et seq., are incorporated into this rule.
- (3) **Notice Requirement:**
 - a. All notices of Board proceedings to be held in a public facility, and all process compelling appearance at such proceedings, shall include the following statement in bold face, 14-point Times New Roman or Courier font:

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact [identify applicable staff by name, address, and telephone number] at least 7 days before your scheduled appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

- (4) **Process for Requesting Accommodations:** The process for requesting accommodations is as follows:
 - a. Requests for accommodations under this rule may be presented on a form approved or substantially similar to one approved by the Board, in another written format, or orally. Requests must be forwarded to the designated staff person, within the time frame provided in paragraph (4)c.
 - b. Requests for accommodations must include a description of the accommodation sought, along with a statement of the impairment that necessitates the accommodation and the duration that the accommodation is to be provided. The Board, in its discretion, may require the individual with a disability to provide additional information about the impairment. Requests for accommodation shall not include any information regarding the merits of the case.

15.18 (Continued)

- c. Requests for accommodations must be made at least 7 days before the scheduled appearance, or immediately upon receiving notification if the time before the scheduled appearance is less than 7 days. The Board may, in its discretion, waive this requirement.

(5) The Director must respond to a request for accommodation as follows:

- a. The Director must consider, but is not limited by, the provisions of the Americans with Disabilities Act of 1990, as amended, in determining whether to provide an accommodation or an appropriate alternative accommodation.

b. The Director must inform the individual with a disability of the following:

- 1. That the request for accommodation is granted or denied, in whole or in part, and if the request for accommodation is denied, the reason therefor; or that an alternative accommodation is granted;
- 2. The nature of the accommodation to be provided, if any; and
- 3. The duration of the accommodation to be provided.

c. If the request for accommodation is granted in its entirety, the Director shall respond to the individual with a disability by any appropriate method. If the request is denied or granted only in part, or if an alternative accommodation is granted, the Director must respond to the individual with a disability in writing, as may be appropriate, and if applicable, in an alternative format.

d. If the Director determines that a person is a qualified person with a disability and an accommodation is needed, a request for accommodation may be denied only when the Board determines that the requested accommodation would create an undue financial or administrative burden on the Board or would fundamentally alter the nature of the proceedings.

15.19 Evidentiary Hearing Procedures:

- (1) Evidentiary hearings conducted by the Board under Civil Service Rule 14 or Civil Service Rule 15 shall comply with Florida open-meeting law.
- (2) For guidance of the parties, evidentiary hearings ordinarily proceed in the following sequence unless otherwise stipulated by the parties; or upon the determination of the General Counsel or the Board it appears that a different procedure or deviation from this procedure, shall be appropriate:
 - a. The Board shall address any preliminary matters including motions in limine, motions to sequester witnesses, or other procedural or substantive matters which should be addressed before introduction of the evidence.
 - b. Witnesses shall be identified and sworn.
 - c. Each party may make an opening statement. Opening statements are not evidence and are not designed for argument of the case. Rather, the opening statement provides the parties an opportunity to inform the Board of the facts that the party believes will be shown by the evidence as they relate to the alleged violation(s) of Civil Service Rules(s) or Agency policy(ies) and/or procedure(s). The party bearing the burden of proof shall proceed first.
 - d. The party bearing the burden of proof shall proceed with its case by calling witnesses and introducing documentary or other evidence. Subsequently, the responding party shall proceed with his or her case. The party bearing the burden of proof, upon cause shown, may be allowed limited rebuttal. Surrebuttal shall not be permitted except when the interests of justice so require.
 - e. Each witness called by any party may be cross-examined by the opposing party. Re-direct examination shall be permitted. Re-cross examination shall be permitted only upon good cause. At the conclusion of examination by the parties, the Board shall have the opportunity to inquire of the witness.
 - f. After the conclusion of the evidence, each party shall have the opportunity to present closing argument. Closing argument is not evidence, but is designed to inform the Board of each party's position as to the facts demonstrated by the evidence and whether or not the alleged violation(s) of Civil Service Rules(s) or Agency policy(ies) and/or procedures(s) have been proven.
 - g. After closing argument, the Board shall conduct its deliberations in open meeting. The Board shall vote separately on each alleged Civil Service Rule violation.

15.20 Burden of Proof:

- (1) It is the responsibility of the Appellant or designated representative to prove by a preponderance of the evidence that the Agency lacked just cause for imposing discipline. A "preponderance of the evidence" simply means that amount of evidence which is enough to persuade the Board that the facts asserted by the Appellant, or designated representative, are more likely true than not true and that those facts do not support the Agency's allegations that the Appellant's conduct constitutes a violation of the Civil Service Rules identified on the formal notice of discipline (CS Form 5).
- (2) In deciding whether any fact has been proven by a preponderance of the evidence, a Board member may consider the testimony of all witnesses, regardless of who may have called them, and all exhibits received in evidence, regardless of who may have introduced them.
- (3) In all Board hearings, including hearings to consider motions of any type made by either party, the moving party must prevail by a majority of the Board members present and voting. In the case of an appeal or grievance hearing, the appellant is the moving party. In the case of a hearing to consider a motion for summary judgment or other motion, the party filing the motion is the moving party. In the event of a tie vote, the moving party shall not prevail.

15.21 Fact Finding, Evidence, Testimony, and Credibility of Witnesses:

- (1) The Board, acting in its quasi-judicial capacity during such hearings, must initially make a determination about those facts which are relevant to the ultimate issue before the Board. Where those facts are not in dispute, the Board is entitled to accept and rely upon the undisputed facts as its own. Where those facts are in dispute, the Board must resolve the factual disputes created either by testimony or by documentary evidence.
- (2) In resolving factual disputes, the Board should consider only the evidence that is properly before it, that is, the testimony of the witnesses, and the exhibits admitted in the record. However, as the Board considers the evidence, both direct and circumstantial, it may make deductions, inferences, and reach conclusions which reason and common sense lead it to make.
- (3) "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eyewitness. "Circumstantial evidence" is proof of a chain of facts and circumstances tending to prove, or disprove, an ultimate conclusion. Nothing the Appointing Authority's representative, or the appellant's representative says is evidence in the case, nor is anything said in the opening statements, the closing arguments, or objections, whether stated by lawyers or by parties representing themselves. It is the Board's own recollection and interpretation of the evidence that controls its decision.

15.21 (Continued)

- (4) All testimony shall be under oath. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. All other evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in the courts of Florida. Hearsay evidence may be introduced and used for supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding by the Board unless it would be admissible over objections in a civil action. [CSL Section 12 (3)(4)]
- (5) The fact that the Civil Service Board must consider all of the evidence does not mean that the Board must accept all of the evidence as true or accurate. Each Board member should determine the credibility of each witness' testimony and the relative importance of that testimony. In making that decision, a Board member may believe or disbelieve any witness, in whole or in part. The credibility of the evidence, and not the number of witnesses testifying concerning any particular fact in dispute, is controlling.

15.22 Modification or Reduction of Disciplinary Actions Impermissible:

- (1) It is not part of the Board's function to determine whether the degree or type of action is appropriate. Therefore, the Board may not reduce, increase or otherwise modify the action imposed upon the appellant by the Agency Head. If the conduct which is proven establishes a violation of at least one of the Civil Service Rules, the action taken must be upheld in its entirety. If the conduct which is proven does not establish a violation of the Civil Service Rules, or if the action taken is found not to be for just cause, the action must be vacated in its entirety and the appellant placed in the same position that he or she would have been in had the action not been taken.
- (2) In determining whether or not the conduct which is proven supports the action of the Agency Head, the Board shall consider each alleged violation cited on Civil Service Form 5.
- (3) In cases where the appellant does not contest the cited violations of the Civil Service Rules or Law, or the Agency's operational or administrative rules and procedures; and, when it becomes apparent that the only relief sought is to reduce the discipline imposed, the Board may dismiss the appeal upon filing of an appropriate motion.

15.23 Final Order of the Board:

- (1) Within ten (10) calendar days of the conclusion of the appeal hearing, the Director or a member of the Board shall issue a Final Order to the affected parties, setting forth its findings, conclusions, and the reasons therefore. The ten day period begins on the day following the conclusion of the appeal hearing. [CSL Section 11(5)]

15.23 (Continued)

- (2) Except as otherwise provided in CS Rule 15.25 below, the decision(s) of the Board in any appeal hearing shall be considered final and binding on all affected parties subject to review pursuant to the Florida Rules of Appellate Procedure.

15.24 Remedies:

- (1) Except as provided in CS Rule 15.25 below or as otherwise provided in these rules, a prevailing appellant in an appeal hearing will be entitled to be made whole from any adverse effects of the action imposed. The scope of relief may include; but, may not be limited to:
 - a. Back pay.
 - b. Reinstatement of lost benefits.
 - c. Reinstatement to fringe benefit plans.
 - d. Retroactive seniority.
- (2) In determining relief, the Board may take into account mitigating factors such as interim earnings and fringe benefits received, good faith efforts to secure alternative employment, and the reasonableness of request for continuance of hearing dates, and other equitable factors recognized under applicable precedent.
- (3) Attorney fees and cost of litigation will not be recoverable by either party to an appeal.

15.25 Administrative Office of the Courts - Hearing to Review Actions of Dismissal, Involuntary Demotion for Cause, or Suspension:

- (1) Any employee holding a position within the Administrative Office of the Courts (Court Administrator) which was classified as of January 1, 1998, and which was funded by Hillsborough County Board of County Commissioners, may request a hearing to review a dismissal, involuntary demotion for cause, or suspension. Such a request shall be made as otherwise provided in these rules.
- (2) The practice and procedure of the Board with respect to a review shall be in accordance with adopted Civil Service Rules. If the Board finds that such Court employee's dismissal, involuntary demotion for cause, or suspension was for a reason other than just cause, it may recommend to the Chief Judge that such employee be restored to that employee's former status. Such recommendation is not binding on the Chief Judge.

15.26 Ex Parte Communications:

Members of the Civil Service Board sit as a quasi-judicial body during hearings held to consider an appeal of a disciplinary action affecting the substantial interests of an employee. In this capacity a Board member may not receive an ex parte communication from an affected party. Ex parte communication occurs when a Board member communicates with one party to an appeal to the exclusion of the other party or parties, or when a Board member initiates discussions about a case with third parties. Under generally accepted legal principles Board members are prohibited from consulting any person, or party on any fact in issue unless upon notice and opportunity to all parties in the proceeding.

15.27 Forms:

Forms cited in this Rule are available at www.hccsb.org