

City and County of San Francisco



Department of Human Resources

Edwin M. Lee
Mayor

Micki Callahan
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August 2, 2011

The Honorable Katherine Feinstein
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street
San Francisco, CA 94102

Subject: Grand Jury Report – "Hiring Practices of the City and County of San Francisco"
Published June 16, 2011

Dear Judge Feinstein:

The following serves as the Department of Human Resources' ("DHR") response to the 2010-2011 Civil Grand Jury's first four findings and recommendations as detailed in its report titled "Hiring Practices of the City and County of San Francisco" (herein after referred to as the "CGJ Report") in accordance with Penal Code Sections 933 and 933.05.

While we appreciate the Grand Jury's review, it contains several significant factual errors that must be addressed at the outset.

- The CGJ Report begins by implying that DHR's civil service reform efforts over the past few years have been focused on, and have resulted in an unprecedented decentralization of examinations and authority over personnel decisions throughout the City. This is incorrect.

Specifically, the CGJ Report states that one of the principal recommendations contained in DHR's 2005 policy paper titled, "Civil Service Reform: Preserving the Promise of Government" (herein after referred to as the "CSR Report"), was to expedite the hiring process by "decentralizing authority for personnel decisions from a central agency to operational agencies, especially for hiring." [See the CGJ Report at page 1.] This excerpt, however, was taken out of context from the CSR Report and was not one of DHR's forty-five reform recommendations.¹

Rather, DHR recommended the establishment of a faster merit-based permanent selection process with simplified appeals rights. [See recommendation 1f on pages 11 and 29 through 33 of the CSR Report.] The particular section of the report that the Civil Grand Jury has cited was actually a reference to a survey that found that many other jurisdictions have employed consistent strategies in their reform efforts over the last two decades, including but not limited to decentralization for personnel and hiring decisions. [See pages 5 and 6 of the CSR Report.]

It is also important to note that under the City's Administrative Code, it is the department heads—not DHR—who have authority over all personnel decisions in their respective departments, consistent with the Civil Service Rules.² As such, the Civil Grand Jury is incorrect in asserting

¹ The CSR Report is available on the DHR website at www.sfgov.org/DHR under the link "About DHR."

² In accordance with Charter Section 4.126, Administrative Code Section 2A provides as follows: "The department head shall act as the 'appointing officer' under the civil service provisions of the Charter for the appointing, disciplining and removal of such officers, assistants and employees as may be authorized."

that, "[T]he central thrust of the [CSR Report] was to expedite the hiring process by decentralizing authority for personnel decisions." [See the CGJ Report at page 2.]

The Civil Grand Jury also asserts that, up until DHR issued its CSR Report in 2005, "Responsibility for conducting and scoring examinations and drawing up eligibility lists for permanent positions in City government was centralized in the DHR." [See specifically page 1, and generally page 5 of the CGJ Report.] This statement is also incorrect. On the contrary, DHR had delegation agreements with a number of decentralized departmental human resources agencies prior to 2005 (e.g., the San Francisco Fire Department, the San Francisco Police Department, the San Francisco Public Utilities Commission, the San Francisco International Airport, etc.), whereby trained and highly skilled examination analysts in decentralized departments were, and continue to be, authorized to conduct examinations with DHR oversight to ensure compliance with DHR's and the Civil Service Commission's ("Commission") policies and rules regarding examination and merit system principles.

The CGJ Report also states that, "Since the issuance of the [CSR Report], policies have been implemented to give various City departments the authority to conduct examinations and hire staff from the resulting eligible lists." [See the CGJ Report at page 1.] Again, this is incorrect in that it implies that decentralized authority did not exist prior to 2005. The CGJ Report is correct, however, in that DHR has issued a number of policies implementing a faster merit-based permanent selection program Citywide, as recommended in its CSR Report and as adopted by the Civil Service Commission. The CGJ Report is also correct in noting that this program—the Position Based Testing ("PBT") Program—has been successful in expediting the hiring process and significantly reducing the number of Provisional appointments.

The Civil Grand Jury expresses concern over the fact that a greater number of departments have authority to administer examinations under the PBT Program (17 departments out of approximately 60) because the Commission must now "monitor the hiring units in each of the 17 departments for compliance to the Civil Service Rules." However, it is important to note that: 1) the Commission does not directly monitor hiring units, as that is DHR's responsibility; and 2) irrespective of how many departments administer examinations, the same number of examinations would require oversight.

- We also disagree with the Civil Grand Jury that the PBT process has "complicated the [Commission's] efforts to ensure that the new hiring procedures conform to Civil Service Rules." [See the CGJ Report at page 2.] The Civil Grand Jury did not provide any information in support of this statement, other than a general assertion that, "[T]here is growing doubt among some City workers that the Commission as currently staffed is able to protect their rights." No sources were cited, and no additional information was provided to suggest that individuals' rights and/or the Civil Services Rules have been violated.
- The Civil Grand Jury correctly notes that the points of appeal for PBTs are fewer than they are for Class-Based Test ("CBT") examinations; however, it is important to note that applicants still retain their protest rights throughout the examination process. The Civil Grand Jury opines that the reason why there are fewer appeals under the PBT process could be partially because there are fewer appeal points, as opposed to the fact that examinations are now more efficient. However, we

note that there have also been fewer protests, which again, are rights included under the PBT Program.

Further, the Civil Grand Jury bases this assertion on its mistaken belief that there were no appeals for PBT examinations in Fiscal Year 2009-2010 but that there were a startling fifty-one (51) CBT appeals during that same time period. However, the Civil Grand Jury has again misquoted a City document. Had the Civil Grand Jury read the cited document more carefully and in its entirety, it would have noted that: 1) the figure presented represents the total number of appeals that were submitted and carried over during the last ten fiscal years (since 2000); 2) the total number represents all appeals, and not just those for CBT examinations (in fact, the document does not even distinguish between CBT and PBT examinations); and 3) the number of all examination-related appeals has significantly dropped in recent years (see pages 2, 3 and 58 of the cited Civil Service Commission report).

In fact, according to DHR's records, there were actually three (3) appeals of PBT examinations during that time period, and only five (5) appeals of CBT examinations (two of which were for the same examination; and the other three of which were for safety exams, which for decades have always been highly contested due to past Consent Decrees).

- The Civil Grand Jury also asserts that DHR is required to provide an appellant with a copy of its staff report in response to an appeal. [See page 4 of the CGJ Report.] However, there is no such requirement. On the contrary, in accordance with Commission policy, DHR is required to provide Commission staff with an original report and nine copies thereof for distribution to the Commissioners, the meeting file and the viewing file. DHR, as a courtesy to Commission staff, also provides them with an additional copy for the appellant's review.

DHR's Responses to the Civil Grand Jury's Findings and Recommendations

- Finding I: (1) DHR agrees with this finding in part; and (2) disagrees with the remainder.

The Civil Grand Jury is correct that there are fewer appeal points under the PBT program than there are for Class-Based examinations. However, DHR disagrees with the Civil Grand Jury that the points of appeal under the Civil Service Rules for PBTs are confusing. In fact, the Rules very clearly specify what is and what is not appealable under the PBT program.³ The Rules also clearly specify what the appeal process is, and the standard of review for hearing such appeals. However, DHR does agree that the Civil Service Rules on appeals for Class-Based examinations are inconsistent amongst the four volumes of the Rules, and that as a result they may be confusing to applicants and departments alike. Please refer to the attachment for a chart depicting the inconsistencies amongst the four volumes of the Rules.

³ Article VIII of Rule 111A provides as follows: "Appeals to the Civil Service Commission may occur at three (3) points in the examination process: (1) after the examination announcement has been issued, (2) after the examination has been administered and prior to the posting of the eligible list and (3) after the merging of eligible lists in different classes. Appeals of the examination announcement may be based only on challenges to the position description and/or the minimum qualifications. Appeals after the examination administration may be based only on claims of inconsistency in examination administration, bias of raters and/or failure of raters to apply uniform standards. Appeals of merging of eligible lists in different classes may be based only on claims of substantial differences in the knowledge, skills and abilities required to perform the essential functions of the positions." The Civil Service Rules are available at www.sfgov.org/Civil_Service.

- Recommendation I: (4) This recommendation will not be implemented by DHR, as it does not have the authority to revise the Civil Service Rules.

DHR agrees that the Civil Service Rules for appeals of Class-Based examinations are inconsistent and that they should be clarified, consolidated, streamlined and ultimately made more clear. While DHR does not have the authority to implement this recommendation, we are in support of the recommendation and would be amenable to posting any resource documents on our website and in relevant documents that the Commission publishes which clarify examination appeal rights.

- Finding II: (2) DHR disagrees with the Civil Grand Jury's finding that DHR is not always informing appellants of their right to appeal decisions of DHR to the Commission, and strongly disputes the bases on which it makes this assertion.

The Civil Grand Jury's assertion is based on the fact that "various [unnamed] sources have told the Jury" that DHR is not advising individuals of their right to appeal and that those sources provided the Civil Grand Jury with letters to substantiate their claims. [See the CGJ Report at page 4.] According to the CGJ Report, the Civil Grand Jury apparently showed those letters to an unidentified "official" at the Commission, who indicated that the letters contained "inadequate" information regarding appeal rights. [See the CGJ at page 4.] However, we note that we have no information regarding the letters to which the Civil Grand Jury is referring, nor did the Civil Grand Jury provide any detail about what additional information the unnamed source believed should have been included in those letters. As such, we cannot respond on this issue.

The only other substantiation provided by the Civil Grand Jury in support of this assertion is the two candidate response letters attached to the CGJ Report (we note that one of letters was among several examples provided to the Civil Grand Jury by DHR that the Civil Grand Jury chose not to include in its Report). In both examples, the candidates were disqualified from continuing in the selection process based on their failure to meet the minimum qualifications for a PBT examination—a matter that is clearly not subject to appeal before the Commission under Civil Service Rule 111A. We believe that it would be inappropriate, misleading and inaccurate to advise candidates that they have appeal rights that they do not in fact have under the Civil Service Rules.

- Recommendation II: (1) DHR has already implemented this recommendation to the extent that it has the authority to do so.

We agree that the Commission's notifications to appellants can be revised to clarify when their meeting date is to be set and that they may pick up a copy of DHR's staff report at the Commission's offices.

As to the recommendation that DHR notify appellants of their appeal rights, DHR also agrees and we will continue to do so when applicable (please see the response to Finding II above).

However, we do not agree with the Civil Grand Jury recommendation that DHR needs to establish tighter procedures to ensure that all letters to appellants denying their appeal are sent promptly, as we are unaware of any instances in which such notifications have been sent out untimely; nor does the Civil Grand Jury cite any examples to indicate as much. Even if some denial letters were sent out untimely (again, an assertion with which we do not agree, particularly in the absence of any additional information), we note that the appellant's protest and appeal timelines would not be

impacted, as the appeal deadline only begins to toll upon the post marked date that the notification letter is mailed.

DHR endeavors to notify candidates of the status of their examinations as timely and as efficiently as possible, and notes that the City's JobAps system sends automatic notifications to applicants informing them of the status of their applications. However, we would be interested in knowing of any instances when notifications to applicants have been untimely and ask that the Civil Grand Jury provide us with some specific examples so that we can correct any procedural gaps of which we are unaware.

- Finding III: (1) We agree with the Civil Grand Jury that DHR is in the process of reducing its reliance on examinations based on training and education evaluations ("T&E"); (2) however, we disagree with the Civil Grand Jury's sweeping assertion that it is an ineffective method for evaluating job applicants for all positions.

In recent years, DHR has been replacing T&Es with various written or computer-administered examination instruments. These testing initiatives have represented a significant change in direction with respect to a number of examination programs. For example, candidates for many supervisory and managerial classifications now must participate in examinations that are designed to measure their skills and abilities to supervise and manage employees. While candidates for Administrative Analyst, Personnel Analyst and Management Assistant job opportunities were formerly evaluated via T&Es, they too are now formally tested to ensure that they possess the basic skills and competencies for these positions.

However, there is a place for the T&E methodology in hiring. In many situations, they represent an appropriate and alternative assessment approach for use by HR professionals. For example, a Behavioral Consistency assessment is one type of T&E that is considered to be highly valid and, along with formal tests, an effective predictor of job success. If conducted properly, there is no reason not to consider the Behavioral Consistency methodology as a viable hiring option with respect to many City jobs.

T&Es are also recognized to be one of the most efficient and cost-effective methods to generate eligible lists. When the applicant population is expected to be low, especially with respect to hard-to-fill positions for which there is less competition, it is not very practical to screen down the applicant pool further with a formal examination process. In such cases, it makes more sense to assess the credentials (i.e., work experience, training and education) of the applicants, place them on an eligible list, and allow the post-referral interview process to determine the most qualified candidate amongst this limited group. Similarly, if the total number of candidates is slightly higher, but a broad certification rule allows the hiring manager to consider all of those candidates at the time of referral, again, it may not be practical to administer a formal examination. Also, when a given classification requires a license or certification (e.g., Registered Nurse), DHR's formal testing of the necessary knowledge and abilities to do the job may be duplicative and unnecessary.

Recommendation III: (1)/(2) DHR agrees with the Civil Grand Jury's recommendation that City hiring should rely less on T&Es and that DHR should continue to expand upon its use of formal selection instruments and to build testing programs around them for appropriate classifications.

(4) However, we disagree that it should do so in all cases for all classifications and positions; and we certainly do not believe that it would be prudent or possible to implement such a dramatic change in less than a year as proposed by the Civil Grand Jury.

Over the last few years, DHR has been doing exactly that by implementing new formal testing programs. It also has been encouraging City Departments with delegation authority to move away from T&Es. DHR also plans to pursue this strategy of replacing T&Es in the future, again, when appropriate. However, as indicated above, T&Es at times can serve a very useful purpose, one that is entirely consistent with merit system principles.

Given the ongoing need for governmental organizations to enhance efficiency and productivity, T&Es can be very effective tools. This is why they are widely used in public sector employment throughout the country. Given limited resources in a downsized economy, T&Es can produce eligible lists quickly to satisfy the demands of hiring managers and they can do so inexpensively. Therefore, when it is not practical to administer formal, assembled examinations, DHR believes that T&Es should be considered as a viable alternative in personnel selection.

- Finding IV: (1) DHR agrees in part with the Civil Grand Jury's findings; and (2) disagrees with the remainder.

While DHR agrees with the Civil Grand Jury that PBT announcements do not specifically identify in advance the departments that may also use the resulting eligible list, we disagree that it results in denying applicants the information required to become aware of, and apply for a position with the City.

Perhaps the Civil Grand Jury is unaware that the City's JobAps system includes a feature that enables applicants to request notifications for vacancies in specifically desired classifications throughout the City. Therefore, it is incorrect to say that applicants do not have access to information regarding job openings.

Moreover, the Civil Grand Jury's concern that we do not identify in advance all departments who may wish to use a particular PBT eligible list is based on the premise that there are significant numbers of applicants for City employment who have strong opinions about where they would like to work and are therefore very selective as to the City positions for which they are willing to apply. Not only is this unlikely, given the Bay Area's fiscal crisis and high unemployment rates, but it runs counter to our experience. Applicants for City employment tend to apply for any and all positions in a class, regardless of the department.

However, we do agree that some applicants may be persuaded to apply for an examination in which they would not otherwise be interested if they are aware that the eligible list might be used to fill a position in a department other than the one that is conducting the examination. Therefore, we agree that certain candidates may benefit from more information about other possible future job opportunities in other departments at the time of application.

- Recommendation IV: (3) This recommendation will be implemented to the extent indicated below within six (6) months (no later than January 2012). While DHR agrees that it should provide more information regarding other departments who *could potentially* use the same PBT eligible list, we

disagree that it would be possible to identify in advance every City department who *will actually* use the same eligible list. This would be an inefficient and onerous requirement.

Announcements are already very lengthy documents, filled with information that is essential for all applicants. Since the number of departments that could potentially use a PBT eligible list might be extensive and could change over time, it would not be practical to list each of the potential departments on the announcement. Adding this information could make an already busy document even more difficult for applicants to read and understand.

However, in order to make this information available to interested applicants, DHR will add a clause to the announcement, instructing applicants how to search online for the departments that might use the eligible list. A link to the searchable web page will also be included in the announcement language.

We appreciate the focus of the Civil Grand Jury on these matters and believe that continued review of our civil service and human resource systems to identify the areas most in need of reform is essential.

Sincerely,



Micki Callahan
Human Resources Director

Attachment (1)

Cc: Mayor Edwin M. Lee
Anita Sanchez, Executive Director, Civil Service Commission
Linda A. Clardy, Foreperson, 2010-2011 San Francisco Civil Grand Jury

ATTACHMENT 1

Examination Announcement: Review Period by Bargaining Agent Prior to Posting

The Rules provide that bargaining agents may review Police and Fire examination announcements prior to their issuance. In the prior table, from a minimum of 15 days (Fire) to 30 days (Police).

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec. 111.18 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>	<p><u>Sec. 211.4 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, type of examination, selection procedure(s) and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p> <p>Not less than thirty (30) days prior to the issuance of this announcement, it shall be provided to the bargaining agent for review and comment.</p> <p>Should the document not be returned within the thirty (30) days, the department will proceed with the job announcement.</p>	<p><u>Sec. 310.2 Examination Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p> <p>Not less than fifteen (15) business days prior to the issuance of this announcement, it shall be provided to the bargaining agent for review and comment.</p>	<p><u>Sec. 411.18 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>

Examination Announcement: Posting Period

Posting periods for examination announcements in Volume II are internally inconsistent. The minimum posting period for promotional police examination announcements is 20 calendar days in Sec. 210.8 but the posting period is 10 calendar days in Sec. 210.7. For Miscellaneous classes, the Uniformed Ranks of the Fire Department and MTA Service-Critical classes, promotional exams are posted as a minimum of 10 calendar days.

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec. 110.3 Promotional Examinations</u></p> <p>Examination announcements for a promotional examination shall be posted on the official bulletin board for a minimum period of ten (10) calendar days. Examination announcements for promotional examinations shall be distributed to all City and County departments. Appointing officers shall make reasonable efforts to properly notify employees.</p>	<p><u>Sec. 211.8 Posting and Notice of Promotional Examination Announcements</u></p> <p>Examination announcements for a promotional examination shall be posted on the official bulletin board at the Police Department and the Department of Human Resources and will be distributed to each Bureau and Division. The minimum posting period shall be twenty (20) calendar days prior to the beginning of the posting period. A copy of the posting will be provided to the certified bargaining representative. The Department shall develop procedures making examination announcement information available, upon request, to Police Officers detailed to outside agencies or on approved extended leaves of absence.</p>	<p>310.8.1</p> <p>Notice of promotional examinations will be posted for a minimum period of ten (10) calendar days. The Fire Department will also issue a General Order notifying uniformed members of the promotional opportunity.</p>	<p><u>Sec. 410.3 Promotional Examinations</u></p> <p>Examination announcements for a promotional examination shall be posted on the official bulletin board for a minimum period of ten (10) calendar days. Examination announcements for promotional examinations shall be distributed to all City and County departments. Appointing officers shall make reasonable efforts to properly notify employees.</p>

		<p>--- <u>Sec. 210.2 Notice of Examinations</u> Official notice of examinations will be posted at the San Francisco Police Department and the Department of Human Resources. Notice of promotional examinations will be posted to a minimum period of ten (10) calendar days.</p>	

Examination Announcement: Protest Period Regarding Provisions

The period for protesting or appealing provisions of the examination announcement varies from 3 business/calendar days (Miscellaneous Employees, Police, and MT-9) to 5 business days (Fire)

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p>Sec. 110.4 Appeals of Examination Announcements</p> <p>Appeals concerning the provisions of an examination announcement must be received by the Human Resources Director within five (5) business days from the issuance date. The Human Resources Director shall rule on all appeals and shall notify appellants in writing of the decision. This decision is subject to appeal to the Commission as provided elsewhere in these Rules.</p> <p>---</p> <p>11A.35.1 Appeals of the Examination Announcement</p> <p>1) The standard of review for appeals under this Section shall be abuse of discretion in establishing the position description, the minimum</p>	<p>211.5.1</p> <p>Protests concerning provisions of an announcement must be received by the Department of Human Resources/Examination Division of the Police Department within five (5) calendar days from the issuance date. A day the Exam Unit is closed shall not be counted as the fifth (5th) calendar day.</p>	<p>Sec. 310.3 Protests and Appeals of Examination Announcements</p> <p>Protests concerning the provisions of an announcement must be received by the Department of Human Resources within seven (7) business days from the issuance date. The Human Resources Director will rule upon protests and notify petitioners in writing. This decision is subject to appeal to the Civil Service Commission as provided elsewhere in these Rules</p>	<p>Sec. 410.4 Appeals of Examination Announcements</p> <p>Appeals concerning the provisions of an examination announcement must be received by the MTA Director of Transportation/Designee within five (5) business days from the issuance date. The MTA Director of Transportation/Designee shall rule on all appeals and shall notify appellants in writing of the decision. This decision is subject to appeal to the Commission as provided elsewhere in these Rules.</p>

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<p>qualifications and/or the certification rule when the certification rule was not reached by mutual agreement with the employee organization representing the tested class. In determining abuse of discretion, the Civil Service Commission must find that the Human Resources Director made decisions beyond his/her authority or had no rational basis for his/her decision.</p>			
<p>2) Appeals under this Section must be submitted directly to the Executive Office of the Civil Service Commission and must be received in the Civil Service Commission office by close of business on the fifth (5th) business day after the examination announcement issuance date.</p>			

Tentative Eligible List: Public Inspection Period When Posted

The period of inspecting tentative eligible lists varies throughout the Rules as follows: a minimum of 5 business days (Miscellaneous Employees and non-Fire examinations) or 7 business days (Fire entrance examinations), minimum of 4 business days (Police examinations), and 5 business days (Fire promotional or combined entrance and promotional examinations).

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec. 112.7 Posting Period for the Tentative Eligible List</u></p> <p>Following the completion of an examination, a tentative eligible list shall be posted for public inspection for a minimum of three (3) business days.</p>	<p>212.9.1</p> <p>Following the completion of an examination, a tentative eligible list shall be posted for public inspection for a minimum of four (4) business days, two days falling on either side of a weekend.</p>	<p><u>Sec. 312.13 Duration of Posting Period</u></p> <p>The posting period shall be for:</p> <ol style="list-style-type: none"> 1) three (3) business days for entrance examinations; or 2) five (5) business days for promotional or combined entrance and promotional examinations. 	<p><u>Sec. 412.7 Posting Period for the Tentative Eligible List</u></p> <p>Following the completion of an examination, a tentative eligible list shall be posted for public inspection for a minimum of three (3) business days.</p>

Test Administration: Appeal Period

For PBT appeals regarding Rater Bias/Rater Failure to apply Uniform Standards and Inconsistency in Exam Administration must be received 5 business days from receiving the written results.

For Miscellaneous classes appeal regarding Rater Bias/Misfeasance or Misfeasance must be received 2 business days after the exam was held. Regarding Inconsistencies in Exam Administration, appeals must be received 2 business days after the examination.

For Police exams appeals regarding the administration of exam components (limited to allegations of malfeasance or bias during the administration of the exam) must be received 2 calendar days after the exam has been held. However, challenges in Police exams to personal bias or competence of a person serving as an examiner in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in the examination. If a challenge is filed against an examiner in the qualifications appraisal interview based on bias, malfeasance or misfeasance, the appeal must be made within 2 business days from when the interview was held.

For Fire exams all protests regarding the administration of an examination component (limited to allegations of bias, malfeasance or misfeasance by exam administrators) must be filed within 7 calendar days of the administration of that specific examination component. However, challenges in Fire exams to personal bias or competence of a person serving as an examiner in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in the examination. If a challenge is filed against an examiner in the qualifications appraisal interview based on bias, malfeasance or misfeasance, the appeal must be made within 2 business days from when the interview was held.

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>111.14.2 Appeals</u></p> <p>1) An appeal based on personal bias or competence of a rater shall be made by a candidate to the designated representative of the Department of Human Resources present at the examination immediately prior to participation in this phase of the examination. The candidate shall then proceed with the examination. If such appeal is sustained, the rating by the challenged person shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the unchallenged raters. If more than one-half of the raters are successfully challenged, a new rating board shall be constituted, unless more than one rating board has been convened for the examination, in which case the candidate shall be examined by an alternate rating board of equal number.</p> <p>2) An appeal based on the conduct of the raters must be made in writing and filed with the Human Resources Director not later than the second business day after the examination was held and must be based on a claim of bias or misteasance of board members.</p>	<p><u>211.15.1</u></p> <p>All appeals regarding the administration of an examination component(s) must be filed in writing with the Department of Human Resources/Police Department Examination Division within five (5) calendar days of the administration of the examination component giving rise to the appeal. A day the Department of Human Resources/Exam Unit is closed shall not be counted as the fifth (5th) calendar day. These appeals which pertain to the administration of the examination shall be resolved in a single process to commence at the conclusion of the administration of the various examination components. Appeals shall be limited to allegations of misteasance or bias during the administration of the examination.</p> <p>---</p> <p><u>211.16.2 Challenge of Board Members</u></p> <p>1) A board member may excuse himself or herself from rating any candidate when, in the judgment of the board member, it would be difficult to rate the candidate</p>	<p><u>311.11.1</u></p> <p>All protests regarding the administration of an examination component must be filed in writing with the Fire Department Examination Unit within seven (7) calendar days of the administration of that specific examination component. A day the Examination Unit is closed shall not be counted as a calendar day. Protests shall be limited to allegations of bias, misteasance or misteasance by exam administrators.</p> <p>---</p> <p><u>311.12.1 In the Event of Challenge</u></p> <p>In the event of any challenge of a board member or any ratings in qualification appraisal interviews, all other candidates whose standing in the examination may be affected shall be notified of the challenge.</p>	<p><u>411.14.2 Appeals</u></p> <p>1) An appeal based on personal bias or competence of a rater shall be made by a candidate to the designated representative of MTA present at the examination immediately prior to participation in this phase of the examination. The candidate shall then proceed with the examination. If such appeal is sustained, the rating by the challenged person shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the unchallenged raters. If more than one-half of the raters are successfully challenged, a new rating board shall be constituted, unless more than one rating board has been convened for the examination, in which case the candidate shall be examined by an alternate rating board of equal number.</p> <p>2) An appeal based on the conduct of the raters must be made in writing and filed with the MTA Director of Transportation/Designee not later than the second business day after the examination was held and must be based on a claim of bias or misteasance of board members.</p>

<p>documented inconsistencies, or any questions propounded by the raters which occur during any examination which require an answer in conflict with any Federal, State or County laws, rules, or regulations. Appeals must state the specific grounds upon which they are based and provide facts which support the allegations. Failure to state the appeals properly filed under this section shall be resolved in accordance with the appeal provisions of these Rules.</p> <p>3) An appeal based on inconsistencies in examination administration shall be made in writing and filed with the Human Resources Director not later than the fifth (5th) business day after the examination.</p> <p>---</p> <p>111A.35.2 Appeals of Inconsistency of Examination Administration, Bias of Raters and/or Failure of Raters to Apply Uniform Standards</p> <p>1) Appeals shall be based solely on claims that the inconsistency in examination administration, bias of the raters and/or failure of the raters to apply uniform standards compromised either the validity or the reliability of the examination. Appeals shall include a statement of</p>	<p>impartially. If possible, the excused board member shall be replaced by an alternate with the same qualifications.</p> <p>2) Any challenge as to persons, bias or competence of a person serving as an examiner in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in this phase of the examination. The candidate shall then proceed with the interview. If such challenge is sustained by action of the Civil Service Commission following denial by the Human Resources Director or his or her designee, the rating by the challenged person shall not be computed in the final rating of the candidate and the rating of the unchallenged members of the examining board. If more than one-half of the board members are successfully challenged, then the Human Resources Director or his or her designee shall cancel this session and a new board shall be constituted, unless more than one examiner has been convened for the examination, in which case the candidate shall be examined by an alternate panel of equal number.</p>	<p>impartially. If possible, the excused board member shall be replaced by an alternate with the same qualifications.</p> <p>2) Any challenge as to persons, bias or competence of a person serving as a board member in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in this phase of the examination. The candidate shall then proceed with the interview. If such challenge is sustained by action of the Civil Service Commission following denial by the Human Resources Director, the rating by the challenged board member shall not be computed in the final rating of the candidate and the rating of the remaining members of the examining board. If more than one-half of the board members are successfully challenged, then the Human Resources Director shall cancel this session and a new board shall be constituted, unless more than one board has been convened for the examination, in which case the candidate shall be examined by an alternate board of equal number.</p> <p>3) Any challenge of the conduct of</p>	<p>malfeasance or misfeasance of board members, documented inconsistencies or any questions propounded by the raters which occur during any examination which require an answer in conflict with any Federal, State or County laws, rules, or regulations. Appeals must state the specific grounds upon which they are based and provide facts which support the allegations. Failure to state the appeals properly filed under this section shall be resolved in accordance with the appeal provisions of these Rules.</p> <p>3) An appeal based on inconsistencies in examination administration shall be made in writing and filed with the Human Resources Director or the Transportation Designee not later than the fifth (5th) business day after the examination.</p>
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<p>the specific facts that demonstrate that the validity or reliability of the examination was compromised, and cite the specific Civil Service Commission Rule or Department of Human Resources Policy that was violated. For the purposes of appeals under this Section, validity is generally defined as the establishment of the relationship between a test device or other selection procedure and performance on the job; and reliability is generally defined as the consistency of measurement of the test device or selection procedure.</p> <p>2) Appeals must be in writing and must be submitted directly to the Executive Officer of the Civil Service Commission. The appeal must be received in the Civil Service Commission office by close of business on the fifth (5th) business day from the postmarked date of e-mail date of the written notice of examination results.</p>	<p>3) Any appeal or challenge of the conduct of the qualifications appraisal board based on a claim of bias, malfeasance or misfeasance of board members must be made in writing and submitted to the Fire Department Examination Unit within two (2) business days from when the qualifications appraisal interview was held. Challenges based on bias, malfeasance or misfeasance not filed in this two (2) day period cannot be considered. Such challenges must state the specific grounds upon which the challenge is based. Failure to state the specific grounds for the challenge shall nullify the challenge. All challenges properly filed under this section shall be resolved by the Human Resources Director in accordance with the provisions of these Rules before the examinations of the participants are scored. The protest time periods in Section 311.11 do not apply to this section.</p> <p>4) The Civil Service Commission, in acting on an appeal of the qualifications appraisal board, shall consider only the applications, records, tape recordings, and questions and answers which constitute the record of the qualifications appraisal board interview. The Civil Service Commission will sustain challenges only when the candidate presents evidence that clearly substantiates a</p>	<p>the qualifications appraisal board based on a claim of bias, malfeasance or misfeasance of board members must be made in writing and submitted to the Fire Department Examination Unit within two (2) business days from when the qualifications appraisal interview was held. Challenges based on bias, malfeasance or misfeasance not filed in this two (2) day period cannot be considered. Such challenges must state the specific grounds upon which the challenge is based. Failure to state the specific grounds for the challenge shall nullify the challenge. All challenges properly filed under this section shall be resolved by the Human Resources Director in accordance with the provisions of these Rules before the examinations of the participants are scored. The protest time periods in Section 311.11 do not apply to this section.</p> <p>4) The Civil Service Commission, in acting on an appeal of the qualifications appraisal board, shall consider only the applications, records, tape recordings, and questions and answers which constitute the record of the qualifications appraisal board interview. The Civil Service Commission will sustain challenges only when the candidate presents evidence that clearly substantiates a</p>
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<p>evidence that clearly substantiates a charge of bias, malfeasance, or misfeasance.</p> <p>5) The decision of the Civil Service Commission on this subject shall be final.</p> <p>6) In absence of a challenge under this section or upon a decision by the Commission under this section, later challenges shall be precluded.</p>	<p>charge of bias, malfeasance, or misfeasance.</p> <p>5) The decision of the Civil Service Commission on this subject shall be final.</p> <p>6) In absence of a challenge under this section or upon a decision by the Civil Service Commission under this section, later challenges shall be precluded.</p>	
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Clarification: Language Regarding Review of Examination Announcement by Bargaining Agent Prior to Posting

Volume II provides that if there is no comment received by the bargaining agent by the end of the examination announcement review period, the Department of Human Resources will move forward with the announcement. This language should be included in the three remaining volumes.

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec. 111.18 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>	<p><u>Sec. 211.4 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, type of examination, selection procedure(s) and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply. Not less than thirty (30) days prior to the issuance of this announcement it shall be provided to the bargaining agent for review and comment. Should the document not be returned within thirty (30) days the department will proceed with the job announcement.</p>		<p><u>Sec. 411.18 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>

Clarification: Inspection of Posting of Tentative Eligible List

Volume II does not make clear who can review the eligible's application nor does it specify which papers can be inspected e.g. written answer sheet (Sec. 112.8 and Sec. 212.10), examination papers (Sec. 212.9.2), etc. There needs to be clarifications with regards to this section on inspections.

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec. 112.8 Documents Included in Inspection and Maintenance of Anonymity of Examiners</u></p> <p>Inspection during the posting period of the tentative eligible list shall include the eligible's application,</p>	<p>212.9.2</p> <p>During the posting of the tentative eligible list, participants shall be allowed to inspect their scores, their examination papers and the tentative eligible list. The tentative eligible list shall be posted on the official bulletin board at the Police Department and will be distributed to each Bureau and Division. A copy of the posting will be provided to the certified bargaining representative.</p> <p>---</p>	<p><u>Sec. 312.14 Documents Included in Inspection and Maintenance of Anonymity of Examiners</u></p> <p>Inspection during the posting period of the tentative eligible list shall include the eligible's application,</p>	<p><u>Sec. 412.8 Documents Included in Inspection and Maintenance of Anonymity of Examiners</u></p> <p>Inspection during the posting period of the tentative eligible list shall include the eligible's application,</p>

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<p>documents supporting qualifications to participate in the examination, written answer sheet, oral rating sheet, and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions and answers shall be provided.</p> <p>---</p> <p><u>Sec. 112.24 Inspection Restricted to Examination Participants</u></p> <p>Only participants in the examination may review the questions used in the examination.</p>	<p>documents supporting qualifications to participate in the examination, written answer sheet, oral rating sheet and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark nor grade in an examination nor the questions or answers shall be provided.</p> <p>---</p>	<p>documents supporting qualifications to participate in the examination, rating sheets and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions or answers shall be provided.</p> <p>---</p> <p><u>Sec. 312.15 Inspection Restricted to Examination Participants</u></p> <p>Only participants in the examination may review the examination documents during the posting period.</p>	<p>documents supporting qualifications to participate in the examination, written answer sheet, oral rating sheet, and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions and answers shall be provided.</p> <p>---</p> <p><u>Sec. 412.24 Inspection Restricted to Examination Participants</u></p> <p>Only participants in the examination may review the questions used in the examination.</p>
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Examination Announcement: Review Period by Bargaining Agent Prior to Posting

The Rules provide that bargaining agents may review Police and Fire examination announcements prior to their issuance, but the period varies from a minimum of 15 days (Fire) to 30 days (Police).

<p>Volume I Miscellaneous Employees</p>	<p>Volume II Police Uniformed Ranks</p>	<p>Volume III Fire Uniformed Ranks</p>	<p>Volume IV MTA Service-Critical</p>
<p><u>Sec. 111.18 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>	<p><u>Sec. 211.4 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, type of examination, selection procedure(s) and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply. Not less than thirty (30) days prior to the issuance of this announcement, it shall be provided to the bargaining agent for review and comment. Should the document not be returned within the thirty (30) days, the department will proceed with the job announcement.</p>	<p><u>Sec. 310.2 Examination Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply. Not less than fifteen (15) business days prior to the issuance of this announcement, it shall be provided to the bargaining agent for review and comment.</p>	<p><u>Sec. 411.18 Announcement</u></p> <p>The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>

Examination Announcement: Posting Period

Posting periods for examination announcements in Volume II are internally inconsistent. The minimum posting period for promotional police examination announcements is 20 calendar days in Sec. 210.8, but the posting period is 10 calendar days in Sec. 210.2. For Miscellaneous classes, the Uniformed Ranks of the Fire Department, and MTA Service-Critical classes, promotional exams are posted as a minimum of 10 calendar days.

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec. 110.3 Promotional Examinations</u></p> <p>Examination announcements for a promotional examination shall be posted on the official bulletin board for a minimum period of ten (10) calendar days. Examination announcements for promotional examinations shall be distributed to all City and County departments. Appointing officers shall make reasonable efforts to properly notify employees.</p>	<p><u>Sec. 211.8 Posting and Notice of Promotional Examination Announcements</u></p> <p>Examination announcements for a promotional examination shall be posted on the official bulletin board at the Police Department and the Department of Human Resources and will be distributed to each Bureau and Division. The minimum posting period shall be twenty (20) calendar days prior to the beginning of the filing period. A copy of the posting will be provided to the certified bargaining representative. The Department shall develop procedures making examination announcement information available, upon request, to Police Officers detailed to outside agencies or on approved extended leaves of absence.</p>	<p>310.8.1</p> <p>Notice of promotional examinations will be posted for a minimum period of ten (10) calendar days. The Fire Department will also issue a General Order notifying uniformed members of the promotional opportunity.</p>	<p><u>Sec. 410.3 Promotional Examinations</u></p> <p>Examination announcements for a promotional examination shall be posted on the official bulletin board for a minimum period of ten (10) calendar days. Examination announcements for promotional examinations shall be distributed to all City and County departments. Appointing officers shall make reasonable efforts to properly notify employees.</p>

	<p>--- Sec. 210.2 <u>Notice of Examinations</u> Official notice of examinations will be posted at the San Francisco Police Department and the Department of Human Resources. Notice of promotional examinations will be posted for a minimum period of ten (10) calendar days.</p>		
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Examination Announcement: Protest Period Regarding Provisions

The period for protesting or appealing provisions of the examination announcement vary from 5 business/calendar days (Miscellaneous, PBT, Police, and MTA) to 7 business days (Fire).

<p>Volume I Miscellaneous Employees</p>	<p>Volume II Police Uniformed Ranks</p>	<p>Volume III Fire Uniformed Ranks</p>	<p>Volume IV MTA Service-Critical</p>
<p><u>Sec. 110.4 Appeals of Examination Announcements</u> Appeals concerning the provisions of an examination announcement must be received by the Human Resources Director within five (5) business days from the issuance date. The Human Resources Director shall rule on all appeals and shall notify appellants in writing of the decision. This decision is subject to appeal to the Commission as provided elsewhere in these Rules.</p>	<p>211.5.1 Protests concerning provisions of an announcement must be received by the Department of Human Resources/Examination Division of the Police Department within five (5) calendar days from the issuance date. A day the Exam Unit is closed shall not be counted as the fifth (5th) calendar day.</p>	<p><u>Sec. 310.3 Protests and Appeals of Examination Announcements</u> Protests concerning the provisions of an announcement must be received by the Department of Human Resources within seven (7) business days from the issuance date. The Human Resources Director will rule upon protests and notify petitioners in writing. This decision is subject to appeal to the Civil Service Commission as provided elsewhere in these Rules.</p>	<p><u>Sec. 410.4 Appeals of Examination Announcements</u> Appeals concerning the provisions of an examination announcement must be received by the MTA Director of Transportation/Designee within five (5) business days from the issuance date. The MTA Director of Transportation/Designee shall rule on all appeals and shall notify appellants in writing of the decision. This Commission is subject to appeal to the Commission as provided elsewhere in these Rules.</p>
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<p><u>111A.35.1 Appeals of the Examination Announcement</u></p>			
<p>1) The standard of review for appeals under this Section shall be abuse of discretion in establishing the position description, the minimum</p>			

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<p>qualifications and/or the certification rule when the certification rule was not reached by mutual agreement with the employee organization representing the tested class. In determining abuse of discretion, the Civil Service Commission must find that the Human Resources Director made decisions beyond his/her authority or had no rational basis for his/her decision.</p> <p>2) Appeals under this Section must be submitted directly to the Executive Officer of the Civil Service Commission and must be received in the Civil Service Commission office by close of business on the fifth (5th) business day after the examination announcement issuance date.</p>			
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Tentative Eligible List: Public Inspection Period When Posted

The period of inspecting tentative eligible lists varies throughout the Rules as follows: a minimum of 3 business days (non-Police and non-Fire examinations except for Fire entrance examinations); minimum of 4 business days (Police examinations); and 5 business days (Fire promotional or combined entrance and promotional examinations).

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec.112.7 Posting Period for the Tentative Eligible List</u> Following the completion of an examination, a tentative eligible list shall be posted for public inspection for a minimum of three (3) business days.</p>	<p>212.9-1 Following the completion of an examination, a tentative eligible list shall be posted for public inspection for a minimum of four (4) business days, two days falling on either side of a weekend</p>	<p><u>Sec. 312.13 Duration of Posting Period</u> The posting period shall be for: 1) three (3) business days for entrance examinations; or 2) five (5) business days for promotional or combined entrance and promotional examinations.</p>	<p><u>Sec. 412.7 Posting Period for the Tentative Eligible List</u> Following the completion of an examination, a tentative eligible list shall be posted for public inspection for a minimum of three (3) business days.</p>

Test Administration: Appeal Period

For PBT, appeals regarding Rater Bias, Rater Failure to Apply Uniform Standards and Inconsistency in Exam Administration must be received 5 business days from receiving the written results.

For Miscellaneous classes, appeals regarding Rater Bias, Malfeasance or Misfeasance must be received 2 business days after the exam was held. Regarding Inconsistencies in Exam Administration, appeals must be received 5 business days after the examination.

For Police exams, appeals regarding the administration of exam components (limited to allegations of malfeasance or bias during the administration of the exam) must be received 5 calendar days after the exam has been held. However, challenges in Police exams to personal bias or competence of a person serving as an examiner in the qualifications appraisal interview based upon prior knowledge or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in the examination. If a challenge is filed against an examiner in the qualifications appraisal interview based on bias, malfeasance, or misfeasance, the appeal must be made within 2 business days from when the interview was held.

For Fire exams, all protests regarding the administration of an examination component (limited to allegations of bias, malfeasance, or misfeasance by exam administrators) must be filed within 7 calendar days of the administration of that specific examination component. However, challenges in Fire exams to personal bias or competence or a person serving as an examiner in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in the examination. If a challenge is filed against an examiner in the qualifications appraisal interview based on bias, malfeasance, or misfeasance, the appeal must be made within 2 business days from when the interview was held.

<p>Volume I Miscellaneous Employees</p>	<p>Volume II Police Uniformed Ranks</p>	<p>Volume III Fire Uniformed Ranks</p>	<p>Volume IV MTA Service-Critical</p>
<p><u>111.14.2 Appeals</u></p> <p>1) An appeal based on personal bias or competence of a rater shall be made by a candidate to the designated representative of the Department of Human Resources present at the examination immediately prior to participation in this phase of the examination. The candidate shall then proceed with the examination. If such appeal is sustained, the rating by the challenged person shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the unchallenged raters. If more than one-half of the raters are successfully challenged, a new rating board shall be constituted, unless more than one rating board has been convened for the examination, in which case the candidate shall be examined by an alternate rating board of equal number.</p> <p>2) An appeal based on the conduct of the raters must be made in writing and filed with the Human Resources Director not later than the second (2nd) business day after the examination was held and must be based on a claim of bias, malfeasance, or misfeasance of board members;</p>	<p><u>211.15.1</u></p> <p>All appeals regarding the administration of an examination component(s) must be filed in writing with the Department of Human Resources/Police Department Examination Division within five (5) calendar days of the administration of the examination component giving rise to the appeal. A day the Department of Human Resources/Exam Unit is closed shall not be counted as the fifth (5th) calendar day. These appeals which pertain to the administration of the examination shall be resolved in a single process to commence at the conclusion of the administration of the various examination components. Appeals shall be limited to allegations of malfeasance or bias during the administration of the examination.</p> <p>---</p> <p><u>211.16.2 Challenge of Board Members</u></p> <p>1) A board member may excuse himself or herself from rating any candidate when, in the judgment of the board member, it would be difficult to rate the candidate</p>	<p><u>311.11.1</u></p> <p>All protests regarding the administration of an examination component must be filed in writing with the Fire Department Examination Unit within seven (7) calendar days of the administration of that specific examination component. A day the Examination Unit is closed shall not be counted as a calendar day. Protests shall be limited to allegations of bias, malfeasance, or misfeasance by exam administrators.</p> <p>---</p> <p><u>311.12.1 In the Event of Challenge</u></p> <p>In the event of any challenge of a board member or any ratings in qualification appraisal interviews, all other candidates whose standing in the examination may be affected shall be notified of the challenge.</p> <p><u>311.12.2 Challenge of Board Members</u></p> <p>1) A board member may excuse himself or himself from rating any candidate when, in the judgment of the board member, it would be difficult to rate the candidate</p>	<p><u>411.14.2 Appeals</u></p> <p>1) An appeal based on personal bias or competence of a rater shall be made by a candidate to the designated representative of MTA present at the examination immediately prior to participation in this phase of the examination. The candidate shall then proceed with the examination. If such appeal is sustained, the rating by the challenged person shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the unchallenged raters. If more than one-half of the raters are successfully challenged, a new rating board shall be constituted, unless more than one rating board has been convened for the examination, in which case the candidate shall be examined by an alternate rating board of equal number.</p> <p>2) An appeal based on the conduct of the raters must be made in writing and filed with the MTA Director of Transportation/Designee not later than the second (2nd) business day after the examination was held and must be based on a claim of bias,</p>

<p>documented inconsistencies, or any questions propounded by the raters which occur during any examination which require an answer in conflict with any Federal, State or City and County laws, rules, or regulations. Appeals must state the specific grounds upon which they are based and provide facts which support the allegations. Failure to state the appeals properly filed under this section shall be resolved in accordance with the appeal provisions of these Rules.</p> <p>3) An appeal based on inconsistencies in examination administration shall be made in writing and filed with the Human Resources Director not later than the (5th) business day after the examination.</p> <p>---</p> <p><u>111A.35.2 Appeals of Inconsistency of Examination Administration, Bias of Raters and/or Failure of Raters to Apply Uniform Standards</u></p> <p>1) Appeals shall be based solely on claims that the inconsistency in examination administration, bias of the raters and/or failure of the raters to apply uniform standards compromised either the validity or the reliability of the examination. Appeals shall include a statement of</p>	<p>impartially. If possible, the excused board member shall be replaced by an alternate with the same qualifications.</p> <p>2) Any challenge as to personal bias or competence of a person serving as an examiner in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in this phase of the examination. The candidate shall then proceed with the interview. If such challenge is sustained by action of the Civil Service Commission following denial by the Human Resources Director or his or her designee, the rating by the challenged person shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the unchallenged members of the examining board. If more than one-half of the board members are successfully challenged, then the Human Resources Director or his or her designee shall cancel this session and a new board shall be constituted, unless more than one panel of examiners has been convened for the examination, in which case the candidate shall be examined by an alternate panel of equal number.</p>	<p>malfeasance, or misfeasance of board members; documented inconsistencies, or any questions propounded by the raters which occur during any examination which require an answer in conflict with any Federal, State or City and County laws, rules, or regulations. Appeals must state the specific grounds upon which they are based and provide facts which support the allegations. Failure to state the appeals properly filed under this section shall be resolved in accordance with the appeal provisions of these Rules.</p> <p>3) An appeal based on inconsistencies in examination administration shall be made in writing and filed with the MTA Director of Transportation/Designee not later than the fifth (5th) business day after the examination.</p>
<p>impartially. If possible, the excused board member shall be replaced by an alternate with the same qualifications.</p> <p>2) Any challenge as to personal bias or competence of a person serving as a board member in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in this phase of the examination. The candidate shall then proceed with the interview. If such challenge is sustained by action of the Civil Service Commission following denial by the Human Resources Director, the rating by the challenged board member shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the remaining members of the examining board. If more than one-half of the board members are successfully challenged, then the Human Resources Director shall cancel this session and a new board shall be constituted, unless more than one board has been convened for the examination, in which case the candidate shall be examined by an alternate board of equal number.</p> <p>3) Any challenge of the conduct of</p>	<p>impartially. If possible, the excused board member shall be replaced by an alternate with the same qualifications.</p> <p>2) Any challenge as to personal bias or competence of a person serving as a board member in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in this phase of the examination. The candidate shall then proceed with the interview. If such challenge is sustained by action of the Civil Service Commission following denial by the Human Resources Director, the rating by the challenged board member shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the remaining members of the examining board. If more than one-half of the board members are successfully challenged, then the Human Resources Director shall cancel this session and a new board shall be constituted, unless more than one board has been convened for the examination, in which case the candidate shall be examined by an alternate board of equal number.</p> <p>3) Any challenge of the conduct of</p>	<p>impartially. If possible, the excused board member shall be replaced by an alternate with the same qualifications.</p> <p>2) Any challenge as to personal bias or competence of a person serving as a board member in the qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of the Department of Human Resources or authorized representative immediately prior to participation in this phase of the examination. The candidate shall then proceed with the interview. If such challenge is sustained by action of the Civil Service Commission following denial by the Human Resources Director, the rating by the challenged board member shall not be computed in the final rating of the candidate and the rating of the candidate shall be that of the remaining members of the examining board. If more than one-half of the board members are successfully challenged, then the Human Resources Director shall cancel this session and a new board shall be constituted, unless more than one board has been convened for the examination, in which case the candidate shall be examined by an alternate board of equal number.</p> <p>3) Any challenge of the conduct of</p>

<p>the specific facts that demonstrate that the validity or reliability of the examination was compromised, and cite the specific Civil Service Commission Rule or Department of Human Resources Policy that was violated. For the purposes of appeals under this Section, validity is generally defined as the establishment of the relationship between a test device or other selection procedure and performance on the job; and reliability is generally defined as the consistency of measurement of the test device or selection procedure.</p> <p>2) Appeals must be in writing and must be submitted directly to the Executive Officer of the Civil Service Commission. The appeal must be received in the Civil Service Commission office by close of business on the fifth (5th) business day from the postmarked date (or e-mail date) of the written notice of examination results.</p>	<p>3) Any appeal or challenge of the conduct of the qualifications appraisal board based on a claim of bias, malfeasance, or misfeasance of board members must be made in writing and presented to the representative of the Department of Human Resources/Police Department Examination Division within two (2) business days from when the qualifications appraisal interview was held. Challenges based on bias, malfeasance or misfeasance not filed in this two (2) day period cannot be considered. Such challenges must state the specific grounds upon which the challenge is based. Failure to state the specific grounds for the challenge shall nullify the challenge. All challenges properly filed under this section shall be resolved in accordance with the provisions of these Rules before the identification sheets of those admitted to the oral examination are opened and scores of the participants are known.</p> <p>4) The Civil Service Commission, in acting on a challenge or appeal of the conduct of the qualification appraisal board, shall consider only the applications, records, tape recordings, and questions and answers which constitute the record of the qualifications appraisal interview. The Commission will sustain protests only when the candidate presents</p>	<p>the qualifications appraisal board based on a claim of bias, malfeasance, or misfeasance of board members must be made in writing and submitted to the Fire Department Examination Unit within two (2) business days from when the qualifications appraisal interview was held. Challenges based on bias, malfeasance or misfeasance not filed in this two (2) day period cannot be considered. Such challenges must state the specific grounds upon which the challenge is based. Failure to state the specific grounds for the challenge shall nullify the challenge. All challenges properly filed under this section shall be resolved by the Human Resources Director in accordance with the provisions of these Rules before the examinations of the participants are scored. The protest time periods in Section 311.11 do not apply to this section.</p> <p>4) The Civil Service Commission, in acting on an appeal of the qualification appraisal board, shall consider only the applications, records, tape recordings, and questions and answers which constitute the record of the qualification appraisal board interview. The Civil Service Commission will sustain challenges only when the candidate presents evidence that clearly substantiates a</p>
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	<p>evidence that clearly substantiates a charge of bias, malfeasance, or misfeasance.</p> <p>5) The decision of the Civil Service Commission on this subject shall be final.</p> <p>6) In absence of a challenge under this section or upon a decision by the Commission under this section, later challenges shall be precluded.</p>	<p>charge of bias, malfeasance, or misfeasance.</p> <p>5) The decision of the Civil Service Commission on this subject shall be final.</p> <p>6) In absence of a challenge under this section or upon a decision by the Civil Service Commission under this section, later challenges shall be precluded.</p>	
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Clarification: Language Regarding Review of Examination Announcement by Bargaining Agent Prior to Posting

Volume II provides that if there is no comment received by the bargaining agent by then end of the examination announcement review period, the Department of Human Resources will move forward with the announcement. This language should be included in the three remaining Volumes.

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec. 111.18 Announcement</u> The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>	<p><u>Sec. 211.4 Announcement</u> The examination announcement shall provide the qualifications, dates, duration of eligible lists, type of examination, selection procedure(s) and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply. Not less than thirty (30) days prior to the issuance of this announcement, it shall be provided to the bargaining agent for review and comment. Should the document not be returned within the thirty (30) days, the department will proceed with the job announcement.</p>		<p><u>Sec. 411.18 Announcement</u> The examination announcement shall provide the qualifications, dates, duration of eligible lists, and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply.</p>

Clarification: Inspection of Posting of Tentative Eligible List

Volume II does not make clear who can review the eligible's application nor does it specify which papers can be inspected, e.g., "written answer sheet" (Sec. 112.8 and Sec. 212.10); "examination papers" (Sec. 212.9.2); etc. There needs to be clarifications with regards to this section on inspections.

Volume I Miscellaneous Employees	Volume II Police Uniformed Ranks	Volume III Fire Uniformed Ranks	Volume IV MTA Service-Critical
<p><u>Sec.112.8 Documents Included in Inspection and Maintenance of Anonymity of Examiners</u></p> <p>Inspection during the posting period of the tentative eligible list shall include the eligible's application,</p>	<p>212.9.2</p> <p>During the posting of the tentative eligible list, participants shall be allowed to inspect their scores, their examination papers, and the tentative eligible list. The tentative eligible list shall be posted on the official bulletin board at the Police Department and will be distributed to each Bureau and Division. A copy of the posting will be provided to the certified bargaining representative.</p> <p>---</p> <p><u>Sec. 212.10 Documents Included in Inspection and Maintenance of Anonymity of Examiners</u></p> <p>Inspection during the posting period of the tentative eligible list shall include the eligible's application,</p>	<p><u>Sec. 312.14 Documents Included in Inspection and Maintenance of Anonymity of Examiners</u></p> <p>Inspection during the posting period of the tentative eligible list shall include the eligible's application,</p>	<p><u>Sec. 412.8 Documents Included in Inspection and Maintenance of Anonymity of Examiners</u></p> <p>Inspection during the posting period of the tentative eligible list shall include the eligible's application,</p>

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<p>documents supporting qualifications to participate in the examination, written answer sheet, oral rating sheet, and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions and answers shall be provided.</p> <p>---</p> <p><u>Sec. 112.24 Inspection Restricted to Examination Participants</u></p> <p>Only participants in the examination may review the questions used in the examination.</p>	<p>documents supporting qualifications to participate in the examination, written answer sheet, oral rating sheet and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark nor grade in an examination nor the questions or answers shall be provided.</p>	<p>documents supporting qualifications to participate in the examination, rating sheets and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions or answers shall be provided.</p> <p>---</p> <p><u>Sec. 312.15 Inspection Restricted to Examination Participants</u></p> <p>Only participants in the examination may review the examination documents during the posting period.</p>	<p>documents supporting qualifications to participate in the examination, written answer sheet, oral rating sheet, and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions and answers shall be provided.</p> <p>---</p> <p><u>Sec. 412.24 Inspection Restricted to Examination Participants</u></p> <p>Only participants in the examination may review the questions used in the examination.</p>
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