

POLICY NUMBER  
APM-2-81

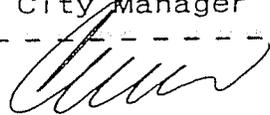
# City of Miami

## REVISIONS

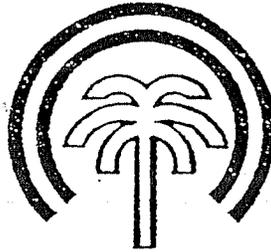
December 13, 1993

ISSUED BY:

Cesar H. Odio  
City Manager



SIGNATURE



ADMINISTRATIVE POLICY

REVISED SECTION	DATE OF REVISION
Page 3, Section 5	08/17/81
Page 4, Items B, C and D	08/17/81
Pages 3 & 4, Section 6	10/31/81
Section 2	12/13/93
Section 3, Para. 3	12/13/93
Section 4 Cleanup	12/13/93

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SUBJECT: PROMOTIONS FROM COMPETITIVE REGISTERS

PURPOSE: To establish a policy for making promotions from competitive registers under the Civil Service Rules.

Effective this date, this LMP supersedes all previous directives relating to promotions from competitive registers.

THE POLICY WILL BE AS FOLLOWS:

All promotions shall be based equally on considerations of ability, equity and integrity.

- Civil Service Rules. The previous Civil Service Rules of the City of Miami provided for automatic promotion of the person who ranked highest on each competitive register for promotion within the Civil Service. That procedure resulted in a number of administrative problems, the most serious of which was the significant adverse impact against minorities and women for promotion to higher level positions. The adverse impact led to two separate Consent Decrees. In addition, the Justice Department informed the City that compliance with the Consent Decree would require substantive, institutional changes in those Civil Service Rules that had the effect of limiting promotional opportunities for minorities and women.

Amendments to Civil Service Rule 8 have been adopted by the Civil Service Board and the City Commission to provide that as many as eight candidates, including minorities and women, may be considered for promotion from competitive eligible registers. The increase in the number of persons certified imposes a responsibility to assure that the best interests of the City are served in making selections for promotions to higher level positions.

- Charter Provisions. The City Charter imposes on the City Manager the sole responsibility to make appointments in the City service. This authority has been delegated to Department Directors, subject to approval of the Director of Personnel Management on behalf of the City Manager. The ultimate responsibility, however, remains with the City Manager. Therefore, all promotions shall be made in accord with this Policy. The City Manager reserves the right to review, approve or reject any such promotion.



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REVISIONS

REVISED SECTION	DATE OF REVISION
Section 5	12/13/93
Section 6, B & C Deleted	12/13/93
Item D Becomes New Item B	12/13/93
Implemented	12/13/93

3. Professional and Legal Standards. The testing profession, represented by specialists in the field of industrial psychology, has consistently recognized that employment testing has significant limitations. Even valid tests, constructed in accordance with professional and legal standards, have a degree of validity that accounts for only a part of the variance between candidates. A significant part of the difference between candidates on an examination is not actually measured by the test score. In addition, statisticians recognize a "standard error of measurement" which means that test scores are not entirely reliable.

Federal Courts have consistently ruled that tests with adverse impact against minority or women candidates may not be used for selection purposes unless they have been validated explicitly in accord with professional and legal standards. The Federal Government, through its Uniform Guidelines on Employee Selection Procedures, has therefore encouraged employers to use "alternate methods of selections" in order to assure that there is no violation of Title VII of the Civil Rights Act. Most Federal Courts have used a strict interpretation of the professional and legal standards for test validation when they have found evidence of discrimination against minorities or women.

The purpose of the amendment to the Civil Service Rules effective June 11, 1987\* is to assure that the City will be able to minimize or eliminate adverse impact without incurring the heavy cost of test validation in accord with every professional and legal standard. Civil Service Rule 8.7(a) and (b) is intended to assure that Departments will have an opportunity to consider minority and women candidates on an equal basis with other candidates in order to assure compliance with the Consent Decree, Title VII of the Civil Rights Act, and the Uniform Guidelines on Employee Selection Procedures. Civil Service Rule 8.7 on promotion is also intended to comply with the decisions of the U.S. Supreme Court on voluntary affirmative action plans, the use of temporary measures to correct the effects of past discrimination and the decisions involving so-called "reverse discrimination." Thus, for example, the authority to consider minority candidates with lower test scores on an equal basis with other candidates necessarily carries with it the responsibility to consider non-minority candidates with lower test scores on an equal basis with all other candidates.

4. Criteria. This LMP states that all promotions shall be based on ability, equity and integrity.



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Ability is the competence of the candidates, whether demonstrated by past performance or predicted on the basis of the examination, to perform the duties of the higher level job. The Supreme Court in Albemarle Paper Co. v. Moody has recognized the right of the employer to expect "efficient and trustworthy workmanship" from employees.

Equity is an assurance that all candidates, regardless of race or sex, have an equal opportunity to be considered for promotion. This is established in the Consent Decree and in the Affirmative Action Plan approved by the City Commission. The Consent Decree, for example, states in Paragraph 5: "The City shall adopt and seek to achieve as its long-term goal the participation at all levels throughout its work force of Blacks, Latins and women approximating their respective, proportions in the City's labor force...." The Justice Department has advised the City that this goal cannot be achieved by promoting predominantly from one of the protected groups. For example, promotion of Latins to the exclusion of Blacks, or Blacks to the exclusion of females, or females to the exclusion of Latins, is not regarded as compliance with either the Consent Decree or Title VII of the Civil Rights Act.

Integrity is the assurance that selections are made solely on the basis of ability and equity, without personal or other favoritism and without the application of personal preferences relating to employee life-styles or behavior patterns that do not directly affect job performance.

5. Departmental Standards. In applying the above criteria, each department shall establish those standards that are appropriately related to its own work force and organizational responsibilities. Such standards shall meet the criteria established in this Policy. All standards shall be submitted to the Director of Personnel Management for review and recommendation to the City Manager. No such standards or procedures shall be used until the City Manager has given his approval.

6. Responsibilities:

- A. All Departments are responsible for assuring that promotions are made in accord with this Policy.
- B. Under the City Charter, the City Manager reserves the right to review, approve or reject any promotion that may be proposed by the employing Department. The City Manager also reserves the right to revise and amend this Policy as may be appropriate and to make such exceptions as may be necessary.