

DEPARTMENT OF PERSONNEL

City Personnel Director Rules

RULE I - DEFINITIONS

"Agency": any department, administration, board, body or authority possessing separate and independent powers and functions and recognized as such by the department of personnel.

"Agency Head": the head of an agency.

"Announcement": the official notice of examination.

"Appointing Officer": the officer, commission, board or authority having the power of appointment to subordinate positions.

"Certifying Agency": an agency which administers and certifies eligible lists for classes of positions unique to such agency.

"City Personnel Director": the personnel director of the City of New York.

"Civil Service of New York City" or "Civil Service": includes all offices and positions in the definitions hereinafter set forth of "classified service" and "unclassified service".

"Class of Positions": a group of positions substantially similar with respect to duties, responsibilities, qualifications and examination requirements to the extent that the same title may be used to designate such positions and the same salary grade may be equally applied thereto.

"Classified Service": all offices or positions in the civil service of New York City, classified under one of the four jurisdictional classes: exempt; competitive; non-competitive; labor; including such offices and positions in the New York City housing authority, triborough bridge and tunnel authority, New York City transit authority, New York City board of education, New York City board of higher education, the city university of New York, and the offices of all district attorneys and all public administrators within the City of New York.

"Commission": the New York City civil service commission.

"Compensation": the annual salary attaching to a position or its equivalent if stated by the day, week, month, hour or other unit. Maintenance in the form of board and lodging or its monetary equivalent as duly fixed may also be included therein.

"Day": each day of the week; provided, however, if the last day for completing action on any matter is a Saturday, Sunday or holiday, it shall be the next business day.

"The Department of Personnel" or "Personnel Department": the department established by chapter thirty-five of the New York City charter.

"Examination": the process by which the department of personnel or other examining agency ascertains the fitness of candidates for entrance into the classified service or promotion therein.

"Examining Agency": an agency which schedules and conducts non-written promotion examinations for positions in that agency.

"Grade" or "Salary Grade": the order standing of a position with reference to the full-time annual compensation attaching to it or, if compensation be paid on other than a full-time per annum rate, then the equivalent of such rate as determined by the city personnel director.

"Jurisdictional Classification": the assignment of positions in the classified service to the exempt, non-competitive, labor or competitive classes.

"Period of Service": in computing the length of a period of service in order to attain a prescribed eligibility requirement, whenever the first working day is immediately preceded by a Saturday, Sunday or public holiday, or a combination thereof, such period of service shall be deemed to commence on the day following the last work day preceding the Saturday, Sunday or public holiday, or combination thereof.

"Position": a particular office or employment in the civil service.

"Position Classification": a grouping together under common or descriptive titles of positions that are substantially similar in the essential character and scope of their duties and responsibilities and in the qualification requirements therefor.

"Position Reclassification": the reassignment of a position or positions from one class of positions to a different class of positions.

"Publish": the term "publish" means making a public announcement by advising the public or making known of something to the public or bringing before the public either by posting publicly and conspicuously in the office of the department of personnel or other appropriate agency or printing or causing to be printed and to issue from a newspaper, or such other distribution or circulation as the city personnel director deems appropriate.

"Regulation": a resolution of the city personnel director setting forth policy or procedures for the effectuation of the provisions of the civil service law of the State of New York and the rules of the city personnel director, which shall not be inconsistent with or supersede the civil service law or the rules.

"Salary Grade Allocation": the assignment of a class of positions to one of the salary grades set forth in the classification rules.

"Salary Grade Reallocation": the reassignment of a class of positions from one salary grade to another salary grade.

"Service Rating", or "Performance Evaluation": a rating or evaluation of an employee for performance in a position as defined in the rules or regulations of the city personnel director.

"Subject": a subdivision of a test.

"Terminal Date": If the terminal date of a prescribed period in which to accomplish an act of duty occurs on a Saturday, Sunday, or public holiday, or a combination thereof, such date shall be deemed to be the first working day following thereupon.

"Test": a major subdivision of an examination.

"Title": the designation of a position based upon its duties and functions.

"Unclassified Service": all offices or positions in the civil service of New York City as described in section thirty-five of the civil service law.

RULE III - JURISDICTIONAL CLASSIFICATION

SECTION I-- THE EXEMPT CLASS

3.1.1. Definition

The exempt class shall include all offices and positions in the classified service enumerated in section forty-one of the civil service law and all other subordinate offices or positions for the filling of which competitive or non-competitive examination shall be found by the city personnel director to be not practical.

3.1.2. Application to Classify

An application by an agency to classify in the exempt class a position not specifically thus classified by law shall not be considered unless it is accompanied by a statement setting forth the reasons why examination, competitive or non-competitive, is impracticable.

3.1.3. Number of Positions; Classification by Rule

Not more than one appointment shall be made to or under the title of any office or position placed in the exempt class unless a different number is specifically prescribed in the classification rules. No office or position shall be deemed to be in the exempt class unless it's specifically named in such class in the rules.

3.1.4. Agency Certificate

Appointments to positions in the exempt class may be made without examination; but the agency head shall in each case submit to the department of personnel, in such form as it shall prescribe, a certificate which shall include:

- (a) the title of the position
- (b) the full name and residence of the appointee;
- (c) the place of the appointee's residence for five years immediately preceding appointment;
- (d) the appointee's previous appointments to and periods of service, if any, in the public service;
- (e) the appointee's qualifications for the office or position to be filled.

3.1.5. Evaluation Upon Vacancy

(a) Upon the occurrence of a vacancy in any position in the exempt class, the city personnel director shall study and evaluate such positions and, within four months after the occurrence of such vacancy shall determine whether such position, as then constituted, is properly classified in the exempt class. Pending such determination, such position shall not be filled, except on a temporary basis.

(b) If the city personnel director shall determine that such position is properly classified in the exempt class, such appointment shall be deemed effective as exempt as of the original date of appointment. The determination of the city personnel director thereon shall be recorded.

SECTION II--THE NON-COMPETITIVE CLASS

3.2.1. Definition

The non-competitive class shall include all positions that are not in the exempt or labor class and for which it is found by the city personnel director not to be practicable to ascertain the merit and fitness of applicants by competitive examination.

3.2.2. Application to Classify

An application by an agency to classify in the non-competitive class a position not specifically thus classified by law shall not be considered unless it is accompanied by a statement setting forth the reasons why competitive examination is impracticable.

3.2.3. Classification by Rule

(a) Not more than one appointment shall be made to or under the title of any office or position placed in the non-competitive class, unless a different or unlimited number is specifically prescribed in the classification rules. No office or position shall be deemed to be in the non-competitive class unless it is specifically named in such class in the rules.

(b) The city personnel director shall designate among positions in the non-competitive class those positions which are confidential or require the performance of functions influencing policy.

3.2.4. Examination

Appointments to positions in the non-competitive class shall be made after such non-competitive examination as is hereinafter prescribed and all such examinations shall be subject to the control of the city personnel director.

3.2.5. Agency Examiners

(a) In each agency there shall be a board of examiners for non-competitive positions, consisting of three members who are officers or employees of the agency designated by the agency head subject to the approval of the city personnel director.

3.2.6. Scope of Examination

Such examinations shall be conducted so as to show that the candidate

(a) is free from any physical or medical disability which will interfere with the proper discharge of the candidate's duties;

(b) is a person of satisfactory character and reputation;

(c) possesses the requisite knowledge and ability;

(d) is qualified by experience or training to discharge the duties of the position effectively.

3.2.7. Examination Reports; City Personnel Director Action

The reports of the character, scope and results of the examination of each candidate for a non-competitive position conducted by an agency board of examiners or by an institutional examiner, as the case may be, shall be transmitted to the city

personnel director on appropriate forms, when approved by such board at the end of each month or as otherwise prescribed in the regulations by the city personnel director. If such reports are disapproved in whole or in part by the city personnel director, the employees therein disapproved shall have their appointments terminated.

3.2.8. Compensation

Except as otherwise provided, the maximum compensation for positions in the non-competitive class shall be stated on a without maintenance basis. However, appointments may be made with or without maintenance. Where appointments are made with maintenance, the cash compensation for persons receiving maintenance shall be determined by subtracting the value of maintenance from the stated salary. A schedule showing allowable maintenance shall be prepared.

3.2.9. (Deleted 6/30/86)

3.2.10 Positions for the Physically or Mentally Disabled

(a) The city personnel director may determine a prescribed number of positions, not to exceed the maximum set by state law, with limited duties which can be performed by physically or mentally disabled persons who are found qualified, in the manner prescribed by law, to perform such duties.

(b) Upon such a determination, such positions shall be classified in the non-competitive class, and shall be filled by persons who shall have been certified by either the commission for the blind and visually handicapped in the state department of social services as physically disabled by blindness or by the state education department as otherwise physically or mentally disabled and, in any event, qualified to perform satisfactorily the duties of any such position. At least three hundred of such positions shall be filled by persons who have been certified as physically disabled. If no qualified physically disabled persons have applied for such positions, the city personnel director may determine to fill those unfilled positions with qualified mentally disabled persons.

(c) The city personnel director shall issue procedures for approval of appointments of physically or mentally disabled persons to such non-competitive positions as are established pursuant to this rule.

3.2.11. Service Outside the City of New York

The city personnel director may except from competitive examination any qualified person who is to render services in a locality outside the city and who is a resident of such locality, where competitive examination is not practicable. No such person shall be eligible for transfer or assignment to work within the city.

SECTION III--THE LABOR CLASS

3.3.1. Definition; Classification; Requirements

(a) The labor class shall comprise all unskilled laborers in the classified service as are not classified in the competitive or non-competitive class.

(b) No position shall be deemed to be in the labor class unless it is specifically named in such class in the classification rules.

3.3.2. Termination

Upon the termination of an employment in the labor class, the agency head shall certify to the department of personnel the reasons therefor.

SECTION IV--THE COMPETITIVE CLASS

3.4.1. Definition

The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examination and shall include all positions now existing or hereafter created, of whatever functions, designations, or compensation, except such positions as are in the exempt class, the non-competitive class or the labor class.

3.4.2. Application to Otherwise Classify

An application by an agency to classify in the exempt, non-competitive or labor class, a position not specifically thus classified by law shall not be considered unless it is accompanied by a statement setting forth the reasons why competitive examination is impracticable.

3.4.3. Examination

The merit and fitness of applicants for positions which are classified in the competitive class shall be ascertained by such examinations as may be prescribed by the city personnel director and as provided for in these rules.

3.4.4. Jurisdictional Reclassification

Whenever a position in the exempt, non-competitive or labor class is reclassified into the competitive class, the permanent incumbent of such position, if there be any at the time of such reclassification, shall continue to hold the position with all the rights and status of a competitive employee.

SECTION III--DISQUALIFICATION OF APPLICANTS OR ELIGIBLES

4.3.1. General Provisions

(a) The city personnel director, upon investigation of applicants for positions in the civil service or review of their qualifications, may refuse to examine an applicant or after examination refuse to certify or refuse to permit the certification of an eligible for reasons and in the manner prescribed by law or these rules. (b) Investigation of the qualifications and background of an eligible may be made after appointment and, upon finding facts which, if known prior to appointment, would have warranted disqualification, or upon a finding of "illegality", irregularity or fraud of a substantial nature in the eligible's application, examination or appointment, the certification of such eligible may be revoked by the city personnel director and the employment directed to be terminated, provided, however, that no such certification shall be revoked or appointment terminated more than three years after it is made, except in the case of fraud.

(c) No person shall be disqualified by the city personnel director unless such person has been given a written statement by the city personnel director of the reasons therefor and afforded an opportunity to make an explanation and to submit facts in opposition to such disqualification. An examining agency's determination of eligibility or candidates for such agency's non-written promotion examination shall be subject to the provisions of 8.2.2 and 8.2.3 if these rules.

(d) Agencies shall assist the department of personnel in investigations in the manner prescribed by the city personnel director.

4.3.2. General Requirements

(a) An applicant or eligible must possess the established minimum requirements and qualifications for admission to an examination or for appointment to a position.

(b) Satisfactory character and reputation shall be deemed apart of the established minimum requirements and qualifications for admission to an examination or for appointment to a position.

(c) A person convicted of petit larceny may in the discretion of the city personnel director be examined or certified as a police officer or firefighter, A person dishonorably discharged from, the armed forces of the United States shall not be examined, certified or appointed as a police officer or firefighter.

(d) Except as provided in subdivisions (e) and (f) hereof, any physical or mental disability, disease, injury, abnormality, or defect which renders a person unfit for the performance in a reasonable manner of the duties of the position the person seeks or the failure to meet the required medical or physical standards of a position, shall constitute grounds for the disqualification of such person.

(e) In the case of blind or otherwise physically handicapped persons as described in section fifty-five of the civil service law, who do not qualify under subdivision (d) hereof, due consideration shall be given to such findings as may be submitted by the state commission for the visually handicapped of the state education department, as the case may be, and such persons, if otherwise qualified, may be certified to positions from eligible lists upon which their names appear either generally or upon limited terms and conditions, as provided by regulations and procedures adopted by the city personnel director.

(f) Where a person on an eligible list does not qualify under subdivision (d) hereof for the position for which the list was established, and where such list is declared appropriate for a position requiring lesser medical and physical standards than those required for the original position, such person shall, upon application during the life of the list, if he or she meets such lesser standards, be qualified for the latter position and shall be certified thereto in his or her regular order of such list.

4.3.3. Burden

The burden of establishing the required qualifications shall be upon the applicant or eligible.

SECTION V--ADDITIONAL CREDIT ON COMPETATIVE EXAMINATIONS
FOR VETERANS AND DISABLED VETERANS

- 4.5.1. Application for Additional Credit
- (a) A veteran or disabled veteran who elects to claim additional credit as provided in the civil service law, shall so notify the city personnel director and establish by appropriate documentary evidence eligibility for such additional credit.
- (b) No such claim shall be accepted as approved which has not been filed prior to the establishment of the eligible list. However, such timely claim may, prior to appointment, be amended to reflect the disabled or non-disabled veteran status recognized by the veterans administration at the time the list was established.
- 4.5.2. General Procedures
- (a) Prior to appointment or promotion, as the case may be, a veteran or disabled veteran reached for appointment or promotion on an eligible list by virtue of such additional credits, shall subscribe a statement on a form provided by the city personnel director that no permanent original appointment or permanent promotion to a position in the civil service of the state or any civil division or city thereof had previously been obtained as a result of the additional credits prescribed in the civil service law.
- (b) The agency head shall at the the time of appointment require a person appointed by virtue of some additional credits to execute an instrument on a form prescribed by the city personnel director, setting forth such person's public employment since January 1, 1951.
- 4.5.3. Use of Additional Credit
- (a) A person who has receive a permanent original appointment or permanent promotion to a position in the civil service of the the state or any of its civil divisions as a result of additional credit, either as a veteran or disabled veteran, in any competative examination for original appointment or promotion to any position in the civil service of the state or any civil division thereof.
- (b) The appointment or promotion of a veteran or disabled veteran as a result of additional credits shall be void if such veteran or disabled veteran, prior to such appointment or promotion, had received a permanent original appointment or permanent promotion to a position in the civil service of the state or any of its civil divisions as a result of additional credits.
- 4.5.4. Exhaustion of Credits; Exceptions
- When a veteran or disabled veteran accepts a permanent position from an eligible list by virtue of such additional credits, such person shall be deemed to have exhausted those credits unless:

(a) prior to the expiration of the probaationary term, such veteran or disabled beterna resigns from the position; or (b) the services of such veteran or disabled veteran are terminated ata the end of or during the probationary term; or (c) at the time of establishment of an eligible list, the position of a veteran or disabled veteran on such list has not been affected by the addition of credits; or (d) at the time of appointment from an eligible list, a veteran or disabled veteran is in the same relative standing among the eligibles who are willing to acccept appointment as if veteran or disabled veteran had not been granted additional credits.

4.5.5. Withdrawal of Application; Election to Relinquish

(a) An application for additional credits may be withdrawn by the applicant in writing at any time prior to the establishment of an eligible list or during its existence and prior to appointment or promotion therefrom. In such case, the election shall be irrevocable and the applicant's place on the eligible list shall be revised accordingly.

(b) Where such election is made in connection with certification to a position for which the list has been declared appropriate other than to the position for which the examination was held, it shall not affect the spplicant's standing on the list in respect to the latter position.

4.5.6. Roster

There shall be established in the department of personnel a roster of all veterans and disabled veterans appointed or promoted as a result of the additional credits granted pursuant to the civil service law...

4.5.7. Disabled Veterans' Records

All certificates and other documents, memorands, reports and information furnished by the United States veterans administration to the department of personnel in connection with claims for disabled veterans' preference shall be deemed confidential unless the city personnel director determines that the withholding therof is contrary to the public interest.

SECTION XVII--CERTIFICATION OF ELIGIBLE LISTS
AND SELECTION THEREFROM

4.7.1. General Provisions

(a) The provisions of this section shall apply to the certification of eligible lists by the city personnel director or, in the case of classes of positions unique to an agency, the certification of eligible lists for such classes by the agency head.

(b) Appointments or promotions shall be made from the established list most nearly appropriate for the position to be filled, as determined by the city personnel director.

(c) Appointment or promotion from an established eligible list to a position in the competitive class shall be made by the selection of one of the three persons certified by the city personnel director or the head of the certifying agency, as the case may be, as standing highest on such established list who are qualified and willing to accept such appointment or promotion. Where applicable, such selection shall be made as provided for in paragraph 4.4.12 of these rules.

(d) The rating of each eligible shall be stated in the certification.

(e) The agency head may review the examination application and records of each certified eligible at the office of the department of personnel.

4.7.2. Existing Eligible Lists

(a) When an eligible list has been in existence for less than one year and contains the names of less than three eligibles willing to accept appointment, and a new list for the same position or group of positions is established, the names of the eligibles remaining on the old list shall have preference in certification over the new list until such old list is one year old. During such period such names shall be certified along with enough names from the new list to provide a sufficient number of eligibles from which selection may be made.

(b) Where an old list which has been in existence for one year or more is continued upon the establishment of a new list which contains less than three names, the city personnel director may certify or may authorize the head of the certifying agency to certify the names on the old list along with enough names from the new list to provide a sufficient number of eligibles from which selection may be made.

(c) Agency and city-wide promotion eligible lists shall not be certified for an agency until after the promotion unit eligible lists for that agency, if any, have been exhausted.

4.7.3. Additions to Certification

(a) If there be more than one position to be filled, or if the city personnel director or certifying agency head has reason to anticipate declinations, or where the certification is to be completed as set forth in this paragraph, the city personnel director or certifying agency head shall supplement the certification for the selection by the addition of the names of those next in order on the established list. However, selection shall be made singly and in each case from the three highest names remaining qualified and eligible and willing to accept appointment or promotion, or from among those eligibles as provided for the paragraph 4.4.12 of these rules, as the case may be.

(b) On notification from an agency head that one or more eligibles have declined appointment and on receipt by the department of personnel from such officer of any such declination in writing, or of evidence of the failure of any such eligible to respond to a notice properly sent, such certification shall be completed by the addition of the name or names of the eligibles next in order of standing on the list.

(c) Upon receipt by the head of a certifying agency of a written declination of appointment by one or more eligibles named in a certification or of evidence of the failure of any such eligible to respond to a notice properly sent, such certification shall be completed by the addition of the name or names of the eligibles next in order of standing on the list.

(d) Where objection to the certification of one or more eligibles has been duly made by an agency head and the city personnel director sustains such objection, the certification shall be completed by the addition of the name or names of the eligibles next in order of standing on the eligible list.

4.7.4. Limitation on Certifications

No name shall be certified more than three times to the same agency head for the same or similar position unless at such officer's request. However, only those who have been actually entitled to consideration for selection shall be charged with certification. For appointment to the position of police officer in the police, transit police, or housing police services, no name certified three times to one agency head shall be certified to another unless at such agency head's request.

4.7.5. Duration of Certification

A certification shall not remain in force and effect for a period longer than thirty days nor beyond the existence of the eligible list from which certification was made. Until such certification has been exhausted or terminated, no new certification shall be made for the same position in the same agency.

4.7.6. Revocation of Individual Certification or Appointment
Whenever a person not entitled to certification is certified, such certification and appointment, if any, shall be revoked by the city personnel director.

4.7.7. Ineligibility for Further Certification
An eligible who has been appointed to a permanent position for which the list was established or to a similar position in the same or higher grade, shall no longer be eligible for certification from such list.

4.7.8. Conditional Certification
(a) Upon the initiative of the city personnel director or upon request of the agency head, the city personnel director may certify eligibles subject to investigation, medical test or other qualifying test or requirement, where such conditions were not provided for at the time an eligible list was established. Upon approval by the city personnel director, such conditional certification may be made by the head of a certifying agency.
(b) Written notice of such conditional certification pursuant to this paragraph shall be given to eligibles at the time of appointment or promotion, as the case may be.
(c) Whenever, upon subsequent investigation, medical test or other qualifying test or requirement, an eligible thus certified is found to be not qualified, such certification shall be revoked by the city personnel director and the employment, if any, of such eligible terminated, provided, however, that no such certification shall be revoked or appointment terminated more than three years after it is made, except in the case of fraud.

4.7.9. Certification by Sex
The city personnel director may authorize the limitation of certification from an eligible list to one sex when the duties of the position involve institutional or other custody or care of persons of the same sex, or the visitation, inspection, or work of any kind of nature of which is a bona fide occupational qualification requiring sex selection.

4.7.10. Selective Certification
(a) Selective certification may be made from an eligible list to fill similar or related positions which require additional or special qualifications not tested for specifically in the prescribed requirements or tests of an examination, in the manner provided in this paragraph.
(b) Upon the initiative of the city personnel director or at the request of the head of an agency, the city personnel director may selectively certify from an eligible list where the announcement of examination originally contained a specific provision for such

selective certification.

(c) With respect to certifying agencies, the agency head may so selectively certify, where the announcement of examination originally contained a specific provision for such selective certification, upon approval by the city personnel director.

(d) Selective certification shall be made only upon due notice to all affected eligibles on such list.

(e) Eligibles on such list who possess the additional or special qualifications required as evidenced by experience, appropriate licensure, possession of essential tools, equipment and facilities, or who pass an appropriate qualifying test shall be qualified for selective certification and shall be certified to such similar or related positions in the order of standing on the original list.

(f) Where the announcement of examination did not originally contain a provision for such selective certification, it shall not be made or authorized until intention to make such certification has been duly advertised in a designated newspaper and a public hearing thereon held by the city personnel director in the same manner as is required for the adoption of amendment of a rule.

4.7.11. Certification Pools

Certification pools may be conducted at the discretion of the city personnel director for the purpose of filling positions more expeditiously. Such certification pools shall be conducted pursuant to appropriate terms and conditions not inconsistent with the civil service law or these rules.

4.7.12. Continuing Eligible Lists

(a) The city personnel director may establish continuing eligible lists for such classes of positions where the needs of the service require. Such continuing eligible lists shall consist of the names of candidates successful in tests which may be conducted from time to time and which shall be so constructed and rated so as to be as nearly equivalent as possible in coverage and difficulty.

(b) The name of any candidate who passes any such test and who is otherwise qualified shall be placed on such eligible list in the rank corresponding to the candidate's final rating on such test.

(c) The period of eligibility of successful candidates for certification and appointment from such continuing eligible lists shall be one year following the date on which such candidates first became eligible for certification.

(d) A candidate shall be certified simultaneously with more than one rank on the continuing eligible list.

SECTION VIII - DECLINATION OF APPOINTMENT

4.8.1. Applicability

The provisions of this section shall apply to appointments from established eligible lists certified by the city personnel director or by the head of a certifying agency.

4.8.2. Effect of Declination; Failure to Respond; Failure to Report
Except as otherwise provided in this section, the name of an eligible who has been certified for employment in and offered an appointment to a position, whether or not the list was expressly established therefor, shall be withheld from certification for any position upon the occurrence of one of the following:

- (a) declination by the eligible of an offer of appointment to any such position;
- (b) failure of the eligible to respond to an offer of appointment within the period fixed by the agency head, provided that such period is not less than four days after the date of such offer;
- (c) failure of the eligible to report for duty after accepting such position.

4.8.3. Exceptions for Declinations

(a) notwithstanding the provisions of paragraph 4.8.2, declination by an eligible of an offer of appointment to a position, whether or not the list was expressly established therefor, shall result only in withholding such eligible's name from certification to a like position of the declination is for one of the following reasons:

- (1) temporarily inability to accept the position;
- (2) in the case of original appointment the location in which the duties are to be performed. However, if the location is within the city of New York, such declination shall apply to the entire city, and if outside the city of New York, such declination shall apply to the entire county;
- (3) in the case of promotion, where the certification is from a citywide promotion list and the position offered is in an agency other than the agency where the eligible is employed;
- (4) in the case of promotion, location on the basis of borough or county in which the duties are to be performed.

(b) where the offer of appointment is to a position other than that for which the list was expressly established and is declined by an eligible for that reason, such declination shall result only in withholding such eligible's name from further certification to any such other like position.

(c) where the eligible declines appointment to a specific position for which the list has not been expressly established, because of the objectionable nature of the duties to be of such nature, such eligible's name shall be withheld only for certification to a like specific position. However, where the list has been expressly established for such specific position, such person's name shall be withheld from certification upon declination of appointment for such reason.

(d) if a list established for permanent appointment is certified for temporary, seasonal or part-time employment, declination of an offer of employment shall result only in withholding such eligible's name from certification for a position of a like duration of employment. However, where the eligible list has been expressly established for a position of temporary, seasonal or part-time duration, declination of appointment to such position shall result in withholding the eligible's name from further certification.

4.8.4. Effect of Withholding From Certification on Certification to a Like Position

A person whose name has been withheld from certification shall not be eligible for a like certification until all eligible's on the eligible list upon which such person's name appears have been reached for like certification unless such person submits an explanation satisfactory to the city personnel director for the declination or failure to reply or to accept appointment. Such explanation must be filed in writing with the department of personnel at any time prior to the expiration date of the eligible list.

4.8.5. Conditions For Restoration

(a) the name of an eligible for an original appointment which has been withheld from certification shall not be restored to such list for certification, except upon written request therefor by such eligible. No more than total of three restorations shall be permitted.

(b) the name of an eligible for promotion to a higher position, which has been withheld from certification shall automatically be restored to the bottom of such list for certification. No more than a total of three restorations shall be permitted.

(c) the city personnel director may, if the need of the service require, restore names of eligible's covered by this paragraph 4.8.5 to a list without their written request. Such restorations shall not be included in the total of three restorations permitted.

4.8.6. Declination for Insufficiency of Compensation

When declination for insufficiency of compensation offered results in the selection of an eligible lower on the eligible list than the person who thus declined, the compensation of the person selected shall not be increased within one year after such selection beyond the amount declined, unless each eligible originally declining has received or declined appointment or promotion at the increased amount. However, at the discretion of the city personnel director, for reasons to be recorded, this limitation may be waived.

4.8.7. Different Compensation

Notwithstanding the provisions of paragraph 4.8.6, upon the written request of an agency head setting forth the reasons therefor, the city personnel director may certify to specified agencies, eligible having specified additional qualifications at a rate of compensation above that offered to other persons on the same eligible list.

RULE V - APPOINTMENTS AND PROMOTIONS

SECTIONS I - APPOINTMENTS AND PROMOTIONS GENERALLY

5.1.1. Prohibition Against Out-of-Title Work

No person shall be appointed, promoted or employed under any title not appropriate to the duties to be performed and, except upon assignment by proper authority during the continuance of temporary emergency situation, no person shall be assigned to perform the duties of any position unless duly appointed, promoted, transferred or reinstated to such position in accordance with the law and rules prescribed therefor. No credit shall be granted in a promotion examination for out-of-title work.

5.1.2. Procedures for Identification and Oath

(a) upon appointment or promotion an eligible shall be fingerprinted and shall execute in the presence of the agency head or representative the prescribed identification form.

(b) an eligible shall likewise take and file such oath or affirmation as may be required by law. Such oath shall not be required from an employee in the labor class and shall be required only in other cases upon original appointment or upon a new appointment following an interruption of continuous service and shall not be required upon promotion, demotion, transfer or other change of title during the continued service of the employee, or upon the reinstatement pursuant to law or rules of an employee whose services have been terminated and whose last executed oath is on file.

(c) the duly executed identification form of the eligible or employee, together with the notice of appointment or promotion, shall be transmitted to the department of personnel.

5.1.3. Appointment Subsequent to Qualification

Whenever a person has been declared qualified after investigation, medical or other qualifying tests or requirements, and is certified either by the city personnel director or the head of a certifying agency for appointment after such qualification, such person upon appointment shall execute a supplemental statement, as the city personnel director may prescribe, pertaining to such investigation, medical or other qualifying tests or requirements.

SECTION II - PROBATIONARY TERMS

5.2.1. Probationary Term

(a) every appointment and promotion to a position in the competitive or labor class shall be for a probationary period of one year unless otherwise set forth in the terms and conditions of the certification for appointment or promotion as determined by the city personnel director. Appointees shall be informed of the applicable probationary period.

(b) every original appointment to a position in the non-competitive or exempt class shall be for a probationary period of six months unless otherwise set forth in the terms and conditions for appointment as determined by the city personnel director. Appointees shall be informed of the applicable probationary period. However, such probationary period may be terminated by the city personnel director or by the agency head before the end of the probationary period, and the appointment shall thereupon be deemed revoked. Nothing herein shall be deemed to grant permanent tenure to any non-competitive or exempt class employee.

5.2.2. Effect of Certain Prior Service and Military Law

(a) notwithstanding anything to the contrary contained in paragraph 5.2.1, 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 or, as determined by the city personnel director, 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.

(b) subject to the provisions of the military law of the state of New York, the computation of the probationary period shall be based on the time during which the employee is on the job in a pay status.

5.2.3. Status of Former Position Upon Promotion

Upon promotion, the position formerly held by the person promoted shall be held open for the promotee, and shall not be filled, except on a temporary basis, pending completion of the probationary term.

5.2.4. Waiver Upon Promotion

Upon promotion, the agency may waive the requirement of satisfactory completion of the probationary term any time during such term.

5.2.5. Leave of Absence During Probationary Term

Whenever a probationer who has not completed a probationary term has been granted a leave of absence to accept appointment on a provisional, temporary, emergency or exceptional basis to another position in the city service or to accept permanent appointment to a position in another jurisdictional classification, the period of service in such position or positions may, in the discretion of the agency head who appointed such person as a probationer, be counted as satisfactory probationary service in determining the completion of such probationary term.

5.2.6. Restoration After Separation From Service; Conditions

A probationer separated from the service for any reason other than fault or delinquency may be restored by, and at the discretion of, the city personnel director to the eligible list from which selected, if it be in existence, with the same relative standing thereon for general certification therefrom or for certification to agencies other than the one from which the probationer was separated provided that:

(a) the time during which such person has actually served shall be deducted from the probationary term if such person be again selected by the same agency head;

(b) if selected by another agency head, such person shall be required to serve a full probationary term unless such agency head elects to credit such person with time theretofore served.

5.2.7. Termination

(a) at the end of the probationary term, the agency head may terminate the employment of any unsatisfactory probationer by notice to such probationer and to the city personnel director.

(b) notwithstanding the provisions of paragraph 5.2.1, whenever any agency has with the approval of the city personnel director established a prescribed formal course of study or training for all probationary employees in a given title or titles, the agency head may, at the close of such course of study or training, terminate the employment of any probationer who fails to complete successfully such course of study or training, as the case may be.

(c) notwithstanding the provisions of paragraphs 5.2.1 and 5.2.7(a) the agency head may terminate the employment of any probationer whose conduct and performance is not satisfactory after the completion of a minimum period of probationary service and before the completion of the maximum period of probationary service by notice to the said probationer and to the city personnel director. The specified minimum period of probationary service, unless otherwise set forth in the terms and conditions of the certification for appointment or promotion as determined by the city personnel director, shall be:

(1) two months for every appointment to a position in the competitive or labor class and

(2) four months for every promotion to a position in the competitive or labor class.

5.2.8. Extension of Probationary Period

(a) notwithstanding the provisions of paragraph 5.2.1, upon the written request of the agency head setting forth the reasons therefor and with the written consent of the probationer, the city personnel director may authorize the extension of the probationary term for one or more additional periods not exceeding in the aggregate six months; provided, however, that the agency head may terminate the employment of the probationer at any time during any such additional period or periods.

(b) notwithstanding the provisions of paragraphs 5.2.1 5.2.2 and 5.2.8(a), the probationary term is extended by the number of days when the probationer does not perform the duties of the position, for example: limited duty status, annual leave, sick leave, leave without pay, or use of compensatory time earned in a different job title; provided, however, that the agency head may terminate the employment of the probationer at any time during such additional period.

5.2.9. Restoration After Termination

Where the services of a probationer have been terminated, the city personnel director has the discretion to and may restore the name of such probationer to the eligible list, if it be in existence. Such probationer's name shall be duly certified to other agency heads or to the same agency head if the latter so requests.

5.2.10. Continued Employment Pending Appeal

Whenever a probationer who has been declared not qualified by the city personnel director for the position held by the probationer files an appeal with the commission, upon the written request of the agency head setting forth the reasons therefore, the probationer's continued employment may be authorized at the discretion of the city personnel director pending final decision of such appeal; provided, however, that the period of service between such declaration of disqualification and the disposition of the appeal shall not be counted in determining the completion of such probationary term.

5.2.11. Reports to City Personnel Director

The city personnel director may require an agency head to report in writing on the quality of the performance of any probationer.

Section III--Promotions

5.3.1. General Provisions

(a) Except as otherwise provided, promotion examinations and promotions shall be governed by the rules relating to original appointments.

(b) The provisions of this section shall apply to promotion examinations conducted by the department of personnel and to non-written promotion examinations conducted by examining agencies.

5.3.2. Limitations On Promotion

(a) No promotion shall be made from one position or title to another position or title unless specifically authorized by the city personnel director, nor shall a person be promoted to a position or title for which there is required an examination involving essential tests or qualifications different from or higher than those required for the position or title held by such person unless the person has passed the examination and is eligible for appointment to such higher position or title.

(b) An increase in the salary or other compensation of any person holding an office or position in the competitive class beyond the limit fixed for the grade of such position in the classification rules or an advancement from one rank to a higher rank shall be deemed a promotion except as provided otherwise in a labor contract, a labor relations order or personnel order and be subject to the prohibition of this paragraph.

5.3.3 Filling Vacancies by Promotion

(a) Except as provided in paragraph 5.3.5, vacancies in positions in the competitive class shall be filled, so far as practicable, by promotion from among persons holding competitive class positions in a lower grade in the agency in which the vacancy exists, provided that such lower grade positions are in the direct line of promotion, as determined by the city personnel director.

(b) Where the city personnel director determines that it is impracticable or against the public interest to limit eligibility for promotion to persons holding lower grade positions in the direct line of promotion, the city personnel director may extend eligibility for promotion to persons holding:

(1) competitive class positions in lower grades which are determined by the city personnel director to be in related or collateral lines of promotion; or

(2) comparable positions in any other unit or units of governmental service and may prescribe minimum training and experience qualifications for eligibility for such promotion.

(c) The city personnel director may open promotion examinations to eligible, otherwise qualified, in two or more grades who shall have served for the required period in any or all of such grades to which such examination is open. The city personnel director also may extend eligibility in a promotion examination to persons holding positions of a corresponding character in the same grade as that of the position for which the examination is held. Eligibility shall be limited to persons who meet the requirements prescribed in the announcement of examination.

(d) Agency requests for any extension of eligibility provided for in this paragraph shall be made in accordance with the regulations of the city personnel director.

5.3.4. Promotion Units

Promotion examinations may be held for such subdivisions of an agency as the city personnel director may determine to be an appropriate promotion unit. Where promotion examinations are held for a promotion unit in an agency there shall be no certification of agency and citywide promotion eligible lists until after the promotion unit eligible lists for that agency have been exhausted.

5.3.5. Filling Vacancies by Open Competitive Examination

(a) Upon the initiative of the city personnel director or upon the written request of an agency head stating the reasons therefor the city personnel director may determine to conduct an open competitive examination for filling a vacancy or vacancies instead of a promotion examination.

(b) An agency head may determine that an open competitive examination should be conducted for filling a vacancy or vacancies in positions within the agency within the agency, instead of a promotion examination, subject to the provisions of this paragraph.

(c) Prior to any determination under paragraph 5.3.5(a) or (b) a determination shall be made by the city personnel director:

(1) whether there are less than three persons eligible for promotion in the promotion unit where the vacancy exists or in the agency, if such vacancy is not in a separate promotion unit; or

(2) whether, in consultation with the agency head, an open competitive and promotion examination should be held simultaneously for vacancies in such positions.

If an affirmative determination is made under this subparagraph (c), the notice provisions of this paragraph shall not apply.

(d) A notice of intention to conduct such open competitive examination or a copy of the agency head's request for an open competitive examination, as the case may be, shall be publicly and conspicuously posted in the offices of both the agency and the department of personnel, where such determination is made by the city personnel director under the provisions of 5.3.5(a). The determination or request shall not be acted upon until said notice has been posted for a period of not less than fifteen days.

(e) A notice of intention to conduct such open competitive examination shall be publicly and conspicuously posted in the offices of the agency, where such determination is made by the agency head under the provisions of 5.3.5(b). Said notice shall be posted for a period of not less than fifteen days. The agency heads determination and the reasons therefor, in writing, shall have been sent to the city personnel director simultaneously with such posting.

(f) Any employee who believes that a promotion examination should be held for filling such vacancy, may submit to the city personnel director and the agency head a request in writing, for a promotion examination rather than an open competitive examination, stating the reasons why such employee believes it to be practicable and in the public interest to fill the vacancy by promotion examination.

(g) The city personnel director shall decide whether to disapprove an agency determination pursuant to 5.3.5(b) within thirty days of its receipt.

5.3.6. Citywide Lists

The city personnel director may establish citywide promotion lists which shall not be certified to an agency until after the promotion eligible list for that agency has been exhausted.

5.3.7. Promotion by Non-Competitive Examination

Whenever there are no more than three persons eligible for examination for promotion to a vacant competitive class position, or whenever no more than three persons file application for examination for promotion to such position, the agency head may nominate one of such persons and such nominee, upon passing an examination appropriate to the duties and responsibilities of the position may be promoted, but no examination shall be required for such promotion where such nominee has already qualified in an examination appropriate to the duties and responsibilities of the position.

5.3.8. Factors in Promotion

Promotion shall be based on merit and fitness as determined by examination. Seniority, previous training and experience of candidates, and performance based on performance evaluation may be considered and given due weight as factors in determining the relative merit and fitness of candidates for promotion.

5.3.9. Credit for Provisional Service

No credit in a promotion examination shall be granted to any person for any time served as a provisional appointee in the position to which promotion is sought or in any similar position, provided, however, such provisional appointee by reason of such provisional appointment shall receive credit in the permanent from which promotion is sought for such time served in such provisional appointment.

5.3.10. (Deleted 10/19/81)

5.3.11. (Deleted 10/19/81)

5.3.12. Eligibility to Compete in a Promotion Examination: Preferred List of Absence Status

An employee who has been suspended from a position through no fault of the employee and whose name is on a preferred list, and any employee on leave of absence from a position shall be allowed to compete in a promotion examination for which such employee would otherwise be eligible on the basis of actual service before suspension on leave of absence.

5.3.13. (Deleted 10/19/81)

5.3.14. Eligibility for Certification from a Promotion List

Eligibility for certification by the city personnel director or head of a certifying agency from a promotion list shall be limited to permanent employees whose names appear on such list who have successfully completed their probationary periods in the eligible title from which promotion is being made.

5.3.15. Eligible List Status of Employees Involuntary Transferred, Reinstated from a Preferred List or Transferred to Avoid Layoff

Whenever a permanent employee is involuntary transferred from one agency to another due to a transfer of personnel upon a transfer of functions or whenever such employee is reinstated from a preferred list to an agency other than the one from which the employee was separated:

(a) If both the examination for the agency to which the employee is being transferred and the examination for the agency from which the employee was transferred were not given simultaneously nor are they identical, the employee shall be entitled, upon written application, to have his or her name transferred from such agency promotion list upon which it may appear in the first agency and entered upon a corresponding special promotion list for the agency to which such employee was reinstated from the preferred list or was involuntary transferred. However, such corresponding special promotion list shall not be certified for promotion to such agency until any existing corresponding agency and unit promotion list or lists shall have been exhausted or terminated;

(b) If both the examination for the agency to which the employee is being transferred and the examination for the agency from which the employee was transferred were given simultaneously and are identical, the said employee shall be entitled upon written application to have his or her name transferred from such agency promotion list upon which it may appear and entered upon the appropriate eligible list in the agency to which such employee was reinstated from the preferred list or was involuntary transferred based upon the final adjusted mark of such employee;

(c) If both the examination for the agency to which the employee is being transferred and the examination for the agency from which the employee was transferred were given simultaneously and although not identical the city personnel director has determined that said examinations are comparable, the said employee shall be entitled upon written application to have his or her name transferred from such agency promotion list upon which it may appear and to have his or her name entered upon the appropriate eligible list in the agency to which such employee was reinstated from the preferred list or was involuntary transferred based upon the final adjusted mark of such employee.

(d) The provisions of this sector shall apply to a permanent employee who is transferred either voluntarily or involuntarily to avoid imminent suspension or demotion of employees within an agency due to an abolition or reduction of positions. The determination that suspensions or demotions are imminent shall be made by the city personnel director.

(e) Where employees in the second agency, in the same title as the transferred employees provided for in this section, would have been eligible to participate in a promotion examination given at the same time as the one given to such transferred employees, but no such promotion examination was given, the provisions of this section shall not apply to such transferred employees.

5.3.16. Provisions for Promotion in the Correction, Fire, Housing, Police, Police, Rapid Transit Railroad and Transit Police Services

(a) The provision of paragraph 5.3.14 shall not be applicable in the case of promotion examinations and promotions in the correction, fire, police, and rapid transit railroad services.

(b) Eligibility to compete in promotion examinations for positions in the rapid transit railroad service shall be limited to employees, otherwise qualified, who have served permanently in the eligible title or titles for a period of not less than one year if the examination is for a position in group II or for a period of not less than six months if the examination is for a position in group I, except as otherwise provided by law or rule or fixed in the notice of examination.

(c) In examinations for promotion to positions in the police, fire, rapid transit railroad, transit police, housing police and correction services, the method of rating seniority and performance and the terms and conditions of eligibility for competition and promotion therefor shall be set forth in the announcement of examination.

RULE VI - PERSONNEL CHANGES

SECTION I -- TRANSFERS

- 6.1.1. **General Provisions**
Except as provided in paragraph 6.1.9 of this section, an employee shall not be transferred to a position for which there is required an examination involving essential tests or qualifications different from or higher than those required for the position held by such employee.
- 6.1.2. **Functional Transfers**
~~Upon the transfer of a function from one~~ agency to another agency, the permanent employees in the competitive or labor class so transferred shall be transferred without further examination of qualification and shall retain their respective civil service classification and status as employees in such new agency in accordance with the provisions of law governing functional transfers.
- 6.1.3. **General Requirements**
Every transfer, other than a functional transfer, shall require the consent, in writing, of the proposed transferee and of the respective head of the agencies concerned therewith and the approval of the city personnel director.
- 6.1.4. **Existing Eligible List, Restriction**
A transfer, other than a functional transfer, shall not be approved to a position for which an adequate appropriate preferred or agency promotion list exists, except as provided for in paragraph 6.1.5 of this section.
- 6.1.5. **Special Transfer Lists**
Whenever it is determined to the satisfaction of the city personnel director that the abolition of a permanent position in the competitive class is imminent:
(a) the head of the agency in which such position exists shall furnish forthwith to the city personnel director the name, title, date of original appointment and the salary of the employee expected to be suspended; and
(b) the city personnel director shall thereupon establish a special transfer list for such title and shall place the name of such employee thereon in the order of original appointment as though suspended in accordance with section eighty of the civil service law; and
(c) for a period not exceeding six months prior to the prospective abolition of such position, an employee whose name appears on such special transfer list shall be eligible for the filling of vacancies in the same or similar position before certification is made from any open competitive or promotion list; and

(d) the name of any employee appearing on such special list who is not so transferred prior to the abolition of such employee's position shall be placed on an appropriate preferred list pursuant to section eighty-one of the civil service law.

6.1.6. Eligibility of Probationers for Transfer

An employee on probation shall be eligible for transfer; provided however, that:

(a) if such transfer is voluntary such employee shall serve the entire period of probation on the job in a pay status in the new position in the same manner and subject to the same conditions as required upon such employee's employment in the position from which transfer is made, and in accordance with the provisions of paragraph 5.2.1;

(b) if such employee is involuntarily transferred from one agency to another due to a transfer of personnel upon a transfer of function, or if such employee transfers voluntarily to avoid layoff resulting from a reduction in force, then, in either of such events, such employee shall receive credit for the period of time already served on probation.

6.1.7. Assignment During Period of Disability

An employee who has incurred a disability which prevents the employee from performing the normal duties of the position may assigned during the period of such disability to other appropriate duties for which the employee is deemed duly qualified as determined by the city personnel director.

6.1.8. Transfers: Other Jurisdictions

Transfers between positions subject to the jurisdiction of the city personnel director and positions subject to the jurisdiction of the state civil service commission, the administrative board of the judicial conference or any other municipal civil service commission the state may be approved by the city personnel director, provided that the state civil service commission, the administrative board of the judicial conference or other municipal civil service commission has adopted reciprocal rules therefor and approves such transfers.

6.1.9. Transfer and Change of Title

Notwithstanding the provisions of paragraph 6.1.1 of this section or any other provision of law, any permanent employee in the competitive class who meets all of the requirements for a competitive examination, and is otherwise qualified as determined by the city personnel director, shall be eligible for participation in a non-competitive examination in a different position classification provided, however, that such employee is holding a position in a similar grade.

SECTION II -- REINSTATEMENT

6.2.1 General Provisions

(a) An employee who has completed a probationary term in a permanent position in the competitive or labor class, and who has resigned or retired therefrom may be reinstated with the approval of the city personnel director to:

- (1) the position from which the employee has resigned or retired, if vacant, or to any similar vacant position in the agency in which the employee was employed; or
- (2) to a position in another agency to which the employee would have been eligible for transfer.

(b) Such reinstatement may be made only if the separation from employment was without fault or delinquency on the employee's part and the head of the agency to whom the employee has applied for such reinstatement is willing to reinstate the employee.

6.2.2. General Conditions

(a) Such reinstatement shall be subject to the provisions of this section and shall be made without further examination except that the employee reinstated under this section may be subject to such probationary period, investigation, medical or other qualifying tests or requirements as the city personnel director shall determine.

(b) The head of the agency wherein such reinstatement occurs may elect to waive the requirement of satisfactory completion of the probationary term at any time during such term.

6.2.3. Period of Eligibility for Reinstatement

(a) Such reinstatement must be accomplished within a period of time equivalent to the time the employee has actually served in the civil service of New York City, but in no event shall such period for reinstatement be less than one year nor more than four years from the date resignation or retirement provided, however, that;

(1) the city personnel director may fix a period equal to or twice the period actually served, but in no event less than one year nor more than four years within which an employee may be reinstated for designated classes of positions, where the city personnel director determines that there is a lack of sufficient number of qualified persons available for recruitment; and

(2) the city personnel director shall annually re-examine the reason for establishing such period for reinstatement and revoke the prior determination upon a finding that there is a sufficient number of qualified persons available for recruitment.

(b) In computing the aforementioned time limitation, any time subsequent to separation spent in active service in the armed forces of the United States or of the State of New York resulting in discharge under honorable conditions and any time spent subsequent to separation in another position in the civil service of the city shall not be considered.

(c) Notwithstanding the foregoing provisions of this paragraph, with respect to members of the uniformed forces of the police and fire departments, the uniformed force of the New York City transit authority police department, and uniformed force of the police department of the New York city housing authority, such reinstatement must be applied for by the former employee within a period of one year from the date of resignation or retirement.

6.2.4. Effect on Continuous Service

Any such reinstatement effected more than one year after such separation shall not constitute continuous service.

6.2.5. Reinstatement After Separation for Disability

(a) Where an employee has been separated from the service by reason of a disability resulting from occupational or disease as defined in the workers' compensation law, such employee shall be entitled to a leave of absence for at least one year unless the disability is of such a nature as to permanently incapacitate the employee from the performance of the duties of the position.

(b) Such employee may, within one year after the termination of such disability, make application to the city personnel director for a medical examination to be conducted by a medical examiner selected by the city personnel director. If, upon such examination, such examiner shall certify that such person is physically and mentally fit to perform the duties of the former position, such person shall be reinstated to it, if vacant, or to a vacancy in a similar or lower position in the same occupational field or to a vacant position for which person was eligible for transfer.

(c) If no appropriate vacancy shall exist to which reinstatement may be made, or if the work load does not warrant the filling of such vacancy, the name of such person shall be placed upon a preferred list for the person's former or similar position, and such person shall be eligible for reinstatement therefrom for a period of four years from the date of medical and physical qualification. In the event that such person is reinstated to a position in a lower grade, the person's name shall likewise be placed on a preferred list.

(d) This paragraph shall not be deemed to modify or supersede any other provisions of law applicable to the re-employment of persons retired from public service on account of disability.

- 6.2.6. Reinstatement of Dismissed Employee
- (a) An agency under the jurisdiction of the city personnel director, upon written application for reinstatement by a person who was dismissed from a permanent competitive or labor class position in such agency, which sets forth the reasons for requesting an opportunity of making a further explanation, may consider such application.
- (b) If the agency shall determine that such application and explanation are meritorious, it may in its discretion and with the approval of the city personnel director, reinstate such person; provided however, that;
- (1) such person shall be eligible for reinstatement for a period of one year only from the date of dismissal; and
- (2) such person shall execute a prescribed waiver, in writing, with respect to claims for back pay, civil service rights and status for the period of the dismissal.
- 6.2.7. Other City Service
- A permanent competitive class employee, separated from a position by appointment or promotion to another position in the unclassified or classified service of the city and who has served continuously therein, shall be eligible for reinstatement to the competitive class position formerly held by the employee or to another similar position or lower position in the same or similar occupational group or service.

SECTION IV -- REMOVAL AND OTHER DISCIPLINARY ACTION

- 6.4.1. Removal Notification to Department of Personnel
- Where a person has been removed from a position for cause, a copy of the reasons therefor together with a copy of the proceedings thereon shall be transmitted to the city department of personnel.
- 6.4.2. Service of Charges and Determination
- (a) Where the employee is a resident of the city, a copy of charges preferred in a disciplinary action pursuant to sections seventy-five and seventy-six of the civil service law shall be served in person upon the employee thus charged.
- (b) Where personal service cannot be made or where the employee is not a resident of the city, it shall be sufficient for the agency head to serve such charges by registered mail to the last known address of such person. Where service is made by registered mail such person shall be allowed an additional three days in which to answer or otherwise appeal.

(c) Service by the agency head of written notice of determination to be reviewed pursuant to sections seventy-six of the civil service law shall be sufficient if such written notice is delivered personally or by registered mail to the last known address of such person and when notice is given by registered mail such person shall be allowed an additional three days in which to file such appeal.

6.4.3. Absence Without Leave

(a) When an employee is absent without leave and fails to communicate with the department in which employed in the manner prescribed by that department for a period of ~~twenty consecutive work days, such absence shall be deemed~~ to constitute a resignation effective on the date of its commencement unless the appointing officer, at the discretion of that officer, accepts an explanation for such unauthorized absence.

(b) In the case of an employee covered by the provisions of section seventy-five of the civil service law such absence shall constitute a cause for action against such employee under and subject to the provisions of that section.

SECTION III--POSITION CLASSIFICATION AND ALLOCATION

7.3.1. Position Classification

(a) The city personnel director shall, in accordance with the law and rules, duly classify and reclassify positions in the city service and shall prescribe regulations and procedures therefor.

(b) Agencies shall participate, in accordance with the provisions of this paragraph, with the department of personnel in job analyses for classification of positions and shall assist in setting the minimum requirements therefor.

7.3.1. Position Allocation: Existing Titles

(a) Any new or existing position which are allocated by an agency to a title of an existing class of positions shall be appropriate to the duties and responsibilities of such title and conform to the class specifications therefor.

(b) Agency allocations of such positions shall be made in accordance with these rules and with the standards set forth in the regulations or otherwise prescribed by the city personnel director.

7.3.3. Position Allocation: New Class of Positions

(a) If a new position is to be allocated by an agency to a new class of positions, the agency head shall request of the city personnel director, and the city personnel director shall furnish to the agency head and the commissioner of finance, a certificate stating:

(1) the appropriate civil service title for the proposed position;

(2) the range of salary of comparable civil service position;

(3) a statement of required class specifications and line of promotion, if any, into which such new position shall be placed.

(b) Any such new position shall be created only with the title approved by the city personnel director and in accordance with the rules.

SECTION V--PERFORMANCE EVALUATION FOR SUB-MANAGERIAL EMPLOYEES

7.5.1. Agency Performance Evaluation Programs

Each agency shall establish and administer a performance evaluation program for sub-managerial employees in accordance with these rules or as prescribed by the city personnel director in the regulations or procedures. Such programs shall be subject to approval by the city personnel director.

7.5.2. Definition

The performance evaluations of all sub-managerial employees, other than members of the uniformed forces of the police, fire, transit police, housing police, correction services and operating staff of the independent authorities, shall be based upon evidence of the work actually performed by such employees as compared with pre-established performance standards.

7.5.3. Use

Performance evaluations of sub-managerial employees shall be used by agencies during the probationary period and for promotions, assignments, incentives and training.

7.5.4. General Administration

(a) Each agency shall establish and maintain an employee service board to oversee the operation and effectiveness of the agency's sub-managerial performance evaluation program.

(b) Rating criterion in the form of performance standards shall be developed through a process of job analysis that will include consultation with employees to be evaluated.

(c) Sub-managerial employees shall be rated by supervisors who directly observe and/or review their work. All such evaluations shall be reviewed by a superior who is at least one level above that of the evaluation.

(d) Final evaluations shall be issued by the agency's employee service board subject to review by the agency head.

(e) Sub-managerial employees shall receive at least one performance evaluation a year and shall be informed in writing at the beginning of the evaluation period of the performance standards that are to be used as the basis for evaluation. All such employees shall be shown their evaluation reports.

7.5.5. Appeals

(a) Each agency shall establish and maintain an appeals board which shall determine appeals by permanent sub-managerial employees of their performance evaluations.

(b) The determination of the appeals board may be appealed by such permanent employee to the head of the agency.

7.5.6. Sub-Managerial Performance Evaluations for Probationary Employees

(a) Interim evaluations shall be made for sub-managerial probationary employees at least every three months and final report shall be made at the end of the probationary period. Each interim evaluation shall contain a recommendation that the probationary employee either be retained for an additional three-month period or terminated from the position.

(b) Such probationary employee shall not have the right to appeal a performance evaluation but any unsatisfactory interim reports and all final probationary reports shall be reviewed by the agency's employee service board.

7.5.7. Notices

Each agency shall publicize in a timely fashion any salary increases, other monetary rewards or assignments which result from sub-managerial performance evaluations. The names of employees who receive overall ratings above satisfactory shall also be made public.

SECTION VII-EQUAL EMPLOYMENT OPPORTUNITY

7.7.1. Equal Employment Opportunity

Equal employment opportunity programs administered by the department of personnel and by agencies shall ensure and promote equal opportunity in employment.

RULE VII - APPEALS

SECTION I--DEPARTMENT OF PERSONNEL ACTIONS

8.1.1. Procedures for Claim of Manifest Error or Mistake--
Examinations

(a) Except as otherwise provided by resolution or regulation of the city personnel director, whenever a claim of manifest error or mistake is made, such claim shall be referred to a committee on manifest errors. This committee shall consist of three qualified persons designated as members thereof by the city personnel director, which committee shall either have as a member or consult with an expert in the subject matter with which such claim is concerned. A claim of manifest error or mistake shall open for review the candidate's answers to all the questions in the examination. Such review may result in a higher or lower final rating.

(b) Such committee shall inquire into the merits of each claim and shall submit the signed determination of each member as to whether or not there has been a manifest error or mistake together with such correction or remedy, if any, as may be recommended.

(c) Except as hereafter provided, such claim of manifest error or mistake must be made in writing by the candidate within one month from the date of notice to the candidate of the results of such examination, tests, subjects or parts thereof.

(d) Whenever a claim of manifest error or mistake is made in connection with the rejection of a candidate because the candidate has failed to meet the preliminary requirements of such examination, such claim must be made in writing by the candidate within two weeks following the date upon which notice was transmitted to the candidate of such rejection.

(e) Whenever a claim of manifest error or mistake is made by a person on an eligible list who has been rejected after investigation because such person has failed to meet the preliminary requirements of such examination, such claim must be made in writing by the person within two weeks following the date upon which notice was transmitted to the person of such rejection.

(f) Any correction of manifest error or mistake shall be without prejudice to the status of any person previously appointed from the eligible list resulting from such examination. However, if, as a result of any correction of manifest error or mistake, an eligible on a list or any person appointed from such list is found to have failed the examination, any such eligibility or appointment shall be cancelled and revoked forthwith, and notice of such action shall be sent to the eligible or appointee. The right to cancel and revoke for the reasons set forth herein shall not apply where an appointee has served satisfactorily for a period of at least one year after appointment to such position.

RULE IX AUDITS AND INVESTIGATION

SECTION I-AUDITS

9.1.1. Audit Function

the city personnel director shall audit the performance by agencies of their personnel management functions, and may reverse or rescind any agency personnel action or decision taken pursuant to an assignment or delegation of authority under chapter thirty-five or the New York City charter, upon a finding of abuse, after notification to the agency and an opportunity to be heard.

9.1.2. General Audit Procedures

Such audits shall be conducted in accordance with the provisions of this section and the regulations of the city personnel director.

(a) The agency personnel and budget officer or the designated representative of such officer shall coordinate the agency preparation for department of personnel audits and assist the auditors during the period of the audit.

(b) The audit report and recommendations shall be transmitted to the agency head who, within two weeks of receipt thereof, shall make a response to the city personnel director.

9.1.3. Reports

The city personnel director shall report to the mayor on the performance by agencies of their personnel management functions.

SECTION II--INVESTIGATION

9.2.1. Investigation Function

The city personnel director shall have the power to make investigations concerning all matters touching the enforcement and effect of the provisions of civil service law pursuant to and in the manner provided by law.

RULE XI - CLASSIFICATION AND COMPENSATION OF
CAREER AND SALARY PLAN POSITIONS

SECTION II--CLASSIFICATION OF POSITIONS

11.2.1. City Personnel Director

The city personnel director shall, in the manner provided by law, duly classify and reclassify positions which are now or which may hereafter be made subject to the classification and compensation plan.

SECTION VI - RIGHTS AND STATUS OF INCUMBENTS
AND ELIGIBLES ON LISTS

11.6.1. Existing Rights and Status

The rights and status of the permanent incumbent of any position subject to the career and salary plan, including rights and status of employees provided for under the provisions of previous resolutions of classification or reclassification, shall not be adversely affected or impaired by the provisions of this rule or any position classification, position reclassification, salary grade allocation, or salary grade re-allocation adopted in accordance therewith. Any permanent employee entitled to an unlimited salary grade prior to the classification or reclassification of such employee's position pursuant to the provisions of this rule shall continue to have such right and shall not be subject to a maximum salary, notwithstanding the fact that the position held by such employee may be classified or allocated to a salary grade having a maximum.

11.6.2. Eligible List Status

The status of any person whose name appears upon an eligible list in existence on July first, nineteen hundred and fifty-four, or whose name appears on an eligible list established as a result of an examination in process on such date, shall not be adversely affected or impaired by the provisions of this rule or any position classification, position reclassification, salary grade allocation, or salary grade re-allocation adopted in accordance therewith.

SECTION VIII--REGULATIONS AND PROCEDURES

11.8.1. City Personnel Director

The City personnel director may prescribe such regulations and procedures as the city personnel director may deem necessary or advisable to carry out the provisions of this rule.

SECTION X--POSITIONS IN THE NON-COMPETITIVE CLASS

11.10.1. Number of Positions

Unless a difference or unlimited number is specifically prescribed hereafter, only one appointment may be made to or under the title of any offices or positions in the non-competitive class listed under this rule.

11.10.2. Classification and Compensation Schedule N

(a) The Titles, part numbers, number of positions authorized, and limitations on tenure, if any, for each title in the non-competitive class subject to this rule are set forth in the "classification and compensation schedules of the classified service," schedule N, subject to rule XI."

(b) The salary grades or maximum salaries appearing in this schedule are not part of this rule, but are part of the classification of the classified service of the City of New York.

SECTION XI--POSITIONS IN THE LABOR CLASS

11.11.1. Classification and Compensation Schedule L

(a) The titles in the labor class subject to this rule are set forth in the "classification and compensation schedules of the classified service," schedule L-11.

(b) The salary grades appearing in this schedule are not part of this rule, but are part of the classification of the classified service of the City of New York.

SECTION XII--POSITIONS IN THE COMPETITIVE CLASS

11.12.1. Classification and Compensation Schedule C-11

(a) The occupational groups, titles, and salary grades or grades of positions in the competitive class subject to this rule shall not be deemed to form part of these rules. The titles and positions subject to this rule are set forth in the "classification of the classified service of the City of New York.