Civil Service Commission

San Luis Obispo County Civil Service Commission
Regular Session Meeting
Wednesday October 25, 2017 @ 9:00 A.M.
1055 Monterey Street, Suite D-271 San Luis Obispo, CA

AGENDA

1. Call to Order / Flag Salute / Roll Call

2. Public Comment Period
   Members of the public wishing to address the Civil Service Commission on matters other than those scheduled below may do so when recognized by the President. Presentations are limited to three minutes per individual.

3. Minutes
   The following draft minutes are submitted for approval:
   a. September 27, 2017

4. Presentation: Minimum Qualifications - Legal Considerations, Best Practices and Philosophy

5. Recommendation to begin the meet and confer process for proposed rule changes

6. Commission Calendar Dates for 2018

7. Reports
   Commission President
   Commission Counsel
   Commission Secretary

8. Adjournment
Civil Service Commission

1055 Monterey Street, Suite D-250 • San Luis Obispo, California 93408 • 805.781.5959

San Luis Obispo County Civil Service Commission
Regular Session Meeting
Wednesday September 27, 2017 @ 9:00 A.M.
1055 Monterey Street, Suite D-271 San Luis Obispo, CA

Present: President Bergman, Vice President Ohannesian, Commissioner Nix, Commissioner Nicholson

Staff: Commission Secretary, Tami Douglas-Schatz; Commission Clerk, Alisa Scantlin,

Counsel: County Counsel, Tim McNulty; Commission Outside Counsel, Steve Simas

Absent: Commissioner Stewart

1. Call to Order / Flag Salute / Roll Call
   President Bergman called the meeting to order at 9:00 AM and led the flag salute. Roll was called.

2. Public Comment Period
   President Bergman asked for public comment. Seeing none, he closed the public comment period.

3. Minutes
   a. President Bergman asked for any amendments to the August 23, 2017 meeting minutes. Seeing none, he asked for a motion to approve. Vice President Ohannesian made the motion to approve. Commissioner Nix seconded the motion. Motion passed. 4-0-1.

4. Specification – Revised
   a. Water Systems Worker IV – Human Resources Analyst, Frank Stapleton, with Mark Hutchinson, Deputy Director of Public Works presented the revised specification. President Bergman requested public comment. Seeing none, the Commissioners presented their questions. A change was requested. Vice President Ohannesian made the motion to approve as amended. Commissioner Nicholson seconded the motion. The motion carried. 4-0-1.

   b. Wastewater Systems Worker IV - Human Resources Analyst, Frank Stapleton, with Mark Hutchinson, Deputy Director of Public Works presented the revised specification. President Bergman requested public comment. Seeing none, the Commissioners presented their questions. A change was requested. Vice President Ohannesian made the motion to approve as amended. Commissioner Nicholson seconded the motion. The motion carried. 4-0-1.

   c. Capital Projects Coordinator, Assistant-Associate-Senior- Human Resources Analyst, Frank Stapleton, with Dave Flynn, Deputy Director of Public Works presented the revised specification. President Bergman requested public comment. Seeing none, the Commissioners presented their questions. President Bergman asked for a motion to approve, with one clarification. Commission Nix motioned to approve. Vice President Ohannesian seconded the motion. The motion carried. 4-0-1.
5. Reports
Commission President – President Bergman asked the Commission Secretary to provide more detail about the Human Resources Annex. Commission Secretary, Tami Douglas-Schatz, provided the background details, and recruitment needs, that led to the development of the Annex, as well as a brief explanation of the set-up in the Annex.
Commission Counsel – No report.
Commission Outside Counsel – No report.
Commission Secretary – Commission Secretary, Tami Douglas-Schatz confirmed upcoming hearing dates. She proposed holding additional dates on the Commission calendar moving forward, to facilitate scheduling of Special Meetings.

6. Commission Hearing Training by Counsel, Steve Simas – Mr. Simas gave an informative presentation on the history, purpose, processes, and procedures of the San Luis Obispo County Civil Service Commission.

7. Adjournment
President Bergman adjourned the meeting.

* Note: These minutes reflect official action of the Civil Service Commission. A digital record exists and will remain as the official, complete record of all proceedings by the Civil Service Commission.
MEMORANDUM

To: Civil Service Commission
From: Mark Zeltmann, Classification and Compensation Analyst
Date: October 25, 2017
Subject: Minimum Qualifications Presentation

RECOMMENDATION
It is recommended that your Commission receive and file this presentation outlining the purpose of minimum qualifications, legal considerations, best practices, and the County's approach.

DISCUSSION
Minimum qualifications are the most basic qualifications needed to perform a job. They ensure candidates have the knowledge, skills and abilities to perform the essential functions of the position. Establishing appropriate minimum qualifications is an important aspect of creating accurate and useful class specifications, and is frequently a topic of discussion and debate when specifications are reviewed by the Commission. At Commission direction, the Human Resources Department is presenting an overview of current trends in minimum qualifications.

The goal of the attached presentation is to provide an overview of current best practices as well as the legal considerations that influence the County's approach to establishing minimum qualifications. As laws and best practices evolve, our approach will be modified as needed and presented to the Commission for discussion.

Attachment: Minimum Qualifications: Legal Considerations, Best Practices and Philosophy presentation outline
Minimum Qualifications:
Legal Considerations, Best Practices and Philosophy

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Agenda

Minimum Qualifications

I. Purpose
II. Legal Considerations
III. Best Practices
IV. SLO County’s Approach

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The Purpose of Minimum Qualifications

Our mission: employ a talented and diverse workforce

Minimum Qualifications:
1. Describe the most basic qualifications needed to perform a job
   To ensure candidates have the knowledge, skills and abilities
   to perform the essential functions of the position
2. Reduce a large pool of applicants to a manageable number

Legal Considerations

Title VII of the Civil Rights Act of 1964
  • Protection from disparate treatment and impact

Uniform Guidelines on Employee Selection Procedures (1978)
  • Outline the requirements for employers to legally defend employment decisions
Legal Considerations

Title VII of the Civil Rights Act of 1964

Protection from disparate treatment and impact

- Related to actual job duties (Reynolds v. McHines)
- Screen for what is needed to perform the essential functions of the job (EEOC Compliance Manual)
- Burden of proof lays with the Employer (Spurlock v. United Airlines)
- Courts tend to reject educational requirements when less educated workers may successfully perform in the position. (Carpenter v. Stephen F. Austin State University)

Legal Considerations

Uniform Guidelines on Employee Selection Procedures (1978)

- Jointly adopted by the Federal CSC, DOL, DOJ, and EOC
- Outline the requirements for employers to legally defend employment decisions
- Policies or practices which have an adverse impact are illegal unless justified by a business necessity
  - Validate by establishing a relationship between the procedure and successful job performance
Legal Considerations

**Bottom line:**
Our selection process must impartially evaluate an applicant’s ability to perform the *essential functions* of our positions.

Best Practices

**Identifying accurate minimum qualifications**

- Focus on Essential Job Functions
- Remove artificial barriers
- Avoid overly narrow qualifications
- Do not focus on former incumbents
Best Practices

Identifying accurate minimum qualifications (continued)

- Consider the training and experience the employee will receive on the job
- Establish alternative ways to qualify
- Differentiate between Preferred and Required qualifications

SLO County’s Approach

Minimum Qualifications:

- Minimum qualifications are the first of a several-step screening process designed to select the most qualified candidates.
- Mandate only legally required licenses, certifications, and degrees
  - Allow for alternative means of demonstrating qualifications for all others
SLO County's Approach

- **Example:** Public Works Division Manager

- First two recruitment attempts failed
  - Qualified applicants, but none who met our fit test

- For third, we eliminated our engineering degree requirement
  - Multiple candidates met the qualifications by alternative means
SLO County’s Approach

Merit System

- Ensure merit-based promotion
- Preference given to internal candidates
- Allow employees to progress within the County by demonstrating qualifications through experience

SLO County’s Approach

- Cultivate a talented and diverse workforce
- Support internal growth
- Ensure legal compliance
- Adopt best practices
- Monitor and adjust our policies and procedures
Questions and Answers
To: Civil Service Commission

From: Tami Douglas-Schatz, Human Resources Director

Date: October 25, 2017

Subject: Approve staff recommendation to begin the meet and confer process for proposed Civil Service Rule Changes.

Recommendation:
It is recommended that the Commission direct staff to begin the meet and confer process for proposed Civil Service Rule changes.

Discussion:
For your Commission's consideration, and consistent with Civil Service Commission Procedural Guideline VIII.B.1.a., the County will be proposing initial changes to the Rules referenced in this letter and attached hereto. As allowed for in Procedural Guidelines, at the August 23, 2017 Civil Service Commission meeting, your Commission formed a subcommittee comprised of Commissioners Nix and Ohanesian to participate in the meet and confer process. Once your Commission provides direction, staff will finalize the proposal and proceed with the mandatory meet and confer process. A brief rationale for each Rule change is included below:

1. **Rule 2 Definitions**: Adds definition of “Class Series” to provide clarity on how employees can receive non-competitive (5.05) promotions. This does not represent any change to current practice.

2. **Rule 4.04 Appeals**: This Rule change will eliminate the ability to appeal a “Needs Improvement” evaluation unless it is accompanied by formal discipline.

3. **Rule 5.05 Reallocated Positions**: A new section is being added regarding non-competitive promotional appointments. This is language for clarification; no change to practice.

4. **Rule 6.02 Qualifications of Applicants**: This Rule is being updated to match the new 3 point rating scale in Rule 13.

5. **Rule 7.05 Types of Competitive Examinations**: This Rule is being updated to allow probationary employees the opportunity to compete for departmental promotional recruitments, and all County employees to compete for county-wide promotional recruitments, eliminating the requirement that they have permanent status to compete.
Per current Rules, we have to open promotional recruitments to the public to allow probationary employees to compete.

6. **Rule 11.03 Duration of Probationary Periods**: This rule is being updated to reflect changes in the length of probationary periods as previously approved by the Civil Service Commission.

7. **Rule 12.05 Order of Layoff**: This rule is being updated to reflect changes in the length of probationary periods as previously approved by the Civil Service Commission.

8. **Rule 13.03 Performance Evaluation Rating Standards**: This Rule is being revised to reflect a change from a 5-point rating scale to a 3-point rating scale. This rule is being updated to reflect changes in the length of probationary periods as previously approved by the Civil Service Commission.

9. **Rule 13.04 Overall Rating of Less than Satisfactory**: This rule is being updated to reflect changes in the length of probationary periods as previously approved by the Civil Service Commission.

10. **Rule 13.05 Appeal**: This Rule is being eliminated so we no longer allow the opportunity to appeal performance evaluations with an overall Needs Improvement rating without accompanying discipline.

11. **Rule 14.01 Reasons for Disciplinary Action**: This Rule is being updated to address the proposed changes to Rule 13. Additionally, we would like to enter a placeholder for additional changes to this rule as it is anticipated that additional changes will be proposed based on feedback provided by management.

12. **Rule 14.04 Letters of Reprimand**: This Rule is being updated to address the proposed changes to Rule 13.

Note that the attached changes reflect initial County proposals formulated by Human Resources and are subject to change based on the outcome of the meet and confer process, and additional input from management representatives and employee associations. Additional revisions may also be necessary to ensure that any related Rules reflect the changes which are agreed upon between management representatives and employee associations, as well as renumbering of Rules as necessary.

Attachment: Text of Proposed Civil Service Rule Changes
2.11 **CLASS SERIES:**

A position allocated to a group or related classifications, allowing for non-competitive promotion between the classes, e.g. Accountant I, II, or III. (3/22/17)

4.04 **APPEALS**

(b)(7) **Below Satisfactory Evaluation:** Issuance of a performance evaluation with an overall rating of less than Satisfactory-Needs Improvement when accompanied by formal discipline, as authorized in Rule 13.05. (Employee can appeal.) (03/17/05) (09/28/11)

5.05 **REALLOCATED POSITIONS: STATUS OF INCUMBENTS:**

(a) **Class Series:** When a position is allocated in a defined class series, i.e., more than once classification, the incumbent may receive a non-competitive appointment to the new class if: the Appointing Authority requests such an appointment; and the employee meets the minimum qualifications for the new classification, and upon approval of the Human Resources Director. (3/22/17)

(a)(b) **Upward:** When a position is allocated to a class with higher level duties and responsibilities, the incumbent may receive a non-competitive appointment to the new class if the following criteria are met: the Appointing Authority requests such an appointment; the employee meets the minimum qualification for the new class; the employee has been satisfactorily performing the duties of the new class; and following a timely classification study, the Human Resources Department concludes that the incumbent is performing a majority of the duties at a higher level. Otherwise, the incumbent shall be required to qualify through qualifying competitive examination, be certifiable, and be appointed to the reallocated position. If not successful in the examination, the employee may request to be reassigned within his or her own department or transferred to a vacant position in the class in which he or she has permanent status; elect to displace another employee in his or her own department who has less time-in-service in the class in which he or she has permanent status; or be laid off in accordance with the provisions of Rule 12.04. In addition, those incumbents whose position has been reclassified upward shall not be required to serve a probationary period if they have been satisfactorily performing the duties for a period of six months at least equal to the probationary period of the new class. (12/22/82)(9/28/88)(5/24/00) (3/22/17)

(b)(c) **Lateral:** When a position is allocated to a class with the same or essentially equivalent duties and responsibilities, the incumbent shall be granted status in the reallocated position.
(e) Downward: When a position is allocated to a class with lower level duties and responsibilities, the incumbent may: request to be reassigned within his or her own department or transferred to a vacant position in the class in which he or she has permanent status; elect to retain the position at the lower level with status at that level; or be separated from County service and placed on a reemployment list for the class in which he or she has permanent status. (03/17/05)

6.02 QUALIFICATIONS OF APPLICANTS:
Except as otherwise provided by law, to qualify for admission to the examination process, applicants must: meet all the qualifications for the position as set forward in the applicable class specifications and published in the examination announcement; and, in filing for promotional examinations appear on a reemployment eligible list on or before the final filing date and whose most recent regular performance evaluation indicates an overall level of performance of at least Satisfactory Needs Improvement with sustained discipline [Ord. 2.40.080(i)]

7.05 TYPES OF COMPETITIVE EXAMINATIONS
Whenever practicable and in the best interest of the County, vacant positions in the classified service shall be filled through promotion of employees working at lower levels in the County organization. Examinations shall be of the following types:

(a) Departmental Promotional: An examination in which only employees appointed as a result of a competitive examination with permanent status within the requesting department are eligible to compete, and in which the resulting eligible list may only be used to promote employees to positions within the requesting department. (5/23/79)

(b) Promotional: An examination in which only permanent County employees appointed as a result of a competitive examination are eligible to compete.

(c) Open: An examination in which employees and outside applicants compete on an equal basis and priority in certification is based solely on the relative score of successful candidates.

11.03 DURATION OF PROBATIONARY PERIODS:
(a) Except as provided below in Rule 11.03(b), the initial probationary period for all classified positions shall be the equivalent of six months of full time paid service commencing with the date of appointment.

(b) Employees in the following classifications shall serve an initial probationary period equivalent to one year of full time paid service: Department Heads in the classified service, Social Services Investigator, Deputy Sheriff, Sheriff’s Dispatcher, Sheriff’s...
INITIAL MANAGEMENT PROPOSAL ON CSC RULE CHANGES FOR 2017

Correctional Deputy, Sheriff’s Senior Correctional Deputy (lateral transfer) Juvenile Services Officer I, Juvenile Services Officer II (lateral transfer), Deputy Probation Officer I, Deputy Probation Officer II (lateral transfer), Correctional Technician I, Employment Resource Specialist I, Social Worker I, and Social Services Investigator shall serve probationary period of the equivalent of one year of full-time paid service. Employees appointed to a class series in 11.03(b), shall serve an initial probationary period equivalent to the entry-level class, regardless of the level at which the employee enters the series.

(c) Employees who receive a non-competitive promotion pursuant to Rule 5.05(a) to a higher level within a class series shall serve a probationary period equivalent to six months.

(d) The probationary period shall not include any period of leave with pay exceeding 20 business days.

(b) A person having received a noncompetitive appointment to the higher classification after an upward reclassification of his/her currently held position shall be deemed to have satisfactorily served a probationary period in that position consistent with Rule 5.05(ab). [Ord. 2.40.080(j)] (7/22/92) (8/26/98)(03/17/05) (09/28/11)

12.05 ORDER OF LAYOFF:

(a) Temporary employees performing work within the affected class(es) shall be laid off first.

(b) Provisional employees in affected class(es) shall be laid off next.

(c) Probationary employees working the affected class(es) shall be laid off next in reverse order of time-in-service.

(d) Permanent employees working in the affected class(es) who have one or more regular evaluations during the last two years with an overall rating of Needs Improvement accompanied by sustained formal discipline Unsatisfactory, shall be laid off next in reverse order of time-in-service hours. (09/28/11)

(e) Permanent employees working in the affected class(es) who have not received an Needs Improvement accompanied by sustained formal discipline Unsatisfactory regular performance evaluation in the last two years, shall be reduced or laid off last by reverse order of time-in-service hours. (09/28/11)

13.03 PERFORMANCE EVALUATION RATING STANDARDS:

Performance evaluations shall be made in accordance with the following standards:

P:\7_CSC\Rules\Pending Rule Updates\2017 RULE CHANGES\CSC PACKET\2017 Proposed Rule Changes_10-25-17_FINAL -MMCK 11.03 changes incorporated.docx
INITIAL MANAGEMENT PROPOSAL ON CSC RULE CHANGES FOR 2017

(a) Outstanding Work Exceptional work performance is consistently and distinctly well above the standard expected of a competent worker in that job; performance is definitely consistently superior. Outstanding Exceptional ratings must be substantiated in writing by the rater. (09/28/11)

(b) Above Satisfactory Work performance is generally above the standard expected of a competent worker in that job, a majority of the time. Above Satisfactory ratings must be substantiated in writing by the rater. (09/28/11)

(c)(b) Satisfactory WS Successful work performance consistently meets the standard expected of a competent worker in that job. (09/28/11)

(d)(c) Needs Improvement Needed Wwork performance is frequently less than the standard expected of a competent worker in that job, and improvable with additional training, experience, and/or effort. Improvement Needed ratings must be substantiated in writing by the rater. (09/28/11)

(e) Unsatisfactory Work performance well below the standard expected of a competent worker in that job, a majority of the time. Unsatisfactory ratings must be substantiated in a written statement by the rater. (09/28/11)

13.04 OVERALL RATING OF LESS THAN SATISFACTORY NEEDS IMPROVEMENT:

A Supervisor shall be expected to take appropriate and immediate steps to assist an employee to improve or correct any performance or conduct which has been rated as Improvement Needs Improvement Needed or Unsatisfactory. (09/28/11)

(a) If an employee receives an overall performance evaluation rating less than Satisfactory of Needs Improvement, the employee's supervisor shall create and communicate to the employee, a written performance improvement plan to improve or correct any performance factors needing improvement rated less than Satisfactory. The employee's supervisor shall objectively document the steps taken to assist an employee to achieve a satisfactory Successful Performer rating and the results of those actions. (09/28/11)

(b) If the employee fails to demonstrate satisfactory improvement upon completion of the performance improvement plan timeline, the employee shall be subject to be rated Unsatisfactory which will be cause for discipline. (09/28/11)
(e) If an employee receives an overall rating of Unsatisfactory, the employee shall be subject to disciplinary action. (09/28/11)

APPEAL:
If, after discussing a performance evaluation with the evaluator and reviewing the report with the Appointing Authority, an employee disagrees with a less than Satisfactory overall rating received in a Regular or Special performance evaluation report, and that evaluation is accompanied by formal discipline, the employee may request review of the performance evaluation by the Human Resources Director. Such a request shall be in writing and filed within ten business days after the employee's receipt of the performance evaluation. Failing to achieve satisfaction through the Human Resources Director, the employee may then appeal the matter to the Commission in accordance with the provisions of Rule 4.04 (Ord. 2.40.080(q)) (03/17/05) (09/28/11) (03/22/17)

14.02 REASONS FOR DISCIPLINARY ACTIONS:\footnote{\textsuperscript{1}}:
An employee who has completed his/her probationary period and attained permanent status in the classified service may be reprimanded, suspended, demoted, or dismissed for any of the following reasons:

(a) Any of the reasons specified in Rule 6.03;

(b) Incompetence; (03/17/05)

(c) Inefficiency;

(d) Inexcusable neglect of duty;

(e) Insubordination;

(f) Dishonesty;

(g) Inexcusable absence without leave;

(h) Discourteous treatment of the public or other employees;

(i) Improper political activity;

(j) Willful disobedience;

(k) Misuse of County property;

\footnote{\textsuperscript{1}} It is anticipated that additional changes will be proposed based on feedback provided by management.
INITIAL MANAGEMENT PROPOSAL ON CSC RULE CHANGES FOR 2017

(l) Violations of County or departmental rules or policies;

(m) Conduct unbecoming an employee in the public service;

(n) Negligence; (09/28/11)

(o) Unauthorized release of confidential information from official records; (09/28/11)

(p) Overall Unsatisfactory performance evaluation; Formal discipline resulting from a Needs Improvement performance evaluation as defined in Rule 13.04; (09/28/11)

14.04 LETTERS OF REPRIMAND:

When an Appointing Authority has determined informal corrective action to be ineffective in altering the poor/unsatisfactory performance or conduct of an employee, the Appointing Authority may issue a formal letter of reprimand to the employee. Such reprimand letters should follow an official discussion of the problem between the Appointing Authority or his/her designee and the employee and should contain: (03/17/05) (09/28/11)

(a) A general statement of the problem, specifying with factual statements what the employee has done wrong; (03/17/05)

(b) The specific policies, rules, or legal provisions violated;

(c) Constructive assistance toward correction of conduct;

(d) An indication that more serious disciplinary action shall occur should unsatisfactory conduct continue or recur.

When issued, reprimand letters shall be copied and become a part of the employee's official personnel record and as with other forms of formal discipline the employee shall have the right to appeal the issuance action in accordance with the provisions of Rule 4.04. (5/23/79) (03/17/05)
Civil Service Commission

2018 Regular Session Meeting Dates

Regular monthly meetings are held on the 4th Wednesday* at 9:00 A.M.
at 1055 Monterey Street, Suite D-271, San Luis Obispo.

January 24, 2018
February 28, 2018
March 28, 2018
April 25, 2018
May 23, 2018
June 27, 2018
July 25, 2018
August 22, 2018
September 26, 2018
October 24, 2018
*November 14, 2018
*December 19, 2018

* Adjusted due to holiday

Note: If extenuating circumstances arise, following prior authorization from the Commission president and with compliance to the Brown Act, the meeting date/time/location may change.