

Appendix A: Personnel Rules and Regulations of the City of New York

RULE I - DEFINITIONS

Agency: Agency is any department, administration, board, body or authority possessing separate and independent powers and functions and recognized as such by the department of citywide administrative services.

Agency Head: Agency head is the head of an agency.

Announcement: Announcement is the official notice of examination.

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

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

Civil Service of New York City or Civil Service: 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: Class of positions means 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: Classified service means 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 and the offices of all district attorneys and all public administrators within the City of New York.

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

Commissioner of Citywide Administrative Services: The Commissioner of Citywide Administrative Services is the head of the New York City department of citywide administrative services.

Compensation: Compensation is 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: Day is 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 Citywide Administrative Services: The Department of Citywide Administrative Services is the department established by Chapter 35 of the Charter.

Examination: Examination is the process by which the department of citywide administrative services or other examining agency ascertains the fitness of candidates for entrance into the classified service or promotion therein.

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

Grade or Salary Grade: Grade or salary grade is the order or 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 commissioner of citywide administrative services.

Jurisdictional Classification: Jurisdictional classification is 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: Position means a particular office or employment in the civil service.

Position Classification: Position classification is 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 thereof.

Position Reclassification: Position reclassification is 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 citywide administrative services 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 commissioner of citywide administrative services deems appropriate.

Regulation: Regulation is a resolution of the commissioner of citywide administrative services 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 commissioner of citywide administrative services, which shall not be inconsistent with or supersede the civil service law or the rules.

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

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

Service Rating, Performance Rating, or Performance Evaluation: Service rating, performance rating, or performance evaluation means a rating or evaluation of an employee for performance in a position as defined in the rules or regulations of the commissioner of citywide administrative services.

Subject: Subject is 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: Test is a major subdivision of an examination.

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

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

RULE II - APPLICABILITY AND ADMINISTRATION

SECTION I – PERSONNEL ADMINISTRATION

2.1. (a) The commissioner of citywide administrative services shall have the power to promulgate rules and regulations relating to the personnel policies, programs and activities of city government in furtherance of and consistent with state civil service law and Chapter 35 of the Charter.

(b) The commissioner of citywide administrative services shall have all the powers and duties of a municipal civil service commission provided in the civil service law or in any other statute or local law other than such powers and duties as are by Chapter 35 of the Charter assigned to the mayor, the city civil service commission or the heads of agencies.

(c) The heads of agencies shall have the powers and duties of personnel management as provided for in Chapter 35 of the Charter.

SECTION II – RULES

2.2. These rules shall have the force and effect of law.

SECTION III – REGULATIONS

2.3. The commissioner of citywide administrative services shall have power to adopt suitable regulations to carry out the provisions of the civil service law, the New York City Charter and the rules.

SECTION IV – GENERAL ADMINISTRATION AND ENFORCEMENT

2.4. (a) The commissioner of citywide administrative services shall have the authority and responsibility in the administration and enforcement of the rules and regulations prescribed thereunder and shall possess the powers and duties assigned to the commissioner of citywide administrative services pursuant to the provisions of Chapter 35 of the Charter.

(b) The commissioner of citywide administrative services shall prescribe directives and orders for the instruction of the staff of the department of citywide administrative services and for the execution of the rules and regulations and wherever practicable, shall prescribe forms for all applications, certifications, reports, records and returns required thereunder.

SECTION V – APPLICABILITY

2.5. These rules shall apply to all offices and positions in the classified service of the city including offices and positions in the New York City housing authority, New York City transit authority, triborough bridge and tunnel authority, New York City board of education, and the offices of all district attorneys and all public administrators within the City of New York.

SECTION VI – RULE CHANGES; CALENDAR

2.6. (a) No proposed amendment, modification or addition to the rules shall be acted upon until public notice thereof shall be given in a designated newspaper for not less than three days prior to a public hearing thereon. Such notice shall set forth the proposal; but notice and public hearing shall not be necessary where the purpose of the proposed amendment, modification or addition is to conform with a change in a statute.

(b) Certified copies of all duly adopted amendments, modifications or changes of rules shall be transmitted to the offices of the secretary of state, the corporation counsel, the city clerk and to said designated newspaper for publication. Certified copies of all duly adopted regulations shall be transmitted to all of the foregoing except the office of the secretary of state.

(c) The commissioner of citywide administrative services shall cause to be published in said designated newspaper, as the commissioner of citywide administrative services may determine, those minutes of general interest or broad application appearing as items in the calendar. Copies of the entire calendar shall be maintained for public inspection at the office of the department of citywide administrative services.

(d) If one year after the date of the public hearing held to consider approval of a change of a rule of the commissioner of citywide administrative services (as provided for by section 20 of the New York State civil service law) either the commissioner of citywide administrative services or the mayor of the City of New York or the state civil service commission has not acted upon the matter, the resolution shall automatically be deemed withdrawn unless the period of consideration is extended by an official action of the commissioner of citywide administrative services.

SECTION VII – NON-DISCRIMINATION; EQUAL OPPORTUNITY

2.7. There shall be no unlawful discrimination in city employment on the basis of race, sex, age, religion, national origin or disability, and equal opportunity in employment shall be ensured and promoted in the administration of personnel.

SECTION VIII – CONTINUITY AND PRESERVATION

2.8. Any resolutions, equivalency tables, terminal dates, restrictions, terms and conditions, and regulations in connection with the rules of classification in force and effect immediately prior to the effective date of these rules, shall continue to be in force and effect to the extent theretofore provided under the provisions of these rules, unless otherwise provided herein.

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 commissioner of citywide administrative services to be not practicable.

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 is 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 citywide administrative services, 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services.

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 commissioner of citywide administrative services.

(b) In each institution of an agency there may be an institutional examiner who shall be designated by the agency head subject to the approval of the commissioner of citywide administrative services.

(c) Members of the agency board of examiners and the institutional examiners shall, insofar as practicable, be persons in the competitive class.

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 efficiently.

3.2.7. Examination Reports; Action of Commissioner of Citywide Administrative Services.

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 commissioner of citywide administrative services or appropriate forms, when approved by such board at the end of each month or as otherwise prescribed in the regulations by the commissioner of citywide administrative services. If such reports are disapproved in whole or in part by the commissioner of citywide administrative services, 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 commissioner of citywide administrative services 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 office of children and family 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 commissioner of citywide administrative services may determine to fill those unfilled positions with qualified mentally disabled persons.

(c) The commissioner of citywide administrative services 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 commissioner of citywide administrative services 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) The commissioner of citywide administrative services shall prescribe the requirements and tests to be held for positions in the labor class.

3.3.2. Termination.

Upon the termination of an employment in the labor class, the agency head shall certify to the department of citywide administrative services 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 commissioner of citywide administrative services 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.

RULE IV - EXAMINATION PROCEDURES, VETERANS PREFERENCE, ELIGIBLE LISTS AND CERTIFICATION

SECTION I – GENERAL EXAMINATION PROCEDURES

4.1.1. General Provisions; Applicability.

(a) The commissioner of citywide administrative services shall conduct examinations for such positions as may be necessary to anticipate the needs of the city service.

(b) The head of an examining agency shall conduct non-written promotion examinations for such positions in the agency as may be necessary to anticipate the needs of the agency.

(c) The provisions of this section shall apply to examinations conducted by the department of citywide administrative services and by examining agencies.

4.1.2. Scheduling of Examinations.

The department of citywide administrative services shall maintain the general schedule of all examinations for positions in the city service.

4.1.3. Examining Agency Examination Plans.

Agency examination plans for non-written promotion examinations shall contain such material as set forth in these rules or provided in the regulations. Such plans shall be submitted to the commissioner of citywide administrative services for approval prior to the holding of such examination.

4.1.4. Job Analysis.

(a) A job analysis shall be conducted for each examination.

(b) Agencies shall assist the department of citywide administrative services in the preparation of job analyses for examinations conducted by the department of citywide administrative services.

(c) Job analyses conducted by examining agencies for non-written promotion examinations shall be submitted to the department of citywide administrative services by the examining agency.

4.1.5. Examination Experts.

The commissioner of citywide administrative services may secure outside expert assistance in examinations or may approve an agency examination plan providing for such assistance in such cases as the commissioner of citywide administrative services deems appropriate and necessary.

4.1.6. Responsibility for Examination.

(a) Every examination shall be under the direction of the assistant commissioner for examinations or designated officer of the examining agency, who shall consult with agency heads concerning the qualifications for the position for which an examination is to be held.

(b) Such examination shall be free from the influence or participation of the agency head or subordinates, except those who may be assigned to assist such assistant commissioner for examinations or designated officer of the examining agency who shall have the sole direction and control of such individuals during the period of such assignments.

4.1.7. Test and Weight.

The tests comprising an examination and the relative weight given to each shall be fixed prior to each examination by the assistant commissioner for examinations or in the examining agency's examination plan subject to the approval of the commissioner of citywide administrative services.

4.1.8. Preparation of Examinations.

(a) The assistant commissioner for examinations or designated officer of the examining agency shall assign examiners for a particular examination.

(b) All written questions prepared by such examiner shall be placed in safe compartments provided by such assistant commissioner for examinations or designated agency officer. Such questions shall be printed from type or other process under the immediate supervision of such assistant commissioner for examinations or designated agency officer or a designated subordinate.

(c) The assistant commissioner for examinations or designated agency officer shall be responsible for the safekeeping of such questions unless relieved by the commissioner of citywide administrative services or agency head, as the case may be. So far as practicable, such printing shall be done immediately prior to the date of the examination.

4.1.9. Announcement.

(a) In advance of an examination, the commissioner of citywide administrative services shall prepare and publish an announcement setting forth the title of the position, the minimum qualifications required, the tests of the examination, and such other information as the commissioner of citywide administrative services may deem necessary.

(b) Where an agency is conducting a non-written promotion examination such announcement shall be included in the agency's examination plan and upon approval by the commissioner of citywide administrative services the announcement shall be published by such agency.

4.1.10. Publication.

Such announcement shall be published daily throughout the entire filing period. Where the announcement does not specify a closing date, a filing period shall not be closed without at least three days' notice by publication. Such announcement and list of examinations for which applications are being received shall be posted conspicuously in the office of the department of citywide administrative services or of the examining agency, as the case may be. The provisions of paragraph 4.1.9 of this section relative to the publication of announcements shall not be applicable where a nomination for promotion is made pursuant to paragraph 5.3.7 of these rules.

4.1.11. Modification.

The commissioner of citywide administrative services may, after the announcement has been published, subdivide the several tests into subjects or parts, or approve such action by an examining agency. Notice of such action must be given at the time such tests are held.

4.1.12. Limitation.

Eligibility may be limited to one sex where the duties of the position involve the institutional or other custody or care of persons of the same sex, or visitation, inspection or work of any kind the nature of which constitutes a bona fide occupational qualification requiring sex selection.

SECTION II – APPLICATIONS AND RECRUITMENT

4.2.1. Application Forms and Completion.

(a) The standard application forms for examinations shall be furnished by the commissioner of citywide administrative services or examining agency without charge to all persons requesting the same.

(b) An applicant shall state upon the prescribed form such information as is required including the applicant's background, experience and qualification for the position sought and merit and fitness for the public service. Applications shall be subscribed by the applicant and shall contain a declaration that the statements are made subject to the penalties of perjury.

(c) The personal history form or other prescribed form provided in connection with the investigation of an applicant shall be deemed a part of the application.

4.2.2. Filing Period.

Unless otherwise provided in the announcement of the examination, the commissioner of citywide administrative services shall fix the period, or shall approve the period fixed by the examining agency, to be not less than two weeks, during which applications shall be received. There shall be not less than ten days between the last day for the receipt of applications as originally publicly announced and the date of the first test in an examination unless otherwise provided in the announcement of the examination.

4.2.3. Filing Fees.

Filing fees shall be accepted by the department of citywide administrative services for all examinations including those conducted by an examining agency. The amounts of such fees and the terms and conditions for receipt and acceptance and any waivers shall be set forth in the regulations.

4.2.4. Non-Return of Applications.

All applications shall be dated. An accepted application shall not be returned to the applicant or the applicant's agent, as the case may be.

4.2.5. Defective Application.

An application found to be defective shall be suspended. Where an application is found to be incomplete or defective or not accompanied by the proper fee, if any, such application shall not be accepted unless the defect or omission has been corrected by the applicant and returned within seven days from the date of notification to the applicant of the required corrections.

4.2.6. Recruitment.

Recruitment of persons for positions in the city service shall be conducted by the department of citywide administrative services and by agencies. Recruitment procedures shall include those set forth in the regulations or otherwise prescribed by the commissioner of citywide administrative services.

SECTION III – DISQUALIFICATION OF APPLICANTS OR ELIGIBLES

4.3.1. General Provisions.

(a) The commissioner of citywide administrative services, 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services unless such person has been given a written statement by the commissioner of citywide administrative services 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 of candidates for such agency's non-written promotion examination shall be subject to the provisions of 8.2.2 and 8.2.3 of these rules.

(d) Agencies shall assist the department of citywide administrative services in investigations in the manner prescribed by the commissioner of citywide administrative services.

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 a part 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 commissioner of citywide administrative services 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 disabled 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 blind and visually handicapped or 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 commissioner of citywide administrative services.

(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 on such list.

4.3.3. Burden.

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

SECTION IV – ADMINISTRATION AND RATING OF EXAMINATIONS

4.4.1. Applicability.

The provisions of this section shall apply to examinations conducted by the department of citywide administrative services and by examining agencies.

4.4.2. Admission to Examination; Identification.

A candidate shall not be admitted to an examination or any test thereof whose application therefor has not been presented and accepted in accordance with the rules. The name of a candidate who has not been fingerprinted at the time of examination shall not be placed on the eligible list.

4.4.3. Processing of Examination Papers.

On the day of the examination, the admission cards of the candidates shall be enclosed in an envelope and sealed. In an examination in which the papers are rated in whole or in part by examiners, the identity of each candidate shall remain concealed until the ratings are completed. In an examination in which all procedures from the rating of tests to the production of the list are accomplished entirely by machine, the seal may be broken prior to rating solely to permit verification of mark-sensed application numbers.

4.4.4. Oral Tests.

Oral tests, wherever practicable, shall be recorded by a suitable method to provide a reviewable record.

4.4.5. Second or Special Examinations.

Except as provided in paragraph 4.4.6 hereof, or as provided in the military law of the State of New York, no candidate shall be given a second or special competitive test in connection with an examination held, unless it be shown to the satisfaction of the commissioner of citywide administrative services or the head of the examining agency that the candidate's failure to take or complete such test was due to:

(a) a manifest error or mistake for which the department of citywide administrative services or the examining agency is responsible, the nature of which shall be recorded;

(b) compulsory attendance before a court or other public body or official having the power to compel attendance;

(c) physical disability incurred during the course of and within the scope of the municipal employment of such candidate where such candidate is an officer or employee of the city; or

(d) absence from the test within a period of one week after the date of death of a spouse, mother or father, sister or brother, or child of such candidate where such candidate is an officer or employee of the city. No such claim shall be granted unless it is submitted in writing to the department of citywide administrative services or the examining agency either in person or by certified or registered mail within two months following the date of the regular examination.

4.4.6. Sabbath Observers.

A candidate claiming to be unable to participate in an examination when originally scheduled because of the candidate's religious beliefs may seek consideration as a sabbath observer by requesting a special examination by submitting to the department of citywide administrative services or examining agency such request in writing either in person or by certified or registered mail no later than five days prior to the date of the examination. A written statement signed by the candidate's religious leader attesting to the candidate's religious beliefs and certifying that the candidate is a sabbath observer and that it is contrary to the candidate's tenets to participate in an examination during the sabbath must accompany said written request.

4.4.7. General Rating Procedures.

Except when otherwise specified by the assistant commissioner for examinations or by the designated officer of the examining agency, each test, subject or part of an examination shall be rated by not less than two examiners. They, or employees designated by the assistant commissioner for examinations in charge or by the designated officer of the examining agency, shall then affix to each paper or record a rating expressing the average of their judgment attested by their respective signatures or initials.

4.4.8. General Rating Standards.

The rating shall be comparative and in accordance with such standards as the needs of the service may require.

4.4.9. Passing Rating.

(a) Unless otherwise specified by resolution or regulation of the commissioner of citywide administrative services, or by the announcement of examination, candidates must attain a final examination rating of not less than seventy percent in an examination in order to be placed upon an eligible list for certification and appointment.

(b) The required passing rating in any test, subject or part of an examination shall be fixed not later than the time of the holding thereof or as soon as practicable thereafter by the assistant commissioner for examinations or by the designated officer of the examining agency.

(c) Where it is anticipated that the number of eligibles will not meet the needs of the service, the commissioner of citywide administrative services or the head of an examining agency, as the case may be, may, in order to provide an eligible list to meet the needs of the service, authorize the use of any type or combination of types of conversion methods or a mathematical formula of penalties for incorrect answers on the basis of test difficulty and other relevant factors involved in the rating of any test.

(d) The commissioner of citywide administrative services or the head of an examining agency may prescribe that the passing mark shall be the lowest grade received among a certain fixed number of candidates graded highest in the examination or in any subject or part thereof.

(e) In the case of an examining agency, any action proposed to be taken pursuant to subparagraphs (b), (c) or (d) hereof which was not provided for in the agency plan for examination approved by the commissioner of citywide administrative services shall be submitted for such approval prior to any such action.

4.4.10. Finality of Rating.

Except as otherwise provided by paragraph 4.4.13 hereof or by resolution or regulation of the commissioner of citywide administrative services, no final rating of a test, subject or part of an examination shall be subject to alteration or re-rating.

4.4.11. Candidates With Same Final Examination Rating.

Whenever two or more candidates in an examination receive the same final examination ratings, their respective place on the resulting eligible list shall be determined for administrative reasons only by a sequence of the number derived from the last five and then the first four positions of their social security numbers.

4.4.12. Certification and Use of Eligible List Where Paragraph 4.4.11 Has Been Applied.

(a) If the name of any eligible whose place on the eligible list has been determined in accordance with the procedures set forth in paragraph 4.4.11 is included in the certification for appointment, the names of all other eligibles on the list having the same final examination rating as such eligible shall likewise be included in such certification.

(b) Appointments and promotions then may be made by the selection of any such eligible whose final examination rating is equal to or higher than the final examination rating of the third highest standing eligible qualified and willing to accept appointment or promotion.

4.4.13 Correction of Manifest Error or Mistake.

The commissioner of citywide administrative services, at any time prior to the establishment or during the existence of an eligible list, may correct any manifest error or mistake made in connection with an examination, on the initiative of the commissioner of citywide administrative services or that of the head of an examining agency, or in the granting of a claim of manifest error or mistake. Such action shall be taken in accordance with the procedures set forth in rule VIII of these rules and may result in a higher or lower rating. The nature of such manifest error or mistake shall be recorded.

SECTION V – ADDITIONAL CREDIT ON COMPETITIVE 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 time of appointment require a person appointed by virtue of such additional credits to execute an instrument on a form prescribed by the commissioner of citywide administrative services, setting forth such person's public employment since January 1, 1951.

4.5.3. Use of Additional Credit.

(a) A person who has 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 credit shall not thereafter be entitled to additional credit, either as a veteran or disabled veteran, in any competitive 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 probationary term, such veteran or disabled veteran resigns from the position; or
- (b) the services of such veteran or disabled veteran are terminated at 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 accept appointment as if the 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 applicant's standing on the list in respect to the latter position.

4.5.6. Roster.

There shall be established in the department of citywide administrative services 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 Veteran's Records.

All certificates and other documents, memoranda, reports and information furnished by the United States veterans administration to the department of citywide administrative services in connection with claims for disabled veterans' preference shall be deemed confidential unless the commissioner of citywide administrative services determines that the withholding thereof is contrary to the public interest.

SECTION VI – ELIGIBLE LISTS

4.6.1. Establishment of Lists.

- (a) The provisions of this section shall apply to examinations conducted by the department of citywide administrative services and by examining agencies.
- (b) The results of each examination shall be reported by the assistant commissioner for civil service administration or by the head of the examining agency, as the case may be, to the commissioner of citywide administrative services and the names of the candidates passing such examination shall be listed in the order of their respective final examination ratings. The names of disabled and non-disabled veterans who have duly established claims to additional credits shall be reported in the manner prescribed by law.
- (c) The list thus reported shall be officially established only by order of the commissioner of citywide administrative services. The date prescribed in such order shall be the date of such establishment.

4.6.2. Terms and Conditions.

An eligible list may be established subject to the conduct of such medical, physical, or other appropriate non-competitive qualifying tests, investigations and conditions as may be deemed appropriate by the commissioner of citywide administrative services.

4.6.3. Publication of Established Lists.

An established eligible list shall be published as soon as practicable after establishment. Upon the establishment of an open competitive eligible list notification thereof shall be published as soon as practicable thereafter stating the title of the examination, the examination number, the number of passing candidates, the date of establishment, and such other information as the commissioner of citywide administrative services shall prescribe.

4.6.4. Notification to Candidates.

Unless otherwise provided for in the notice of examination with respect to a continuing eligible list, the commissioner of citywide administrative services, upon the establishment of an eligible list, shall notify each candidate of the candidate's ratings and, if the candidate has received a passing final examination rating, of the numerical place on such list. Any candidate rejected for reasons other than failure to attain a passing final examination rating shall be advised of such reasons.

4.6.5. Inspection of Examination Papers.

Except as otherwise provided by the commissioner of citywide administrative services, candidates may personally inspect their examination papers at the offices of the department of citywide administrative services, or the examining agency, as the case may be, at specified times in the presence of employees designated by the commissioner of citywide administrative services or by the head of the examining agency.

4.6.6. Duration of Eligible Lists.

- (a) The duration of either an open competitive or promotion eligible list shall be not less than one nor more than four years from the date of establishment.
- (b) Unless otherwise provided, an eligible list which has been in existence for one year or more shall terminate upon the establishment of an appropriate subsequent like list for the same title.
- (c) Where the duration of an eligible list is fixed in the announcement of examination at less than four years, the commissioner of citywide administrative services may by resolution prior to the expiration date of such list extend the duration of such list up to the maximum limitation of four years, provided that such announcement of examination states that such extension may be made.
- (d) The commissioner of citywide administrative services may also by resolution prior to the expiration date of an eligible list extend the duration of such list as provided for in section fifty-six of the civil service law, as amended by section one of chapter four hundred and forty-three of the laws of nineteen hundred and seventy-six.

SECTION VII – 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services.
- (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 commissioner of citywide administrative services 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 citywide administrative services.

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 commissioner of citywide administrative services 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 commissioner of citywide administrative services or certifying agency head has reason to anticipate declinations, or where the certification is to be completed as set forth in this paragraph, the commissioner of citywide administrative services 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 in 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 citywide administrative services 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services.

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 commissioner of citywide administrative services or upon request of the agency head, the commissioner of citywide administrative services 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 commissioner of citywide administrative services, 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 the 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 commissioner of citywide administrative services or at the request of the head of an agency, the commissioner of citywide administrative services 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 commissioner of citywide administrative services.

(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 commissioner of citywide administrative services in the same manner as is required for the adoption or amendment of a rule.

4.7.11. Certification Pools.

Certification pools may be conducted at the discretion of the commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 may take more than one test provided, however, that no such 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 commissioner of citywide administrative services 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 if the declination is for one of the following reasons:

(1) temporary 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 a 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 a 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 of such position, and the commissioner of citywide administrative services finds 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 appointment 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 a 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 like certification until all eligibles 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 commissioner of citywide administrative services for the declination or failure to reply or to accept appointment. Such explanation must be filed in writing with the department of citywide administrative services 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 a 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 commissioner of citywide administrative services may, if the needs of the service require, restore names of eligibles 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 commissioner of citywide administrative services, 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 commissioner of citywide administrative services may certify to specified agencies, eligibles 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

SECTION 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 a 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 citywide administrative services.

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 commissioner of citywide administrative services or the head of a certifying agency for appointment after such qualification, such person upon appointment shall execute a supplemental statement, as the commissioner of citywide administrative services 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 commissioner of citywide administrative services. 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 commissioner of citywide administrative services. Appointees shall be informed of the applicable probationary period. However, such probationary period may be terminated by the commissioner of citywide administrative services 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 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.

(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 at 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 commissioner of citywide administrative services 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 the 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 commissioner of citywide administrative services.

(b) Notwithstanding the provisions of paragraph 5.2.1, whenever any agency has with the approval of the commissioner of citywide administrative services 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 commissioner of citywide administrative services. 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 commissioner of citywide administrative services, 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 commissioner of citywide administrative services 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 any such additional period.

5.2.9. Restoration After Termination.

Where the services of a probationer have been terminated, the commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 therefor, the probationer's continued employment may be authorized at the discretion of the commissioner of citywide administrative services 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 Commissioner of Citywide Administrative Services.

The commissioner of citywide administrative services 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 citywide administrative services 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 commissioner of citywide administrative services, 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 commissioner of citywide administrative services.

(b) Where the commissioner of citywide administrative services 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 commissioner of citywide administrative services may extend eligibility for promotion to persons holding:

(1) competitive class positions in lower grades which are determined by the commissioner of citywide administrative services 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 commissioner of citywide administrative services may open promotion examinations to eligibles, 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services.

5.3.4. Promotion Units.

Promotion examinations may be held for such subdivisions of an agency as the commissioner of citywide administrative services 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 commissioner of citywide administrative services or upon the written request of an agency head stating the reasons therefor the commissioner of citywide administrative services 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, 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 commissioner of citywide administrative services:

(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 citywide administrative services, where such determination is made by the commissioner of citywide administrative services under the provisions of 5.3.5(a). The determination or request shall not be acted upon until said notice has been so 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 so posted for a period of not less than fifteen days. The agency head's determination and the reasons therefor, in writing, shall have been sent to the commissioner of citywide administrative services simultaneously with such posting.

(f) Any employee who believes that a promotion examination should be held for filling such vacancy, may submit to the commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 applications 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 position 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 or Leave 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 or 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 commissioner of citywide administrative services 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 Involuntarily Transferred, Reinstated From a Preferred List or Transferred to Avoid Layoff.

Whenever a permanent employee is involuntarily 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 involuntarily 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 involuntarily 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 commissioner of citywide administrative services 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 involuntarily transferred based upon the final adjusted mark of such employee.

(d) The provisions of this section 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 commissioner of citywide administrative services.

(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 provisions 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.

SECTION IV – TEMPORARY APPOINTMENTS

5.4.1. Temporary Appointments from Eligible Lists.

(a) A temporary appointment for a period not exceeding three months, where the need therefor is important and urgent, may be made without regard to existing eligible lists.

(b) A temporary appointment for a period exceeding three months but not exceeding six months may be made by the selection of a person from an appropriate eligible list, if available, without regard to the relative standing of such person on such list.

(c) Any further temporary appointment beyond such six-month period or any temporary appointment originally made for a period exceeding six months shall be made by the selection of an appointee from among those graded highest on an appropriate eligible list, if available, upon certification thereof by the commissioner of citywide administrative services to the agency head in the manner prescribed in the rules for certification and appointment from eligible lists, provided however, that:

(1) such appointee may be withheld from certification at the request of the agency head for a period of four months or for the duration of such employment, whichever period is shorter.

(2) This limitation, however, shall not apply during the last four months of the life of such eligible list.

(d) The head of a certifying agency shall certify eligible lists for classes of positions unique to the agency pursuant to the provisions of this section and shall report thereon as prescribed by the commissioner of citywide administrative services.

5.4.2. Temporary Appointments Exceeding One Month Duration.

(a) Temporary appointment may be made to a position when an employee is on leave of absence from such position for a period not exceeding the duly authorized duration of such leave of absence.

(b) Temporary appointment may be made for a period not exceeding six months when the commissioner of citywide administrative services shall find, upon due inquiry, that the position to which such appointment is proposed will not continue in existence for a longer period; provided, however, that where such appointment is made and it subsequently develops that such position will remain in existence beyond such six-month period such temporary appointment may be extended with the approval of the commissioner of citywide administrative services for a further period not to exceed an additional six months.

5.4.3. Successive Temporary Appointments.

Except as otherwise provided, successive temporary appointments pursuant to paragraphs 5.4.1 or 5.4.2 shall not be made to the same position after the expiration of the authorized period of the original temporary appointment to such position.

5.4.4. Effect of Temporary Appointment on Promotion Eligibility.

Any employee who is appointed or promoted to a position left temporarily vacant by the leave of absence of the permanent incumbent thereof (pursuant to rule 5.4.2) after having qualified therefor in the same manner as required for permanent appointment or promotion thereto, shall have all the rights and benefits with respect to promotion eligibility of permanent status.

SECTION V – PROVISIONAL APPOINTMENTS

5.5.1. Appointment Requirements.

Whenever there is no appropriate eligible list available for filling a vacancy in the competitive class, the agency head may nominate a person to the commissioner of citywide administrative services for non-competitive examination, and:

(a) if such nominee shall be certified by the commissioner of citywide administrative services as qualified after such non-competitive examination, the nominee may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination;

(b) such non-competitive examination may consist of a review and evaluation of the training, experience and other qualifications of the nominee without written, oral or other performance tests.

5.5.2. Duration.

A provisional appointment shall not continue for a period in excess of nine months.

5.5.3. Termination.

A provisional appointment to any position shall be terminated within two months following the establishment of an appropriate eligible list for filling vacancies in such positions; provided, however, that:

(a) when there is a large number of provisional appointees in any agency to be replaced by permanent appointees from a newly established eligible list and the agency head deems that the termination of the employment of all such provisional appointees within two months following the establishment of such list would disrupt or impair essential public services, evidence thereof may be presented to the commissioner of citywide administrative services; and

(b) after due inquiry, and upon finding that it is in the best interests of the public service, the commissioner of citywide administrative services may thereupon waive the provision of this paragraph requiring the termination of the employment of provisional appointees within two months following the establishment of an appropriate eligible list and authorize the termination of the employment of various numbers of such provisional appointees at prescribed stated intervals;

(c) in no case however shall the employment of such provisional appointee be continued longer than four months following the establishment of such eligible list.

5.5.4. Successive Provisional Appointments.

(a) Successive provisional appointments shall not be made to the same position after the expiration of the authorized period of the original provisional appointment to such position except as provided in this paragraph.

(b) Where an examination for a position or group of positions fails to produce a list adequate to fill all positions then held on a provisional basis, or where such list is exhausted immediately following its establishment, a new provisional appointment may be made to any such position remaining unfilled by permanent appointment. Such new provisional appointment may, in the discretion of the agency head, be given to a current or former provisional appointee in such position, except that a current or former provisional appointee who becomes eligible for permanent appointment to any such position shall, if he/she is then to be continued in or appointed to any such position be afforded permanent appointment to such position.

5.5.5. Credit for Provisional Service.

The commissioner of citywide administrative services may, by regulation, provide a suitable method for the computation of experience credit for provisional service in open competitive or labor class examinations.

5.5.6. Review of Provisional Appointments.

The commissioner of citywide administrative services shall review any appointments of persons as provisional employees within sixty days after appointment to assure compliance with the New York City Charter, the civil service law and other applicable law and the rules and regulations of the commissioner of citywide administrative services.

SECTION VI – SEASONAL APPOINTMENTS

5.6.1. Seasonal Appointments Authorized.

All positions in the competitive class, where the nature of the service is such that it is not continuous throughout the year, but recurs in each successive calendar year, may be designated by the commissioner of citywide administrative services as seasonal positions and appointments thereto shall be designated as seasonal appointments.

5.6.2. Seasonal Re-employment Roster.

(a) At the end of an employment season, the names of all persons employed during such season or major portion thereof shall be entered upon a seasonal re-employment roster in the order of their first appointment to the title vacated by them on the expiration of such employment season provided that:

(1) the services rendered by such persons shall have been certified as satisfactory during such season or major portion thereof by the agency head; and

(2) they are otherwise still qualified.

(b) The names of the persons appearing on such roster shall be certified in numerical order during the next succeeding season to an agency head

upon that official's request for seasonal re-employment in the positions previously held by such persons or similar positions.

(c) The qualifications of any such person may be further reviewed by the commissioner of citywide administrative services with respect to such person's continuing fitness to perform the required duties and such person may be disqualified for re-employment in the same manner and for any of the reasons applicable to disqualification for permanent employment.

5.6.3. Effect Upon Status.

Such seasonal re-employment roster shall in no event be deemed to be a preferred eligible list and persons employed in seasonal positions shall acquire no civil service status or right or privilege other than is set forth in this section.

SECTION VII – EXCEPTIONAL APPOINTMENTS

5.7.1. Temporary Appointments Without Examination in Exceptional Cases.

(a) The commissioner of citywide administrative services may authorize a temporary appointment, without examination, when the person appointed will render professional, scientific, technical or other expert services:

- (1) on an occasional basis; or
- (2) on a full-time or regular part-time basis in a temporary position established to conduct a special study or project for a period not exceeding eighteen months.

(b) Such appointment may be authorized only in a case where because of the nature of the services to be rendered and the temporary or occasional character of such services it would not be practicable to hold an examination of any kind.

5.7.2. (Deleted 7/8/80)

5.7.3. Records.

All exceptions made pursuant to this section shall be recorded by the commissioner of citywide administrative services.

5.7.4. Effect Upon Status.

Persons engaged for employment pursuant to this section shall acquire no civil service status or right or privilege of tenure other than those set forth herein.

5.7.5. City Services Aides.

Appointments to positions in the title city services aide title code no. 91405 which are paid on a per diem basis entirely from state and/or federal funds and are designed for the purpose of training individuals for specific skills and/or providing work opportunity in accordance with the provisions of an agreement between the City of New York or one of its agencies or authorities and the New York State or federal agency involved, shall be designated as exceptional appointments. Such appointments shall be made after authorization by the commissioner of citywide administrative services and in accordance with the terms and conditions of the appropriate agreement and for a period not to exceed eighteen months.

Appointments to positions in the title city services aide title code no. 91405 which are needed to perform or directly supervise the performance of general work requiring little or no experience or education and which result from a natural or humankind emergency that has been declared by the mayor, shall also be designated as exceptional appointments. Such per diem appointments shall be made after authorization by the commissioner of citywide administrative services and shall exist for the duration of the emergency, not to exceed a total of six months.

SECTION VIII – TRAINEE OR AIDE APPOINTMENTS

5.8.1. Trainee or Aide Appointments Authorized; Conditions.

The commissioner of citywide administrative services may require that permanent appointments to designated positions in the competitive class shall be conditioned upon the satisfactory completion of a period of service as a trainee or aide in an appropriate lower, trainee or aide position in such class and/or, where required, the completion of specified formal courses of training.

- (a) The period of such trainee or aide service shall be prescribed and set forth in the announcement of examination.
- (b) Upon the satisfactory completion of such trainee or aide service and/or of specified formal courses of training, as the case may be, an appointee shall attain permanent status in the designated position.
- (c) Any trainee or aide appointment shall be subject to such probationary term as is prescribed in the rules.
- (d) The employment of such trainee or aide may be terminated at the end of the period of the trainee or aide service, or at any time within such period, if the trainee's or aide's conduct, capacity or fitness is not satisfactory or if such person fails to pursue or to continue satisfactorily such formal courses as may be required, provided, however, that the announcement of examination shall set forth appropriate information relative to such termination.

5.8.2. Effect of Service in a Trainee Title Upon Probationary Period in the Permanent Title.

If, in the opinion of the agency head, an appointee conclusively demonstrates during service in a trainee title ability and fitness to perform the duties of the permanent title to which the appointee is thereafter assigned, completion of service in the trainee title, in the discretion of the agency head, may be deemed to be satisfactory completion of the probationary period in the permanent title, provided that the agency head files a written statement to that effect with the department of citywide administrative services at the time of such assignment to the permanent title.

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 or 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 heads of the agencies concerned therewith and the approval of the commissioner of citywide administrative services.

6.1.4. Existing Eligible Lists, 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 commissioner of citywide administrative services 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 commissioner of citywide administrative services the name, title, date of original appointment and the salary of the employee expected to be suspended; and

(b) the commissioner of citywide administrative services 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 transfer 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 be assigned during the period of such disability to other appropriate duties for which the employee is deemed duly qualified as determined by the commissioner of citywide administrative services.

6.1.8. Transfers: Other Jurisdictions.

Transfers between positions subject to the jurisdiction of the commissioner of citywide administrative services 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 in the state may be approved by the commissioner of citywide administrative services, 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 commissioner of citywide administrative services, 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 – REINSTATEMENTS

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 commissioner of citywide administrative services 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 commissioner of citywide administrative services 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 of resignation or retirement provided, however, that:

(1) the commissioner of citywide administrative services 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 commissioner of citywide administrative services determines that there is a lack of a sufficient number of qualified persons available for recruitment; and

(2) the commissioner of citywide administrative services shall annually re-examine the reason for establishing such period for reinstatement and shall 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 the 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 injury 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 commissioner of citywide administrative services for a medical examination to be conducted by a medical examiner selected by the commissioner of citywide administrative services. 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 such 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 the public service on account of disability.

6.2.6. Reinstatement of Dismissed Employee.

(a) An agency under the jurisdiction of the commissioner of citywide administrative services, 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 commissioner of citywide administrative services, 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 III – VOLUNTARY DEMOTIONS

6.3.1. General Provisions.

No permanent competitive class employee shall be demoted unless such employee consents thereto in writing. The agency head concerned shall transmit to the commissioner of citywide administrative services such consent together with a statement of the reasons therefor. This paragraph shall not be applicable to penalties of demotion resulting from disciplinary proceedings.

6.3.2. Restoration.

A person who has been demoted may, upon written request by the agency head concerned, be restored to such person's former position or a similar position, with the approval of the commissioner of citywide administrative services.

SECTION IV – REMOVAL AND OTHER DISCIPLINARY ACTION

6.4.1. Removal Notification to Department of Citywide Administrative Services.

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 department of citywide administrative services.

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 appear.

(c) Service by the agency head of written notice of determination to be reviewed pursuant to sections seventy-five and 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 V – ABOLITION OF POSITION, SUSPENSION, DEMOTION, PREFERRED LISTS

6.5.1. Suspension or Demotion.

The suspension or demotion of competitive class employees upon the abolition or reduction of positions shall be governed by the provisions of section eighty of the civil service law.

6.5.2. Units for Suspension or Demotion.

(a) The commissioner of citywide administrative services may, by rule, designate as separate units for suspension or demotion under this section, any institution or any division of any agency.

(b) There are hereby designated within the department of health the following separate units for suspension or demotion:

- (1) urine testing laboratory of the methadone maintenance treatment program;
- (2) Williamsburg methadone maintenance clinic of the methadone maintenance treatment program;
- (3) evaluation and control unit of the methadone maintenance treatment program.

(c) There are hereby designated within the department of mental health, mental retardation and alcoholism services the following separate units for suspension and demotion:

- (1) criminal and supreme court mental health program;
- (2) family court mental health program.

(d) There are hereby designated within the department of citywide administrative services the following separate units for suspension or demotion:

- (1) executive offices, which shall include the commissioner's office, office of the general counsel, office of technology and information services, office of fleet administration and transportation and office of external affairs and communications;
- (2) offices of the chief financial officer and the chief administrative officer;
- (3) office of administrative trials and hearings;
- (4) division of facilities management and construction services;
- (5) division of municipal supply services;
- (6) division of real estate services;
- (7) division of citywide personnel services.

(e) There are hereby designated within the department of housing preservation and development the following units for suspension or demotion:

- (1) office of property management;
- (2) office of development;
- (3) office of rent and housing maintenance;
- (4) office of central administration.

(f) There are hereby designated within the Department of Finance the following units for suspension or demotion:

- (1) Department of Finance;
- (2) Tax Appeals Tribunal.

6.5.3. Preferred Lists; Certification and Reinstatement.

In the event of suspension or demotion, preferred lists and certification and reinstatement therefrom shall be governed by the provisions of section eighty-one of the civil service law.

6.5.4. Effect of Failure or Refusal to Accept Reinstatement.

(a) The failure or refusal of a person on a preferred list to accept reinstatement therefrom to the person's former position, or any comparable position in a comparable salary or salary range for which such list is certified, shall be deemed to be relinquishment of eligibility for reinstatement, and such person's name shall thereupon be stricken from such preferred list.

(b) The name of such person may be restored to such preferred list, and certified to fill such appropriate vacancies as may thereafter occur, only upon the written request of such person containing a submission of reasons satisfactory to the commissioner of citywide administrative services for the previous failure or refusal to accept reinstatement.

6.5.5. Labor Class.

Whenever in any agency a position in the labor class is abolished or made unnecessary in any manner, or whenever the number of such positions is reduced, the permanent employee in such position shall be deemed suspended without pay and such employee's name shall be placed upon a preferred list for certification to appropriate vacancies for a period of one year from the date of suspension in the same manner as provided by sections eighty and eighty-one of the civil service law for the competitive class.

SECTION VI – EDUCATIONAL LEAVE OF ABSENCE UNDER THE MILITARY LAW

6.6.1. Certification.

In the event an employee on an educational leave of absence pursuant to the military law is on an eligible list and is certified but passed over for appointment from such a list during the period of absence, such employee shall not be charged with the certification.

6.6.2. Seniority.

The seniority of an employee on educational leave of absence pursuant to the military law shall accrue for purpose of suspension pursuant to section eighty of the civil service law during the period of such absence and the employee may in the same manner as all regular candidates file for and compete in any scheduled promotion examination held during the period of absence for which the employee meets the eligibility requirements, but inability to file or to appear for the examination at the regularly scheduled time and place because of such absence shall not be sufficient grounds for granting a special

examination.

6.6.3. Probation.

Whenever an employee shall have been granted an educational leave of absence pursuant to the military law prior to the completion of the probationary term prescribed by these rules, such probationary term shall not continue to run during the period of absence, but the employee shall be required to serve the remainder of such prescribed term upon return to active duty in pay status in city service before the employment shall be considered permanent.

6.6.4. Performance Rating or Evaluation.

No performance rating or evaluation shall be assignable to an employee on an educational leave of absence pursuant to the military law unless such employee shall have served at least three months on active duty in pay status in city service during a rating or evaluation period as prescribed by the rules or regulations governing performance ratings or evaluation.

RULE VII - GENERAL PERSONNEL ADMINISTRATION

SECTION I – MAINTENANCE OF ROSTERS, ADDRESSES AND RECORDS

7.1.1. Roster.

The department of citywide administrative services shall maintain an official roster of the classified service, setting forth in detail the employment listing of each employee and each change of status from the time the employee enters service until separation therefrom.

7.1.2. Address.

(a) Each officer or employee in the classified service shall, upon appointment or promotion, notify the agency head of his or her address. Such officer or employee shall likewise inform the agency head of any change of address during the period of employment.

(b) A candidate for examination or an eligible on a list shall promptly notify the department of citywide administrative services and the examining or certifying agency, as the case may be, of any change of address which occurs between the time of filing the application and the expiration of the eligible list upon which such person's name appears.

(c) Any communication or service to the last address thus furnished shall be deemed a valid and sufficient communication of service upon such person.

7.1.3. Records.

Personnel records created and maintained by each agency shall include such records as prescribed by the commissioner of citywide administrative services to be maintained by the agency or submitted to the department of citywide administrative services.

SECTION II – CERTIFICATION OF PAYROLLS

7.2.1. Certification.

Payrolls shall not be certified except upon declaration by the agency submitting them to the commissioner of citywide administrative services that the persons named therein are employed in their respective positions in accordance with law and the rules and regulations adopted pursuant thereto. The payroll of any person whose employment is in contravention of the foregoing provision shall not be certified by the commissioner of citywide administrative services.

7.2.2. Notification.

Notification prior to each action or decision of an agency pursuant to Chapter 35 of the Charter which changes the status of an individual employee, a position or a class of positions shall be provided by the agency to the commissioner of citywide administrative services.

7.2.3. Additional Employment.

Except as otherwise provided by law, no person receiving remuneration from employment in a position in the classified service shall be eligible to receive remuneration for employment in any additional position or positions in the civil service of the city or in the civil service of any other governmental agency or jurisdiction unless the agency head or heads concerned shall certify that such additional employment or employments are not in violation of any law, rule or regulation and that such additional employment or employments are not incompatible with the position held by such person.

SECTION III – POSITION CLASSIFICATION AND ALLOCATION

7.3.1. Position Classification.

(a) The commissioner of citywide administrative services 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 citywide administrative services in job analyses for classification of positions and shall assist in setting the minimum requirements therefor.

7.3.2. Position Allocation: Existing Titles.

(a) Any new or existing positions 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 commissioner of citywide administrative services.

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 commissioner of citywide administrative services, and the commissioner of citywide administrative services 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 positions;
- (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 commissioner of citywide administrative services and in accordance with the rules.

SECTION IV – MANAGEMENT SERVICE [RESERVED]

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 commissioner of citywide administrative services in the regulations or procedures. Such programs shall be subject to approval by the commissioner of citywide administrative services.

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 criteria 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 evaluator.

(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.

(c) Procedures for such appeals shall be contained in the sub-managerial performance evaluation program submitted by the agency to the commissioner of citywide administrative services.

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 a 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 VI – PERSONNEL PROGRAMS FOR EMPLOYEE INCENTIVES AND RECOGNITION, TRAINING AND SAFETY

7.6.1. Employee Incentives and Recognition.

(a) The commissioner of citywide administrative services shall administer citywide employee incentive and recognition programs.

(b) Agency plans and programs for agency employee incentive and recognition shall be prepared and submitted to the commissioner of citywide administrative services for approval in accordance with the regulations or as otherwise prescribed by the commissioner of citywide administrative services.

7.6.2. Employee Training and Development.

Employee training and development programs shall be conducted on a citywide basis by the department of citywide administrative services and on an individual agency basis by agencies.

7.6.3. Employee Safety.

Employee safety programs shall be administered on a citywide basis by the department of citywide administrative services and on an individual agency basis by agencies.

7.6.4. General Provisions.

(a) Standards for the personnel programs described in this section shall be as prescribed by the commissioner of citywide administrative services.

(b) Personnel programs which are of a citywide nature or which are such that administration by separate agencies would be impracticable and uneconomical shall be administered by the commissioner of citywide administrative services.

SECTION VII – EQUAL EMPLOYMENT OPPORTUNITY

7.7.1. Equal Employment Opportunity.

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

RULE VIII - APPEALS

SECTION I – DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ACTIONS

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

(a) Except as otherwise provided by resolution or regulation of the commissioner of citywide administrative services, 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 commissioner of citywide administrative services, 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.

SECTION II – AGENCY ACTIONS - APPEALS TO THE COMMISSIONER OF CITYWIDE ADMINISTRATIVE SERVICES

8.2.1. General Provisions.

A person aggrieved by the following agency actions or determinations may submit an appeal to the commissioner of citywide administrative services:

(1) the allocation of an individual position to an existing civil service title with respect to whether the duties and responsibilities of the individual position so allocated are in conformance with the duties and responsibilities of such title;

(2) the administration and certification of eligible lists for classes of positions unique to the agency by a certifying agency;

(3) except as otherwise provided in paragraph 8.2.3 of this section, the scheduling and conduct of non-written promotion examinations by an examining agency.

8.2.2. General Procedures.

(a) An appeal to the commissioner of citywide administrative services pursuant to the provisions of paragraph 8.2.1 shall be made in writing within thirty calendar days of the final agency action or determination.

(b) Where a candidate has been disqualified by an examining agency on the grounds that the candidate was found to lack any of the established requirements for admission to the examination, such appeal must be made in writing within two weeks after the date of notification of such agency action.

8.2.3. Claims of Manifest Error or Mistake.

The procedures set forth in section 8.1.1 of these rules shall apply to claims of manifest error or mistake on non-written promotion examinations conducted by an examining agency.

SECTION III – CITY PERSONNEL DIRECTOR OR AGENCY ACTIONS-APPEALS TO THE CITY CIVIL SERVICE COMMISSION (Deleted 10/30/81)

8.3.1. (Deleted 10/30/81)

8.3.2. (Deleted 10/30/81)

8.3.3. (Deleted 10/30/81)

8.3.4. (Deleted 10/30/81)

RULE IX - AUDITS AND INVESTIGATION

SECTION I – AUDITS

9.1.1. Audit Function.

The commissioner of citywide administrative services 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 35 of the 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 commissioner of citywide administrative services.

(a) The agency personnel and budget officer or the designated representative of such officer shall coordinate the agency preparation for department of citywide administrative services 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 commissioner of citywide administrative services.

9.1.3. Reports.

The commissioner of citywide administrative services shall report to the mayor on the performance by agencies of their personnel management functions.

SECTION II – INVESTIGATION

9.2.1. Investigation Function.

The commissioner of citywide administrative services 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 X - CLASSIFICATION OF POSITIONS NOT INCLUDED IN THE CAREER AND SALARY PLAN OR IN THE NEW YORK CITY HOUSING AUTHORITY CLASSIFICATION PLAN

SECTION I – POSITIONS IN THE EXEMPT CLASS

10.1.1. Number of Positions.

Not more than one appointment shall be made to or under the title of any office or position in the exempt class unless a different number is specifically prescribed hereafter.

10.1.2. Classification and Compensation Schedule E.

The titles and number of positions authorized for each title in the exempt class subject to this rule are set forth in the "classification and compensation schedules of the classified service," schedule E.

SECTION II – POSITIONS IN THE NON-COMPETITIVE CLASS

10.2.1. Number of Positions.

Unless a different or an 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.

10.2.2. 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, under their respective departments, under the caption positions subject to rule X.

(b) The 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 III – POSITIONS IN THE LABOR CLASS

10.3.1. Classification and Compensation Schedule L-10.

(a) The titles and grades, if graded, of positions in the 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 and compensation schedules of the classified service," schedule L-10.

(b) No part of this schedule is part of this rule. The schedule is, however, part of the classification of the classified service of the City of New York.

SECTION IV – POSITIONS IN THE COMPETITIVE CLASS

10.4.1. Classification and Compensation Schedule C-10.

The services, titles and grades, if graded, 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 and compensation schedules of the classified service," schedule C-10.

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

SECTION I – SALARY GRADES

11.1.1. Career and Salary Plan.

The salary grade for positions which are now or may hereafter be made subject to the career and salary plan hereinafter provided, is as follows:

Salary Grade	Salary Grade Minimum	Salary Grade Maximum
32	13,100	Unlimited

SECTION II – CLASSIFICATION OF POSITIONS

11.2.1. Commissioner of Citywide Administrative Services.

The commissioner of citywide administrative services 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 III – IMPLEMENTATION OF THE CAREER AND SALARY PLAN

11.3.1. Functions and Procedures.

In order to implement the career and salary plan, each position or class of positions subject thereto shall be classified under a standard title and allocated to an appropriate salary grade as soon as practicable following the adoption of this rule, and, upon such position classification and salary grade allocation, the commissioner of citywide administrative services shall establish schedules of equivalent titles indicating in each case the former title of each position

and the standard title and salary grade to which such position is classified and allocated. Such original position classifications and salary grade allocations shall be made, in the case of each position or class of positions, on the basis of the duties, responsibilities and examination qualifications naturally and properly pertaining to the present title of such position or class of positions, without regard to out-of-title work performed by any incumbent thereof. Thereafter, the reclassification and salary grade reallocation of positions shall be made on the basis of the actual duties and responsibilities thereof and the examination requirements based on such duties and responsibilities as determined by the department of citywide administrative services.

SECTION IV – EFFECTIVE DATE OF POSITION CLASSIFICATION AND POSITION RECLASSIFICATION

11.4.1. Prior to July 1, 1955.

Any position classification or position reclassification made hereunder prior to July 1, 1955 shall become effective as of July 1, 1954.

SECTION V – CREATION OF NEW POSITIONS

11.5.1. Requirements.

A new position or class of positions shall be established hereunder only under the title and salary grade determined therefor in accordance with this rule, the provisions of the New York City Charter and the provisions of the resolution of the board of estimate adopted July 9, 1954, calendar no. 1, establishing the pay plan not inconsistent with such Charter.

SECTION VI – RIGHTS AND STATUS OF NEW 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 reallocation 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 reallocation adopted in accordance therewith.

SECTION VII – RATES OF COMPENSATION OF POSITIONS NOT COMPENSABLE ON AN ANNUAL BASIS

11.7.1. Commissioner of Citywide Administrative Services; Procedures.

In order to effectuate the allocation or reallocation of positions paid at other than a per annum rate, the commissioner of citywide administrative services shall duly establish, in the manner provided by law, formulae for the purpose of computing the salaries of such positions on a per annum basis.

SECTION VIII – REGULATIONS AND PROCEDURES

11.8.1. Commissioner of Citywide Administrative Services.

The commissioner of citywide administrative services may prescribe such regulations and procedures as the commissioner of citywide administrative services may deem necessary or advisable to carry out the provisions of this rule.

SECTION IX – APPLICABILITY

11.9.1. Applicability and Effect of Rule XI.

The provisions of this rule shall be applicable only to positions covered by the career and salary plan and shall supersede any provisions of other rules and regulations of the commissioner of citywide administrative services inconsistent therewith.

SECTION X – POSITIONS IN THE NON-COMPETITIVE CLASS

11.10.1. Number of Positions.

Unless a different 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, under their respective agencies, under the caption "positions 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-11.

(a) The titles and salary grades or grades of positions in the labor 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 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 and compensation schedules of the classified service," schedule C-11.

(b) No part of this schedule is part of this rule. The schedule is, however, part of the classification of the classified service of the City of New York.

RULE XII - CLASSIFICATION OF POSITIONS IN THE NEW YORK CITY HOUSING AUTHORITY CLASSIFIED PURSUANT TO AND SUBJECT TO RULE XI PRIOR TO JULY 1, 1958

SECTION I – GENERAL PROVISIONS

12.1.1. Deletion from Rule XI.

Effective July 1, 1958, the positions and classes of positions in the New York City housing authority heretofore classified under and subject to rule XI and the resolutions of classification and reclassification adopted pursuant thereto are hereby deleted from rule XI.

12.1.2. Coverage Under Rule XII.

All such positions and classes of positions are hereby made subject to the provisions of rule XII as herein set forth.

12.1.3. Continuity and Preservation.

All occupational groups, titles, classes of positions, salary grades, tables of equivalencies, rights, status, and privileges accorded heretofore under rule XI and the classifications and reclassifications adopted pursuant thereto, and in respect to classifications and reclassifications hereafter adopted pursuant to rule XII are hereby continued undiminished and unimpaired with respect to incumbents, eligibles, positions, and classes of positions in the New York City housing authority and shall not be adversely affected by reason of the adoption of this rule XII or by reason of the adoption of any classification, reclassification, allocation or reallocation hereafter adopted.

12.1.4. Applicability of Rule XII.

The provisions of this rule shall be applicable only to positions in the New York City housing authority subject to rule XI prior to July 1, 1958 and such other classes of positions as may be hereafter established in the New York City housing authority pursuant to the provisions of this rule, any other rule or classification to the contrary notwithstanding.

SECTION II – POSITIONS IN THE NON-COMPETITIVE CLASS

12.2.1. Number of Positions.

Unless a different 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.

12.2.2. 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, under the heading "New York City housing authority" and under the caption "positions subject to rule XII".

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

SECTION III – POSITIONS IN THE LABOR CLASS

12.3.1. Classification and Compensation Schedule L-12.

(a) The titles and salary grades or grades of positions in the labor 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 and compensation schedules of the classified service," schedule L-12.

(b) No part of this schedule L-12 is part of this rule. The schedule is, however, part of the classification of the classified service of the City of New York.

SECTION IV – POSITIONS IN THE COMPETITIVE CLASS

12.4.1. Classification and Compensation Schedule C-12.

(a) The 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 and compensation schedules of the classified service," schedule C-12.

(b) No part of this schedule C-12 is part of this rule. The schedule is, however, part of the classification of the classified service of the City of New York.

EXPLANATION

The following basic resolution is included as part of the history of this Department's rules.

Whereas, By virtue of the provisions of Chapter 35 of the revised New York City Charter as adopted by the electors of The City of New York on November 4, 1975, certain changes in personnel administration were adopted and the related rule making power and certain other powers of the New York City Civil Service Commission were vested in the personnel director of the New York City Department of Personnel; and

Whereas, By virtue of the provisions of Section 1142 of such revised Charter, such powers and duties heretofore exercised by the New York City Civil Service Commission have been exercised by the Personnel Director of the New York City Department of Personnel in continuation of their exercise by such Commission, and the provisions of the rules and regulations of such Commission have been applicable to such Personnel Director insofar as not inconsistent with such Chapter and Charter; now, therefore, be it

Resolved, Effective January 1, 1977, in order to conform with the provisions of such Chapter and Charter, all rules of the New York City Civil Service Commission in force and effect on December 31, 1976 be and the same are hereby declared to be the rules of the Personnel Director of the New York City Department of Personnel insofar as such rules are not in conflict with such Chapter or Charter; and be it further

Resolved, In order to conform with certain of the provisions of such Chapter and Charter, the rules of the Personnel Director of the New York City Department of Personnel so declared be and the same are hereby amended at this time in the manner and form as hereinafter set forth; and be it further

Resolved, Effective January 1, 1977, in order to conform with the provisions of such Chapter and Charter, all regulations of the New York City Civil Service Commission in force and effect on December 31, 1976 be and the same are hereby declared to be the regulations of the Personnel Director of the New York City Department of Personnel insofar as such regulations are not in conflict with such Chapter or Charter or the rules are hereby amended, pending a general revision of such regulations.