

PERSONNEL SERVICES BULLETINS (PSBs)

200-11

Subject: Credit Toward Probationary Period for Continuous Provisional or Temporary Service in the Same Title and Job Assignment

Source: Rule 5.2.2 (a) of the Personnel Rules and Regulations of the City of New York and the Citywide Agreement

Date: April 17, 2000

I. Background

On occasion, City employees serve continuously on a provisional or temporary basis in the same promotional or appointive title and job assignment immediately prior to promotion or appointment for a period of time less than, equal to, or greater than the length of the probationary period. Upon appointment or promotion, many of these employees are required to serve a complete probationary period because the Personnel Rules and Regulations for the City of New York ("PRR") require this probation. Pursuant to Rule 5.2.2 of the PRR, only permanent employees who have served in a promotional title and particular job assignment on a provisional or temporary basis for a continuous period equal to or greater than the probationary period for that title immediately prior to a permanent promotion to that title are not required to serve a new probationary period. There is no comparable rule for employees who have served provisionally in the same competitive title and job assignment immediately prior to appointment, nor is there a rule granting credit for probationary service to employees who have served provisionally in the same promotional title and job assignment for a period of time which is less than the length of the designated probationary period for that title.

The City believes that the above employees should not be required to serve full probationary periods upon appointment or promotion. Consequently, a new clause in the Citywide Agreement similar to Rule 5.2.2 provides for full or partial credit for provisional or temporary service toward the completion of the probationary period.

II. Policy

This policy applies only to employees in titles covered by the Citywide Agreement.

Rule 5.2.2 (a) of the PRR currently reads, in part: "... if a permanent employee has served in a promotional title and particular job assignment on a provisional or temporary basis for a continuous period equal to or greater than the probationary period for that title immediately prior to a permanent promotion to such title or, as determined by the commissioner of citywide administrative services, in a title in a similar grade and in such particular job assignment or similar job assignment in the same agency, the promotee shall not be required to serve a probationary period upon such promotion."

Pursuant to this PSB, prior continuous provisional or temporary service within a title and particular job assignment served immediately prior to a permanent promotion or appointment to the same title and particular job assignment within the same agency shall be credited toward the probationary period for that title as follows:

- A.** If immediately prior to a permanent promotion to a title, a permanent employee has served in that promotional title and particular job assignment in the same agency on a provisional or temporary basis for a continuous period which is less than the

probationary period for that title, the promotee's probationary period shall be reduced by an amount equal to the time previously served in the provisional or temporary job assignment immediately preceding the promotion, but in no case shall such probationary period be reduced by more than nine months; or

B. If immediately prior to permanent appointment to a title, an employee has served in that title and particular job assignment in the same agency on a provisional or temporary basis for a continuous period for that title, the employee's probationary period shall be reduced by an amount equal to the time previously served in the provisional or temporary job assignment immediately preceding the appointment, but in no case shall such probationary period be reduced by more than nine months.

This policy applies to employees who are appointed or promoted directly by the agency in which they are serving on a provisional or temporary basis. This policy also applies to employees who are appointed or promoted by one agency and have their permanent titles transferred to the agency in which they are serving on a provisional or temporary basis.

Nothing herein prohibits the agency head from extending the probationary period (pursuant to Rule 5.2.8 of the PRR) of employees whose probationary periods are shortened pursuant to paragraphs A or B above.

Employees whose probationary periods are shortened pursuant to paragraphs A or B above and who voluntarily transfer to another agency prior to the completion of their probationary period will be required to serve a new probationary period pursuant to Rule 6.1.6 of the PRR. Prior provisional service at the former agency will not count toward the completion of the probationary period.

III. Procedure

If an employee is appointed or promoted to a title in which one of the above conditions applies, the Department of Citywide Administrative Services (DCAS) will consider all such prior continuous provisional or temporary service as the same job assignment to which the employee is being promoted or appointed unless the Personnel Director of the agency where the employee will be working notifies the Control and Service Division to the contrary in writing.

Where the employee is appointed or promoted directly to the agency that he/she has been serving in as a provisional or temporary employee, the Personnel Director must send such written notification to the Control and Service Division within one month of the date that the employee reports to work as a permanent employee. If the employee is appointed or promoted by one agency and is transferred to the agency in which he/she is serving provisionally, documentation stating that the employee is serving in a different job assignment must be attached to Form DP-72.

Employees who receive credit for provisional or temporary service toward their probationary period shall be notified in writing at the time of appointment or promotion by the agency in which they are serving on a provisional or temporary basis.

William J. Diamond
Commissioner

6. Probationary Employees Restored to Eligible Lists after Involuntary Separation

At the discretion of the Deputy Commissioner for Citywide Personnel Services, the names of probationers whose services were terminated may be restored to their eligible lists if such lists are still in existence (PRR Rule 5.2.9). If such a probationer is hired by the same or different agency, the probationer must serve a new probationary period.

E. Probationary Period for Employees Appointed from Open Competitive Lists on Leaves of Absence to Serve in Another Title

When a probationer who has not completed the probationary term is granted a leave of absence to serve in another position in City service, the period of service in such other position(s) may, in the agency's discretion, be counted as satisfactory service toward completion of the probationary term. DCAS will consider all such service while on leave of absence as satisfactory probationary service in the leave of absence position unless the agency sends written notice to the DCAS Control and Service Division. Such notice must be sent before the one-year anniversary of the probationary appointment (i.e., the date of reporting to work in the probationary title after appointment from the list) to indicate that the agency does not want the service in the other title to be credited toward the completion of the probationary period. A copy of this notice should be given to the affected employee.

F. Termination

1. Employees may be terminated by the agency at any time during their probationary periods. The agency should not give such employees a reason for dismissal other than unsatisfactory probationary period.
2. If termination is desired prior to the minimum probationary period (two months for every appointment from an open competitive list or to a position in the labor class, four months for every promotion to a position in the competitive class), it must be shown to the satisfaction of the Deputy Commissioner for Citywide Personnel Services that the services of the probationer are unsatisfactory and the Deputy Commissioner for Citywide Personnel Services must approve such termination. There is no minimum probationary period for non-competitive and exempt class employees.
3. Notwithstanding the provisions above, when a probationer is required to complete a prescribed formal course of study or training which was approved by the Deputy Commissioner for Citywide Personnel Services, the agency may terminate such probation if he/she fails to complete such course of study or training successfully (PRR Rule 5.2.7(b)).
4. Employees in trainee or aide positions may be terminated at the end of the trainee service or at any time within such period if the trainee's conduct, capacity or fitness is not satisfactory, or if the trainee fails to continue such formal course as may be required. This information must be set forth in the Notice of Examination for the trainee title (PRR Rule 5.8.1(d)).

G. Retention of Probationary Employees Pending Appeal of Disqualification

Probationers who are disqualified for appointment to their title by the Deputy Commissioner for Citywide Personnel Services and who file an appeal of their disqualification to the City Civil Service Commission may continue employment in that title until the appeal has been concluded, if such continued service is requested by the agency and approved by the Deputy Commissioner for Citywide Personnel Services. The period of employment between the notice of disqualification and the resolution of the appeal is not credited toward the completion of the probationary period (PRR Rule 5.2.10).