

Rule 411

Examinations

Article I: Examination Provisions

Applicability: Article I, Rule 411, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) except those represented by the Transport Workers Union (TWU), Locals 200 and 250A.

Article II: Examination Process

Applicability: Article II, Rule 411, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

Article III: Veterans Preference in Examinations

Applicability: Article III, Rule 411, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Rule 411

Examinations

Article I: Examination Provisions

Applicability: Article I, Rule 411, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) except those represented by the Transport Workers Union (TWU), Locals 200 and 250A.

Sec. 411.1 Civil Service Commission Equal Employment Opportunity Policy Related to the Conduct of Examinations

411.1.1 It is the policy of the Civil Service Commission that job-related criteria be utilized in establishing minimum qualification requirements and developing examination procedures, without regard to race, sex, sexual orientation, gender identity, political affiliation, age, religion, creed, national origin, disability, ancestry, marital status, parent status, domestic partner status, color, medical condition (cancer-related), ethnicity or the conditions Acquired Immune Deficiency Syndrome (AIDS), HIV, and AIDS-related conditions or other non-merit factors or any other category provided by ordinance.

411.1.2 The MTA Director of Transportation/Designee shall make every effort to ensure the representation of women and minorities on examination boards, panels and screening committees.

Sec. 411.2 MTA Director of Transportation/Designee Empowered to Act

The MTA Director of Transportation/Designee shall rule on all matters concerning the examination program in accordance with these Rules.

Sec. 411.3 Requirement to Conduct Examinations

411.3.1 Except for reasons beyond the MTA Director of Transportation/Designee's control, the MTA Director of Transportation/Designee shall immediately commence to conduct an examination whenever a provisional or near-list appointment is made to a permanent position.

411.3.2 Except for reasons beyond the MTA Director of Transportation/Designee's control, the MTA Director of Transportation/Designee will make every attempt, on a priority basis, to commence work required to conduct examinations at least sixty (60) days prior to expiration of an eligible list where there is a demonstrated need for continuing appointments to such class.

Sec. 411.3 Requirement to Conduct Examinations (cont.)

411.3.3 Where possible, the MTA Director of Transportation/Designee and bargaining representative shall meet in advance to determine which classes require eligible lists on a continuing basis.

Sec. 411.4 Requirement for Competitive Examinations

All applicants for positions in the classified service shall submit to examinations which shall be competitive provided, however, that no examination shall be deemed to be competitive unless three (3) or more persons participate. However, any such examination may be held for less than three (3) qualified applicants with the approval of the MTA Director of Transportation/Designee after a finding that reasonable publicity of the proposed examination has been given. Notice of such determination by the MTA Director of Transportation/Designee will be provided to the employee organization(s) representing employees within the classification.

Sec. 411.5 Examinations Without Charge

Examinations shall be without charge to the applicants.

Sec. 411.6 Apprenticeship Positions

Appropriate rosters of eligibles established by a trade, craft, or occupation joint apprenticeship committee recognized by the State of California Department of Industrial Relations, Division of Apprenticeship Standards, may be utilized to fill apprenticeship positions or as the basis for establishing apprenticeship eligibility lists.

Sec. 411.7 Adequacy of Examinations

Subject to the approval of the Commission, the MTA Director of Transportation/Designee, subject to appeal to the Civil Service Commission, shall judge the adequacy of the examination to rate the capacity of the applicants to perform service for the City and County.

Sec. 411.8 Establishing Cutoff Scores and Number on Eligible Lists

For each selection procedure, the MTA Director of Transportation/Designee shall establish a cutoff or passing score and shall determine the number of persons who shall constitute the eligible list based on the needs of the Service and equal employment opportunity principles and goals. Once established, the cutoff score shall not be changed.

Sec. 411.9 Cheating or Fraud in Examinations

It is the policy of the Civil Service Commission that examinations shall be conducted in a fair and impartial manner in order to test fairly the relative qualifications, merit, and fitness of applicants. Any person cheating, attempting to cheat, or assisting other persons in cheating in any phase of the examination process shall be prosecuted to the full extent of the Charter and other laws. Actions to be taken include elimination from the examination process, dismissal, and ineligibility for future employment. Cheating shall include the use or attempted use of materials not authorized by the scheduling notice to candidates to report for the examination. Significant false statements by applicants on the application or during the selection process shall be good cause for the exclusion of such person from the examination and such other appropriate action as may be recommended by the MTA Director of Transportation/Designee.

411.9.1 Aid, Hindrance, Fraud and Collusion in Examinations

No person or officer shall, by himself/herself or in cooperation with other persons, defeat, deceive or obstruct any person in respect to his or her right of examination; or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing; or make any false representations concerning the same, or concerning the person examined; or furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person of being appointed, employed or promoted.

Any eligible securing standing on a list by fraud, concealment of fact or violation of Commission Rules shall be removed from such list and if certified or assigned to a position shall be removed therefrom.

Sec. 411.10 Copying of Examination-Related Materials

The copying or the making of notes or outlines of examination-related materials is prohibited.

Sec. 411.11 Rating Keys - Written Examinations Other Than Essay Questions

411.11.1 Written examinations other than essay questions are defined as those tests which present answers that may be available for inspection. Typical formats of written examinations include multiple-choice, true-false, or fill-in.

411.11.2 The examination booklet in written examinations, if not exempted from inspection privileges, shall state the time period where participants in an examination may review the rating key to be used for scoring. No changes in the rating key shall be made after the passing score has been established.

Sec. 411.11 Rating Keys - Written Examinations Other Than Essay Questions (cont.)

- 411.11.3** Inspection of the rating key is for the purpose of determining if any of the questions asked or answers are ambiguous, incorrect, or improper. Appeals concerning the rating key must be completed in the inspection room on forms supplied by MTA. Appeals must include substantiating data or authoritative references. If any appeals have been filed, an additional period for review of appeals and submission of counter-appeals will be provided. The MTA Director of Transportation/Designee shall act on all appeals. The decision of the MTA Director of Transportation/Designee shall be final.
- 411.11.4** Inspection privileges shall not apply to questions and answers in a continuous or standardized examination. The MTA Director of Transportation/Designee may delete obsolete or erroneous questions or answers from any examination exempted by this Rule for inspection privileges prior to the establishing of a passing mark.

Sec. 411.12 Inspection of Rating Keys by Review Committee

- 411.12.1** The examination announcement may provide for review of questions and answers by a review committee in those examinations where large numbers of appeals might be anticipated on the basis of past experience, or where there is an immediate need for appointees in the class involved. Such review committee shall be composed of three (3) or more persons expert in the field of subject matter covered by the examination.
- 411.12.2** The review of the rating key shall begin simultaneously with the holding of the examination and shall be completed in one session. The recommendations of the review committee with respect to questions or answers which they believe to be ambiguous, incorrect, or improper shall be submitted to the MTA Director of Transportation/Designee for approval. The rating key, when approved by the MTA Director of Transportation/Designee, shall be made available for review by participants in the examination for a minimum period of two (2) days. The time allowed for such review may be extended if in the judgment of the MTA Director of Transportation/Designee, the number of applicants warrants. The participants may appeal to the MTA Director of Transportation/Designee concerning only those questions or answers where documented claim of significant error is made. The decision of the MTA Director of Transportation/Designee shall be final. If no appeals are submitted, the approved rating key shall be the official rating key to be used for scoring the examination.

Sec. 411.13 Review of Ratings by Unsuccessful Candidates

Where there are remaining parts of an examination, unsuccessful candidates may review their ratings during a minimum period as determined by the MTA Director of Transportation/Designee not to be less than three (3) business days and specified by the notice informing them of their scores. In establishing the minimum period, the MTA Director of Transportation/Designee shall consider among other factors, availability of technology to facilitate the review of ratings, technology or method used for scoring, type of exam, number of eligibles, stability and reliability of the messaging platform in sending and receiving notifications, extent of access by candidates to the means for receiving timely notification, and complexity of the examination ratings. Such review shall be for the sole purpose of determining that the computation of the score has been accurate.

Sec. 411.14 Oral Interview and Other Selection Tests - Definition and Appeals

This Rule section shall govern examination procedures such as oral interviews, performance tests, work sample tests, essay questions, and assessment center exercises.

411.14.1 Procedures and Practices

- 1) The orientation of the raters may include a presentation by the department head or departmental representative which includes a description of the class for which the examination is being held, the setting of the class in the department, the critical elements of personal characteristics needed by employees in the class, and related information. The department head or representative shall not discuss any candidate with any rater at this time or any other time prior to the completion of the examination.
- 2) No fraternal rings, organization pins, or insignia of any kind shall be displayed by any rater.
- 3) No rater shall rate a candidate who is related to that person or rate a candidate if any strong personal association exists between that candidate and the rater so that it would be difficult to make an impartial rating. If possible, the excused rater shall be replaced by an alternate with similar qualifications.
- 4) Raters may only consider relevant documents from candidates that are required by the scheduling notice.

Sec. 411.14 **Oral Interview and Other Selection Tests - Definition and Appeals (cont.)**

411.14.1 **Procedures and Practices (cont.)**

5) Uniform standards shall be applied to every candidate in each examination. The minimum passing rating must be related to a class, not to a single position within a multiple-position class, unless specified by the examination announcement.

6) Except as otherwise permitted by law, applicants shall not be questioned regarding their race, sex, sexual orientation, gender identity, political affiliation, age, religion, creed, national origin, disability, ancestry, marital status, parental status, domestic partner status, color, medical condition (cancer-related), ethnicity, or the conditions Acquired Immune Deficiency Syndrome (AIDS), HIV, and AIDS-related conditions or other non-merit factors; nor shall such factors be utilized in establishing minimum qualification requirements and developing examination procedures.

7) Recordings of an examination shall be retained until the eligible list is adopted. A defective recording shall not invalidate the examination unless the MTA Director of Transportation/Designee finds the omitted or unintelligible material critically relevant to the examination, in which event the MTA Director of Transportation/Designee may order a new examination.

8) In the event of an appeal that could invalidate the examination, all other candidates whose standing in the examination may be affected shall be notified of the appeal prior to final action being taken.

9) Any violation of the following procedures and practices by candidates may be cause for disqualification:

- no fraternal rings, organization pins or insignia of any kind shall be displayed by any candidate;
- no candidate shall discuss her or his candidacy or any relationship thereto with any rater prior to the completion of all parts of the examination and the final adoption of the eligible list; and
- unless expressly directed by the notice to candidates to report for examination, no letters of reference or recommendation, performance evaluations, work samples, work products, awards, certificates, or other materials shall be presented to the raters.

Sec. 411.14 **Oral Interview and Other Selection Tests - Definition and Appeals**
(cont.)

411.14.2 **Appeals**

- 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.
- 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, 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.
- 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.
- 4) In acting on appeals, only the applications, records, and questions and answers which constitute the record of the examination shall be considered. Appeals will only be sustained when the candidate presents evidence that clearly substantiates a charge or charges as to the above listed items. In the absence of an appeal under this section, later appeals shall be precluded.

Sec. 411.15 **Review of Ratings by Participants**

- 411.15.1** Composite ratings for examinations administered under this section shall be available for a minimum period as determined by the MTA Director of Transportation/Designee not to be less than three (3) business days during which period each participant may review their own ratings. In establishing the minimum period, the MTA Director of Transportation/Designee shall consider among other factors, availability of technology to facilitate the review of ratings, technology or method used for scoring, type of exam, number of eligibles, stability and reliability of the messaging platform in sending and receiving notifications, extent of access by candidates to the means for receiving timely notification, and complexity of the examination ratings. The identity of the examiner giving any mark or grade shall not be disclosed.
- 411.15.2** Any appeal shall be filed in writing within the review of ratings period and shall be limited to failure of the raters to apply uniform standards. Appeals must state the specific grounds upon which they are based and provide facts which support the allegations. Failure to state the specific grounds for the appeal and provide facts shall nullify the appeal.
- 411.15.3** All appeals properly filed under this section shall be resolved in accordance with the appeal provisions of these Rules. Appeals shall not be considered merely because candidates believe they are entitled to a higher score. Neither the Commission nor the MTA Director of Transportation/Designee shall substitute their judgment for the judgment of the raters. Ratings of less than the minimum passing score shall not be raised to more than the minimum passing score.
- 411.15.4** No evidence or documents shall be presented, which were not presented to the raters, unless the candidate was denied the opportunity to do so.
- 411.15.5** In the absence of an appeal under this section, later appeals shall be precluded.

Sec. 411.16 **Program to Enhance Employment Opportunities for City Employees****411.16.1** **Authorization for Flexible Staffing Program**

The MTA Director of Transportation/Designee is authorized to establish flexible staffing programs to promote permanent civil service employees past the probationary period to higher classifications within an occupational series or to another series by methods other than traditional selection procedures. In establishing a flexible staffing program, the MTA Director of Transportation/Designee shall consider, among other factors, length of permanent service, performance appraisal ratings, availability of positions, budgetary restrictions, and equal employment opportunity. The specific procedures and qualifications established shall be listed in the flexible staffing examination announcement for the classification(s) involved.

Sec. 411.16 **Program to Enhance Employment Opportunities for City Employees (cont.)**

411.16.1 **Authorization for Flexible Staffing Program (cont.)**

The MTA Director of Transportation/Designee shall administer and rule on all matters concerning the Flexible Staffing Program. Decisions by the MTA Director of Transportation/Designee shall be subject to appeal to the Civil Service Commission, as provided elsewhere in the rules, whose decision shall be final.

411.16.2 **Authorization for Promotion Only Program**

The MTA Director of Transportation/Designee is authorized to establish promotive only programs by classification to promote permanent civil service employees past the probationary period to the next higher classification within an occupational series. In establishing a promotive only program, the MTA Director of Transportation/Designee shall consider, among other factors, length of permanent service, performance appraisal ratings, availability of positions, budgetary restrictions, and equal employment opportunity. The specific procedures and qualifications established shall be listed in the promotive only examination announcement for the classification(s) involved.

The examination announcement shall be distributed to all current permanent civil service employees past the probationary period in the immediate lower classification within an occupational series. The examination announcement will be publicly posted on the employment opportunities web page specifically for City employees. Employees who take and pass the examination will be placed on an eligible list. The certification rule for all eligible lists established under this program shall be Rule of the List.

The MTA Director of Transportation/Designee shall administer and rule on all matters concerning the Promotive Only Program. Decisions by the MTA Director of Transportation/Designee shall be subject to appeal to the Civil Service Commission, as provided elsewhere in the rules, whose decision shall be final.

Sec. 411.16 **Program to Enhance Employment Opportunities for City Employees (cont.)**

411.16.3 **Authorization for Provisional and Exempt to Permanent Status Program**

The MTA Director of Transportation/Designee is authorized to establish programs giving provisional and exempt employees the opportunity to transition to permanent status. The provisional or exempt employee must have served continuously in the job classification in a provisional or exempt status for the equivalent of at least one (1) year (2,080 hours). In establishing the program, the MTA Director of Transportation/Designee shall consider, among other factors, active holdover rosters where qualified eligibles exist, availability of positions, budgetary restrictions, and equal employment opportunity.

This rule shall only apply to employees with provisional status or exempt status in Charter Category 16: Temporary and Seasonal Appointments, Charter Category 17: Substitutes for Civil Service Employees on Leave, Charter Category 18: Special Projects and Professional Services, and MTA managerial positions authorized through Charter Section 8A.104. The specific procedures and qualifications established shall be listed in the examination announcements for the classifications involved. The examination announcements shall be publicly posted on the employment opportunities web page specifically for City employees. Employees who take and pass the examination will be placed on an eligible list. Separate eligible lists will be established for provisional-to-permanent and exempt-to-permanent programs. The certification rule for all eligible lists established under this program shall be Rule of the List.

The MTA Director of Transportation/Designee shall administer and rule on all matters concerning the Provisional and Exempt to Permanent Status Program. Decisions by the MTA Director of Transportation/Designee shall be subject to appeal to the Civil Service Commission whose decision shall be final.

Sec. 411.17 **Application of Program to Enhance Employment Opportunities for City Employees**

Upon request by the MTA Director of Transportation/Designee, the Civil Service Commission in its sole discretion may make changes to the criteria of these pilot programs. Changes to the pilot programs may be based on: program effectiveness, program efficiencies and other relevant criteria as determined by the Civil Service Commission.

Sec. 411.18 **Sunset and Termination of Rule 411.16 Enhancing Employment Opportunities for City Employees Pilot Program**

Rule 411.16 and the Pilot Program to Enhance Employment Opportunities for City Employees shall sunset upon the expiration of the collective bargaining agreements ending on June 30, 2027, absent action by the Civil Service Commission to extend it. Further, the pilot program may be terminated at any time before that date at the discretion of the Civil Service Commission.

Rule 411

Examinations

Article II: Examination Process

Applicability Article II, Rule 411, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

Sec. 411.19 **Charter Authority**

The examination program shall be in accordance with the provisions of the Charter. The MTA Director of Transportation/Designee shall rule on all matters concerning the examination program as provided elsewhere in these Rules.

Sec. 411.20 **Announcement**

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.

Sec. 411.21 **Protests of Examination Announcements**

Appeals concerning the provisions of an announcement must be received by MTA within seven (7) business days from the issuance date. The MTA Director of Transportation/Designee will rule upon appeals and notify petitioners in writing. This decision is subject to appeal to the Commission as provided elsewhere in these Rules.

Sec. 411.22 **Reissuance of Examination Announcements**

After considering appeals submitted in accordance with this Rule, the MTA Director of Transportation/Designee may reissue the announcement. When reissued, an examination announcement is not subject to the appeal procedure.

Sec. 411.23 **Official Time Periods**

Examination announcements shall set forth time limits for determination of the qualifications of applicants.

Sec. 411.24 **Promotional Applicants**

411.24.1 Applicants for promotional examinations shall meet the requirements of the examination announcement under which they apply and be eligible to participate in examinations on a promotive basis as defined by this Rule.

411.24.2 The following employees who are otherwise qualified are entitled to participate in examinations on a promotive basis if they meet the service requirements specified below:

- 1) Employees with permanent status who have completed the probationary period;
- 2) Employees with permanent civil service, probationary, or certified temporary status currently on authorized leave of absence;
- 3) Employees with holdover rights;
- 4) Employees serving a probationary period in a different class but who were last employed in a next lower rank class as a certified temporary, probationary, or permanent employee past the probationary period;
- 5) Appointees from a regular adopted eligible list to a non-permanent position other than a "near list" appointment;
- 6) Employees serving a probationary period.

411.24.3 All employees entitled to participate in promotive examinations as outlined above shall meet the following requirements:

- 1) A period of six months of service in the class or for the period provided in the examination announcement in any status; AND
- 2) Certification by the appointing officer(s) of satisfactory job performance for the period of the required service on the forms and in the manner prescribed by the MTA Director of Transportation/Designee.

Sec. 411.25 **Means of Identification**

- 411.25.1** The MTA Director of Transportation/Designee shall determine the method of candidate identification to be used in written and performance examinations.
- 411.25.2** When the sealed identification method is used, candidates are prohibited from making identifying marks on their examination papers. The examination papers of a candidate who makes identifying marks may be canceled. Sealed identification sheets of successful candidates may not be opened until all ratings and the passing mark are final.
- 411.25.3** Where a number of candidates have competed in two (2) or more examinations in a series and at least one candidate has passed one and failed one of the examinations, the identification sheets of the candidates who have failed one examination may be opened prior to the qualifications appraisal interview but only for the purpose of determining which candidates should participate in the qualifications appraisal interview. Under no circumstance may the score on the examination passed be divulged by MTA prior to the posting of the tentative eligible list.

Sec. 411.26 **Cheating or Fraud in Examinations**

It is the policy of the Civil Service Commission that examinations shall be conducted in a fair and impartial manner in order to test fairly the relative qualifications, merit, and fitness of applicants. Any person cheating, attempting to cheat, or assisting other persons in cheating in any phase of the examination process shall be prosecuted to the full extent of the Charter and other laws. Actions to be taken include elimination from the examination process, dismissal, and ineligibility for future employment. Cheating shall include the use or attempted use of materials not authorized by the scheduling notice to candidates to report for the examination. Significant false statements by applicants on the application or during the selection process shall be good cause for the exclusion of such person from the examination and such other appropriate action as may be recommended by the MTA Director of Transportation/Designee.

Sec. 411.26 **Cheating or Fraud in Examinations (cont.)****411.26.1** **Aid, Hindrance, Fraud and Collusion in Examinations**

No person or officer shall, by himself/herself or in cooperation with other persons, defeat, deceive or obstruct any person in respect to his or her right of examination; or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing; or make any false representations concerning the same, or concerning the person examined; or furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person of being appointed, employed or promoted.

Any eligible securing standing on a list by fraud, concealment of fact or violation of Commission Rules shall be removed from such list and if certified or assigned to a position shall be removed therefrom.

Sec. 411.27 **Copying of Examination Questions**

The copying of examination questions or the making of notes or outlines regarding an examination is prohibited.

Sec. 411.28 **Rating Keys**

411.28.1 The examination booklet in examinations not exempted from inspection privileges shall provide the time period wherein participants in an examination may review the rating key to be used for scoring. Participants in an examination shall be allowed only one review of the rating key unless otherwise ordered by the MTA Director of Transportation/Designee. No changes in the rating key shall be made after the identification sheets of any participants have been opened.

411.28.2 Inspection of the rating key is for the purpose of correcting errors in the key or determining if any of the questions asked are ambiguous or incorrectly phrased. Protests concerning the rating key must be filled out in the inspection room on forms supplied by MTA. Petitions must include substantiating data or authoritative references. If any protests have been filed, an additional period for review of protests and submission of counter-protests will be provided.

Sec. 411.29 **Rating Keys - Continuous Examination**

- 411.29.1** Inspection privileges shall not apply to questions and answers on any continuous or standardized entrance or concurrent entrance and promotive written examination. This includes examinations under the continuous testing program.
- 411.29.2** The MTA Director of Transportation/Designee may order obsolete or erroneous questions deleted from any examination exempted by this Rule from inspection privileges.

Sec. 411.30 **Inspection of Rating Keys by Review Committee**

- 411.30.1** Notwithstanding any other provision of these Rules, the examination announcement may provide for review of questions and answers thereto by a review committee in those examinations wherein large numbers of protests on key answers might be anticipated on the basis of past experience, or where there is an immediate need for appointees in the class involved. Such review committee shall be composed of three (3) or more persons expert in the field of subject matter covered by the examination.
- 411.30.2** The review of the rating key shall begin simultaneously with the holding of the examination and shall be completed in one session. The recommendations of the review committee with respect to questions or answers which they believe to be ambiguous, incorrect, or improper shall be submitted to the MTA Director of Transportation/Designee for approval. Such rating key when approved by the MTA Director of Transportation/Designee shall be made available for review by participants in the examination for a period of two (2) days. The time allowed for such review may be extended if, in the judgment of the MTA Director of Transportation/Designee, the number of applicants warrants. The participants may appeal to the Commission concerning only those questions or answers wherein documented claim of significant error is made. If any appeals have been filed, an additional period for submission of counter-arguments will be provided. If no appeals are submitted, the approved rating key shall be the official rating key to be used for scoring the examination.

Sec. 411.31 **Examination Passing Mark**

- 411.31.1** For each examination, the MTA Director of Transportation/Designee shall establish a passing mark or shall determine the total number of persons to be included on the list of eligibles based on the needs of the service.
- 411.31.2** No changes in the passing mark shall be made after the identification sheets have been opened.

Sec. 411.32 **Review of Ratings by Unsuccessful Candidates**

Where there are remaining parts of an examination, and where the examination is not exempted from review under these Rules, unsuccessful candidates may review their ratings during a minimum period as determined by the MTA Director of Transportation/Designee not to be less than three (3) business days and specified by the notice informing them of their scores. In establishing the minimum period, the MTA Director of Transportation/Designee shall consider among other factors, availability of technology to facilitate the review of ratings, technology or method used for scoring, type of exam, number of eligibles, stability and reliability of the messaging platform in sending and receiving notifications, extent of access by candidates to the means for receiving timely notification, and complexity of the examination ratings. Such review shall be for the sole purpose of determining that the scoring has been accurate.

Sec. 411.33 **Veterans Preference in Examinations**

411.33.1 Veterans' preference in examinations completed on or after July 7, 1976, shall be administered in accordance with these Rules.

411.33.2 The following definitions apply to the administration of this section:

- 1)** Completion date of an examination: The date the eligible list is adopted or on which all competitive parts of the examination have been administered and the passing mark set.
- 2)** Time for filing claim: Applicants must claim preference on the original application form or pre-application form, whichever is filed first. All such claims or withdrawals of claims must be made prior to participation in the first part of the test to be administered.
- 3)** First entitlement to claim preference: The date upon which the applicant was first separated from active duty service, including separations for re-enlistment purposes, and such service would have qualified the applicant to claim preference under the then-current requirements.

Sec. 411.34 **Qualifications Appraisal Interview - Procedures and Appeals****411.34.1** **Procedures and Practices**

- 1) The orientation of the qualifications appraisal board may include a presentation by the department head or departmental representative which includes a description of the class for which the examination is being held, the setting of the class in the department, the critical elements of personal characteristics needed by employees in this class, and related information. The department head or representative shall not discuss any candidate with any member or members of the qualifications appraisal board at this time or any other time prior to the completion of the examination.
- 2) No fraternal rings, organization pins, or insignia of any kind shall be displayed by the board members in any qualifications appraisal interview nor shall such rings, pins, or insignia be worn by any candidate who appears before such a board.
- 3) No board member shall rate a candidate who is related to that person or rate a candidate if any strong personal association exists between that candidate and the board member so that it would be difficult to make an impartial rating.
- 4) No candidate shall discuss her/his candidacy or any relationship thereto with the qualifications appraisal board members prior to the completion of all parts of the examination(s) and the final adoption of the list(s) of eligibles resulting therefrom.
- 5) No letters of reference or recommendation shall be presented to the qualifications appraisal board.
- 6) The board may consider relevant documents such as specified in examination announcements.
- 7) In all qualifications appraisal interviews, the same standards shall apply to all candidates who appear for the same class.
- 8) The minimum passing or qualifying rating must be related to a class, not to a single position within a multiple position class.
- 9) No applicant for public employment shall be questioned as to political views, religious beliefs, labor affiliations, or racial extraction.

Sec. 411.34 **Qualifications Appraisal Interview - Procedures and Appeals (cont.)****411.34.1** **Procedures and Practices (cont.)**

10) Recordings of qualifications appraisal interviews shall be retained only until all ratings become final and any timely litigation based thereon has been resolved. A defective recording shall not invalidate the interview unless the MTA Director of Transportation/Designee finds the omitted or unintelligible material critically relevant to the case, in which event the MTA Director of Transportation/Designee may authorize a second interview or order a new examination.

11) In the event of any challenge of an examiner or of any ratings in qualifications appraisal interviews, all other candidates whose standing in the examination may be affected shall be notified of the challenge.

411.34.2 **Challenge of Board Members**

1) A board member may excuse herself or himself from rating any candidate when, in the judgment of the board member, it would be difficult to rate the candidate impartially. If possible, the excused board member shall be replaced by an alternate with the same qualifications.

2) Any challenge as to personal bias or competence of a person serving as an examiner in a qualifications appraisal interview based upon prior knowledge of or acquaintance with a board member shall be made by a candidate to the representative of MTA 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 Commission following denial by the MTA Director of Transportation/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 MTA Director of Transportation/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.

Sec. 411.34 Qualifications Appraisal Interview - Procedures and Appeals (cont.)**411.34.2 Challenge of Board Members (cont.)**

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 Examination Unit not later than the second (2nd) business day on which 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 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.

4) The Commission, in acting on a challenge or appeal of the conduct of the qualification appraisal board, shall consider only the applications, records, and questions and answers which constitute the record of the qualifications appraisal interview. The Commission will sustain protests only when the candidate presents evidence that clearly substantiates a charge of bias, malfeasance, or misfeasance.

5) The decision of the Civil Service Commission on this subject shall be final.

6) In the absence of a challenge under this section or upon a decision by the Commission under this section, later challenges shall be precluded.

411.34.3 Inspection of Ratings in Qualifications Appraisal Interviews by Participants

1) After the qualifications appraisal interviews for an examination are computed, such composite ratings shall be available for a minimum period of two (2) working days following the completion of the computations for all participants or for some other two (2) day period set by the MTA Director of Transportation/Designee, provided that the candidates are advised of the dates, during which period each participant may inspect their own ratings.

Sec. 411.34 Qualifications Appraisal Interview - Procedures and Appeals (cont.)**411.34.3 Inspection of Ratings in Qualifications Appraisal Interviews by Participants (cont.)**

The identity of the examiner giving any mark or grade in a qualification appraisal interview shall not be disclosed.

2) Any challenges shall be filed in writing within the inspection period and shall be limited to:

- failure of the qualifications appraisal board to apply uniform standards; and

- any questions propounded by the panel of examiners which occur during a qualifications appraisal interview which require an answer in conflict with any Federal, State, or City and County laws, rules, or regulations which apply to the government of the City and County of San Francisco, MTA, and/or the Civil Service Commission.

3) All challenges properly filed under this section shall be resolved in accordance with the provisions of these Rules. The MTA Director of Transportation/Designee shall not consider challenges merely because candidates believe they are entitled to a higher score. The MTA Director of Transportation/Designee will not substitute her/his judgment for the judgment of the qualifications appraisal interviewers. Ratings by a qualifications appraisal board of less than the minimum passing score shall not be raised to more than the minimum passing score.

4) No evidence or documents supportive of qualifications shall be presented to the MTA Director of Transportation/Designee which were not presented to the qualifications appraisal board unless the candidate was denied the opportunity to do so.

5) The decision of the MTA Director of Transportation/Designee on this subject shall be final.

6) In the absence of a challenge under this section or upon a decision by the MTA Director of Transportation/Designee under this section, later challenges shall be precluded.

Sec. 411.35 **Requirement to Conduct Examinations**

- 411.35.1** Except for reasons beyond the MTA Director of Transportation/Designee's control, MTA shall immediately commence to conduct an examination whenever a provisional or near-list appointment is made to a permanent position.
- 411.35.2** Except for reasons beyond the MTA Director of Transportation/Designee's control, MTA will make every attempt, on a priority basis, to commence to conduct examinations at least sixty (60) days prior to expiration of an eligible list where there is a demonstrated need for continuing appointments to such class.
- 411.35.3** Where possible, the MTA Director of Transportation/Designee and bargaining representative shall meet in advance to determine which classes require eligible lists on a continuing basis.

Sec. 411.36 **Examination of Applicants**

Incorporating former Charter Section 8.321 into the Civil Service Commission Rules pursuant to former Charter Section 8.320-1 Incorporating Former Charter Provision (Proposition C - November 5, 1991 Election)

411.36.1 **Requirement for Competitive Examinations**

All applicants for positions in the classified service shall submit to examinations which shall be competitive provided, however, that no examination shall be deemed to be competitive unless three (3) or more persons shall participate. However, any such examination may be held for less than three (3) qualified applicants with the approval of the MTA Director of Transportation/Designee, after a finding that reasonable publicity of the proposed examination has been given.

411.36.2 **Examination without Charge**

Such examinations shall be without charge to the applicants.

411.36.3 **Examination Control and Employment of Examiners**

The MTA Director of Transportation/Designee shall control all examinations and may employ suitable persons in or out of the public service to act as examiners.

Sec. 411.36 **Examination of Applicants (cont.)****411.36.4** **Type of Examinations**

The examinations used shall measure the relative capacities of the persons examined to perform the functions, duties, and responsibilities of the class to which they seek appointment. Examinations shall consist of selection techniques which will test fairly the relative qualifications, merit and fitness of the applicants for the position to be filled. Examinations may include written tests to determine job-related aptitude, knowledge, or achievements; and oral tests by qualifications appraisal boards.

411.36.5 **Rules Governing Qualification Appraisal Boards**

The MTA Director of Transportation/Designee shall establish rules governing the size and composition of qualification appraisal boards. Qualification appraisal boards may consider, in the case of employees of the City and County of San Francisco, all prior performance evaluations completed on MTA forms and, in the case of all applicants, may consider prior work experience, assessment center evaluations, and work samples as part of their evaluation of candidates for employment to any position.

411.36.6 **Apprenticeship Positions**

Appropriate rosters of eligibles established by a trade, craft or occupation joint apprenticeship committee recognized by the State of California Department of Industrial Relations, Division of Apprenticeship Standards, may be utilized to fill apprenticeship positions or as the basis for establishing apprenticeship eligibility lists.

411.36.7 **Adequacy of Examinations**

Subject to the approval of the Commission, the MTA Director of Transportation/Designee shall judge the adequacy of the tests to rate the capacity of the applicants to perform service for the City and County.

411.36.8 **Establishment of Passing Mark and Number of List**

The MTA Director of Transportation/Designee may, for each examination, establish a passing mark or may determine the total number of persons who shall constitute the list of eligibles.

411.36.9 **Preparation and Order of Eligible List**

The MTA Director of Transportation/Designee shall prepare the eligible list from the returns of the examiners, arranged in order of relative performance.

Sec. 411.36 **Examination of Applicants (cont.)****411.36.10** **Prohibition of Political, Religious or Fraternal Questions**

No question submitted to applicants shall refer to political or religious opinions or fraternal affiliations.

Sec. 411.37 **Protest of Written Questions and Answers**

Incorporating former Charter Section 8.322 into the Civil Service Commission Rules
Pursuant to former Charter Section 8.320-1 Incorporating Former Charter Provision
(Proposition C - November 5, 1991 Election)

411.37.1 **Review Period by Participants in Written Examinations**

After the written portion of a civil service examination has been held, the questions used and the answers thereto shall be available for review by the participants.

411.37.2 **Exclusion from Review of Continuous or Standardized Tests**

This review period shall not apply to questions and answers on any continuous or standardized entrance or concurrent entrance and promotive written tests.

411.37.3 **Opportunity to Protest Questions and Answers**

During the review period, participants shall have an opportunity to protest questions or answers they believe to be incorrect or improper.

411.37.4 **Changes in Rating Key**

After all protested items have been acted on and after the official rating key has been adopted and the identification sheets have been opened, further changes in the rating key shall not be made.

Sec. 411.38 **Program to Enhance Employment Opportunities for City Employees****411.38.1** **Authorization for Flexible Staffing Program**

The MTA Director of Transportation/Designee is authorized to establish flexible staffing programs to promote permanent civil service employees past the probationary period to higher classifications within an occupational series or to another series by methods other than traditional selection procedures. In establishing a flexible staffing program, the MTA Director of Transportation/Designee shall consider, among other

Sec. 411.38 **Program to Enhance Employment Opportunities for City Employees (cont.)**

411.38.1 **Authorization for Flexible Staffing Program (cont.)**

factors, length of permanent service, performance appraisal ratings, availability of positions, budgetary restrictions, and equal employment opportunity. The specific procedures and qualifications established shall be listed in the flexible staffing examination announcement for the classification(s) involved.

The MTA Director of Transportation/Designee shall administer and rule on all matters concerning the Flexible Staffing Program. Decisions by the MTA Director of Transportation/Designee shall be subject to appeal to the Civil Service Commission, as provided elsewhere in the rules, whose decision shall be final.

411.38.2 **Authorization for Promotive Only Program**

The MTA Director of Transportation/Designee is authorized to establish promotive only programs by classification to promote permanent civil service employees past the probationary period to the next higher classification within an occupational series. In establishing a promotive only program, the MTA Director of Transportation/Designee shall consider, among other factors, length of permanent service, performance appraisal ratings, availability of positions, budgetary restrictions, and equal employment opportunity. The specific procedures and qualifications established shall be listed in the promotive only examination announcement for the classification(s) involved.

The examination announcement shall be distributed to all current permanent civil service employees past the probationary period in the immediate lower classification within an occupational series. The examination announcement will be publicly posted on the employment opportunities web page specifically for City employees. Employees who take and pass the examination will be placed on an eligible list. The certification rule for all eligible lists established under this program shall be Rule of the List.

The MTA Director of Transportation/Designee shall administer and rule on all matters concerning the Promotive Only Program. Decisions by the MTA Director of Transportation/Designee shall be subject to appeal to the Civil Service Commission, as provided elsewhere in the rules, whose decision shall be final.

Sec. 411.38 **Program to Enhance Employment Opportunities for City Employees (cont.)**

411.38.3 **Authorization for Provisional and Exempt to Permanent Status Program**

The MTA Director of Transportation/Designee is authorized to establish programs giving provisional or exempt employees the opportunity to transition to permanent status. The provisional or exempt employee must have served continuously in the job classification in a provisional or exempt status for the equivalent of at least one (1) year (2,080 hours). In establishing the program, the MTA Director of Transportation/Designee shall consider, among other factors, active holdover rosters where qualified eligibles exist, availability of positions, budgetary restrictions, and equal employment opportunity.

This rule shall only apply to employees with provisional status or exempt status in Charter Category 16: Temporary and Seasonal Appointments, Charter Category 17: Substitutes for Civil Service Employees on Leave and Charter Category 18: Special Projects and Professional Services. The specific procedures and qualifications established shall be listed in the examination announcements for the classifications involved. The examination announcements must be publicly posted on the employment opportunities web page specifically for City employees. Employees who take and pass the examination will be placed on an eligible list. Separate eligible lists will be established for provisional-to-permanent and exempt-to-permanent programs. The certification rule for all eligible lists established under this program shall be Rule of the List.

The MTA Director of Transportation/Designee shall administer and rule on all matters concerning the Provisional and Exempt to Permanent Status Program. Decisions by the MTA Director of Transportation/Designee shall be subject to appeal to the Civil Service Commission whose decision shall be final.

Sec. 411.39 **Application of Program to Enhance Employment Opportunities for City Employees**

Upon request by the MTA Director of Human Resources/Designee, the Civil Service Commission in its sole discretion may make changes to the criteria of these pilot programs. Changes to the pilot programs may be based on: program effectiveness, program efficiencies and other relevant criteria as determined by the Civil Service Commission.

Sec. 411.40 **Sunset and Termination of Rule 411.38 Enhancing Employment Opportunities for City Employees Pilot Program**

Rule 411.38 and the Pilot Program to Enhance Employment Opportunities for City Employees shall sunset upon the expiration of the collective bargaining agreements ending on June 30, 2027, absent action by the Civil Service Commission to extend it. Further, the pilot program may be terminated at any time before that date at the discretion of the Civil Service Commission.

Rule 411

Examinations

Article III: Veterans Preference in Examinations

Applicability: Article III, Rule 411, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

Sec. 411.41 **Definition of Veteran for Purposes of Entitlement Under This Rule**

The term “veteran” as used in this Rule shall be as defined under Cal. Gov’t Code §18540.4, which at the time of amendment of this Rule stated: Any person who has served full time in the armed forces in time of national emergency or state military emergency or during any expedition of the armed forces and who has been discharged or released under conditions other than dishonorable.

Sec. 411.42 **Definition of Disabled Veteran for Purposes of Entitlement Under This Rule**

411.42.1 For purposes of this Rule, the term “disabled veteran” shall mean any veteran as defined in Sec. 411.41, who has suffered a permanent service-connected disability that is of record in the United States Administration.

411.42.2 Notwithstanding any preference allowed under this Rule, disabled veterans as defined above shall be afforded all rights under the Americans with Disabilities Act, including any reasonable accommodation if appropriate.

Sec. 411.43 **Veterans Entitlement**

411.43.1 **Veteran, Widow or Widower, or Domestic Partner**

A veteran as defined above in Sec. 411.41, or a widow or widower of such veteran, or, to the extent allowed by law, a person who was a domestic partner of such veteran at the time of death of the veteran, who becomes eligible for certification from an eligible list by attaining a passing score on an entrance qualifying examination or process, shall be entitled to an additional credit of five percent (5%) toward his/her entrance qualifying score.

411.43.2 **Disabled Veteran, Widow or Widower, or Domestic Partner**

A disabled veteran as defined in Sec. 411.39.1, or a widow or widower of such veteran, or, to the extent allowed by law, a person who was a domestic partner of such veteran at the time of death of the veteran, who becomes eligible for certification from an eligible list by attaining a passing score on an entrance qualifying examination or process, shall be entitled to an additional credit of ten percent (10%) toward his/her entrance qualifying score.

Sec. 411.43 **Veterans Entitlement (cont.)****411.43.3** **Spouse or Domestic Partner of Disabled Veteran**

Spouse or registered domestic partner of a one hundred percent (100%) disabled veteran as defined in Sec. 411.39, who becomes eligible for certification from an eligible list by attaining a passing score on an entrance qualifying examination process, shall be entitled to an additional credit of ten percent (10%) toward his/her entrance qualifying score.

411.43.4 **Notice of Veteran Status**

Any individual applicant for entrance employment with the City and County of San Francisco wishing to receive Veterans Preference credit must notify the Department of Human Resources of his/her veterans status at the time he/she submits the initial job application. Veterans preference is limited to an applicant for entrance employment, however, it may be applied to either an entrance only announcement or a combined entrance and promotional announcement.

Sec. 411.44 **Entitlement at Time of Separation from Active Duty**

An individual qualifying for veterans preference as herein defined shall be deemed entitled thereto on the date of separation from active duty in the armed forces.

Sec. 411.45 **Entitlement Exhausted Upon Acquiring Permanent Appointment**

The exercise of said veterans preference shall be exhausted upon permanent appointment from an eligible list and the completion of the required probationary period. The application of any other veterans credits on any other examination shall be automatically cancelled.