

*New York City  
Health and Hospitals  
Corporation*

*Personnel Rules  
and Regulations*

*New York City Health and Hospitals Corporation  
Personnel Rules and Regulations*

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When used in these Personnel Rules and Regulations, the following terms shall be defined as noted:

**Act**

New York City Health and Hospitals Corporation Act, Sections 7381-7406 of the Unconsolidated Laws 1969, amended 2001.

**Appointing Officer**

The President of the Corporation, Senior Vice President for Network or the Health Care Facility Administrator, for Central Office the Senior Vice President responsible for Personnel and Labor Relations, or those to whom they have delegated the power to appoint employees. May also be referred to as "Appointing Authority."

**Certification**

A statement that an Eligible List is bona fide and that the names are in correct order; authorization to an appointing officer to make appointments from the list.

**City**

City of New York.

**Class of Positions**

A group of one or more positions with substantially similar duties, responsibilities and qualifications having the same title and salary rate, and described by the same position description; sometimes referred to as a Title.

**Classified Service**

All Group 12 classes of positions in the Corporation in either the competitive, non-competitive or labor classes, unless otherwise indicated.

**Compensation**

The annual salary for the position, or its equivalent stated by the day, week, month, hour or other unit of time or service paid to an employee. It may also be stated to include board and/or lodging or the money equivalent which is provided the employee. In addition, it shall include any differential pay given to an employee in recognition of special assignment, education, experience or other qualifications.

**Corporation**

The New York City Health and Hospitals Corporation.

**Demotion**

Removal of an employee from one class of position or title to another class of position or title in the same title series which has a lower title and lower minimum salary rate.

**Examining Authority**

Those appointed by the Senior Vice President to exercise the examining duties and functions set forth in the Rules.

**Examination**

The method by which the merit and fitness of candidates for appointment and promotion in the Corporation is determined.

**Facility**

Each separate entity of the Corporation including Central Office, acute care hospitals, long-term hospitals and Diagnostic and Treatment Centers.

**Group 12 Employees**

All employees of the Corporation, except those who are employed by the Corporation pursuant to Section 7385 Subd. 11 of the Act.

**Jurisdictional Classification**

The assignment of positions in the classified service to the competitive, non-competitive or labor class.

**Network**

Two or more Facilities and/or Diagnostic and Treatment Centers and neighborhood clinics in the same general geographic area under the jurisdiction of the same Senior Vice President.

**Permanent Competitive Employee**

An employee of the Corporation who has been appointed from an eligible list after passing a civil service examination, and who has satisfactorily completed his or her probationary period, as defined in Section 5.2.1 of these Personnel Rules and Regulations.

**Permanent Labor Class Employee**

An employee who has been appointed by the Corporation to a title designated as Labor Class in the Corporation Plan of Titles and who has satisfactorily completed his or her probationary period, as defined in Section 5.2.1 of these Personnel Rules and Regulations.

**Permanent Non-Competitive Employee**

An employee who has been appointed by the Corporation in a title designated as non-competitive in the Corporation Plan of Titles and who has satisfactorily completed his or her probationary period, as defined in Section 5.2.1 of these Personnel Rules and Regulations

**Personnel Review Board**

The Board established by Section 7390 Subd. 8(a) of the Act.

**Plan of Titles**

A roster of the titles of all classes of positions in the Corporation.

**Position**

A group of duties and responsibilities that an employee performs under a given title.

**Position Classification**

The determination of the appropriate class of position or title for an individual position.

**President**

President of the New York City Health and Hospitals Corporation.

**Promotion**

Appointment of an employee from one class of position or title to another class of position or title in the same title series that has a higher title, and higher minimum salary rate.

**Reassignment**

Change of assignment for an employee from one position to a position in the same class of position or title under the jurisdiction of the same Appointing Officer.

**Regulation**

A statement promulgated by the Senior Vice President setting forth the policy for implementation of the Corporation's Personnel Rules.

**Rule**

Any statement promulgated by the Senior Vice President pursuant to Section 7385 Subd. 12, Section 7390 Subd. 1 of the Act, and Section 2.2.1 of these Rules.

**Salary Rate**

The salary range, grade or single rate applicable to a class of positions.

**Senior Vice President**

Corporate Officer delegated by the President to be responsible for the Personnel and Labor Relations function.

**Title**

The designation of a position based upon its duties and functions.

**Transfer**

The change of an employee from a position under the jurisdiction of one Appointing Officer to a position under the authority of another Appointing Officer.

**Section 2.1      Applicability**

- 2.1.1      The Personnel Rules and Regulations shall be applicable to all employees in Group 12 classes of positions except as to those Sections which set specific limitations on applicability.

**Section 2.2      General Powers****2.2.1      Authority to Promulgate and Change These Rules**

By delegation of the President, the Senior Vice President shall exercise power of the Corporation under the Act to promulgate Personnel Rules and Regulations including modifications, amendments, deletions and additions thereto. Such rules, modifications, amendments, deletions and additions shall become effective upon ten (10) days written notice posted in the facilities of the Corporation.

**2.2.2      Request for Review**

Any aggrieved employee or certified employee organization may request a review of any rule or regulation, including any modification, amendment, deletion and addition within ten (10) days following the effective date of the rule. Such request shall be in writing, addressed to the Senior Vice President, and shall specify the objections to such rule or revision thereof.

**2.2.3      Administration and Enforcement of Rule**

The Senior Vice President shall have the general authority and responsibility for the administration and enforcement of the Personnel Rules and Regulations.

**2.2.4      Authority to Prescribe Standards**

The Senior Vice President shall prescribe standards and criteria for the execution of these Personnel Rules and Regulations, and whenever practicable, shall prescribe necessary forms for their implementation.

**2.2.5      Personnel Review Board**

The Personnel Review Board has the power and duties prescribed in Section 7390 subdivision 8(b) of the Act and those specifically enumerated in these Rules.

**2.2.6 Cost Group Managers and Facility Administrators**

The Central Office Cost Group Managers and the Health Care Facility Administrators shall have the powers and duties of personnel management as prescribed by the Senior Vice President.

**Section 2.3 Non-Discrimination and Equal Employment**

**2.3.1** Laws prohibiting discrimination on the basis of Race, Sex, Age, Religion, National Origin, Disability, Sexual Orientation or Affectional Preference shall be strictly enforced by the Corporation. Equal Opportunity in Employment shall be insured and promoted in the administration of Personnel. Written notice of this rule shall be posted in the facilities of the Corporation.

**Section 2.4 Separability**

**2.4.1** If any rule or section or subdivision herein is found to be ineffective, invalid or inoperable in whole or in part, to the extent that it has not been found ineffective, invalid or inoperable in whole or part, it shall continue in effect. No other rule, section or subdivision shall on account thereby be deemed ineffective, invalid or inoperable.

**Section 3.1 Designation of Jurisdictional Classification**

- 3.1.1 The Senior Vice President shall classify all Group 12 classes of positions in the competitive, non-competitive or labor class which shall become effective upon promulgation.

**Section 3.2 Competitive Class****3.2.1 Definition**

- a) The competitive class shall include all classes of positions for which it is practicable to determine the relative merit and fitness of applicants by competitive examination.
- b) It shall include all classes of positions now existing or hereafter created except those classes of positions which are classified in the non-competitive or labor class.

**3.2.2 Jurisdictional Reclassification**

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

**Section 3.3 Non-Competitive Class****3.3.1 Definition**

The non-competitive class shall include all classes of positions for which it is not practicable to determine the merit and fitness of applicants by competitive examination.

**3.3.2 Classification by Rule**

No class of positions or title shall be deemed to be in the non-competitive class unless it is officially listed in Appendix A, which shall be considered to be a part of these Personnel Rules and Regulations, copies of which shall be available to interested persons upon request.

**3.3.3 Positions for the Physically Disabled**

- a) The Senior Vice President may designate a number of positions with limited duties which can be performed by physically disabled persons who are found qualified 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 Visually Handicapped of the State Department of Social Services as physically disabled by blindness or by the State Education Department as otherwise physically disabled and, in any event, qualified to perform satisfactorily the duties of any such position.
- c) The Senior Vice President shall furnish to said agencies a detailed description of all duties of the position and shall give due consideration to their findings as to the ability of the physically disabled person to perform the duties of such position.

**3.3.4 Positions for the Mentally Disabled**

- a) The Senior Vice President may designate a number of positions with limited duties which can be performed by mentally disabled persons who are found qualified 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 the New York State Education Department as mentally disabled and qualified to perform satisfactorily the duties of any such position.
- c) The Senior Vice President shall furnish a detailed description of all duties of the position to the State Education Department and shall give due consideration to the findings of that department as to the ability of the disabled person to perform the duties of such position.

**Section 3:4 Labor Class****3.4.1 Definition**

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

**3.4.2 Classification**

No position shall be deemed to be in the labor class unless it is specifically so designated in such class in the Corporate Plan of Titles.

**3.4.3 Requirements**

The Senior Vice President shall prescribe the non-competitive requirements and tests to be held for positions in the labor class.

**Section 4.1 Examinations****4.1.1 General Provisions - Competitive Class**

- a) The relative merit and fitness of applicants for positions in the competitive class shall be determined by such examinations as may be prescribed by the Senior Vice President. The examinations shall relate to those matters which test the relative merit and fitness of the applicant and his/her ability to perform the duties of the class of positions for which application is made.
- b) The Senior Vice President shall regularly schedule and order the holding of examinations for such classes of positions as may be necessary to anticipate the needs of the Corporation.

**4.1.2 Test, Weight & Seniority**

- a) **Tests**  
The examination for any title or class of positions in the competitive class may consist of one or more tests including written, oral, performance, medical or physical fitness tests and/or other measurements such as experience and education rating. A job analysis shall be conducted for each examination.
- b) **Weight**  
The tests comprising an examination for any title and the relative weight given to each test, if not fixed by these rules, shall be fixed at the time of the Notice of Examination.
- c) **Seniority in Promotion Examinations**  
In competitive promotion examinations, seniority shall be given a weight of 15.
- d) **Determination by Examining Authority**  
The determinations required by subdivisions a, b and c of this section shall be made by the Examining Authority with the approval of the Senior Vice President.

**4.1.3 General Provisions – Non-Competitive or Labor Class**

Appointment to positions in the non-competitive or labor class shall be made on the basis of non-competitive examinations as prescribed by the Senior Vice President. Such examinations shall determine whether the candidate:

- a) is able to perform the essential duties of the position, with or without reasonable accommodation; and
- b) is in possession of the required knowledge and ability to perform the duties of the position; and
- c) is qualified by experience, education or training to discharge the duties of the position; and
- d) is a person of satisfactory character and reputation.

**4.1.4 Non-Competitive Examinations**

Non-competitive examinations may consist of a review and evaluation of the training, experience and other qualifications, with or without a written, oral or other performance test.

**4.1.5 Second or Special Examinations**

- a) Except as provided in this section 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 any examination held unless it is shown to the satisfaction of the Senior Vice President that his/her failure to take or complete such tests is due to:
  - i. manifest error as described in Section 4.5.3 hereafter; or
  - ii. compulsory attendance before a court or another public body or official having the power to compel attendance; or
  - iii. physical disability incurred during the course of, or within the scope of employment in the Corporation; or
  - iv. absence for one week from the date of death of a member of the immediate family, as defined by the Corporation's Time and Leave Rules.
- b) No such claim shall be granted unless it is filed in writing in person or by certified mail with the Senior Vice President, within two months following the date of the regular examination.

**4.1.6 Sabbath Observers**

- a) A candidate claiming to be unable to participate in an examination when originally scheduled because of religious beliefs may seek consideration as a Sabbath Observer by submitting to the Examining Authority a written request for a special examination no later than five days prior to the date of the examination.
- b) A written statement signed by his/her religious leader attesting to his/her religious beliefs and certifying that it is contrary to his/her religious tenets to participate in an examination during the Sabbath must accompany said written request.

**4.1.7 General Procedures**

The Examining Authority shall develop procedures and administrative controls to safeguard the confidentiality, impartiality and security of the examination process.

**4.1.8 Change of Title and Jurisdictional Classification**

Notwithstanding Section 4.1.1 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 Examining Authority with the approval of the Senior Vice President 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 4.2 Notices of Examination****4.2.1 Content of Notice of Examination**

The Notice of Examination shall set forth information about the title and salary rate, the minimum qualifications required, the tests of the examination, the relative weight of each test, filing fees where applicable, and such other information as may be deemed necessary.

**4.2.2 Publication**

- a) Notices of Examination shall be posted or published throughout the filing period and appear in such publications and/or posting places as are appropriate.
- b) After the Notice of Examination has been published, the Examining Authority may divide the component tests of the examination into several subjects or parts, provided that notice of such action is given at the time that such tests are held.

**4.2.3 Filing Period**

Unless otherwise provided in the Notice of Examination, there shall be a filing period of not less than two weeks during which applications may be received. There shall not be fewer than ten days between the closing of the filing period for applications and the date of the first test of the examination. Any exception to this schedule must be provided in the Notice of Examination.

**Section 4.3 Applications for Examinations****4.3.1 Application Forms**

Application forms for examinations shall be furnished by the Examining Authority without charge and upon request.

**4.3.2 Completion of Application Forms**

- a) An applicant shall state upon the prescribed form such information as required concerning his/her background, experience and qualifications for the position sought.
- b) The personal history questionnaire and other prescribed forms provided in connection with the investigation of an applicant shall be deemed a part of the application for examination.
- c) Applications shall be signed by the applicant.
- d) Applications shall contain a declaration that the statements made therein are made subject to penalties for deliberate and material misrepresentation.
- e) Applications must be timely and complete to be accepted.

**4.3.3 Receipt of Application Forms**

Applications shall be dated upon receipt and shall be numbered and shall not thereafter be returned to the applicant or his/her agent.

**Section 4.4 Disqualification of Applicants or Eligibles****4.4.1 General Provisions**

- a) No person shall be disqualified unless he/she is given a written statement by the Examining Authority of the reasons for the disqualification and afforded an opportunity to offer an explanation and to submit facts in opposition to such disqualification.
- b) The Examining Authority may refuse to examine an applicant, or after an examination, to certify an eligible for reasons prescribed by law or rule.

**4.4.2 General Requirements**

- a) Satisfactory character and reputation shall be deemed a part of the established minimum requirements and qualifications for admission to an examination for appointment to a position.
- b) A candidate shall not be admitted to an examination or any test thereof, whose application theretofore has not been presented and accepted in accordance with the rules and who has not been fingerprinted.

**4.4.3 Physical or Mental Disability**

- a) Except as provided in Subdivision (b) hereof, any physical or mental disability, injury, defect, etc., which renders a person unable to perform the essential duties of the position he/she seeks with or without a reasonable accommodation, shall constitute grounds for disqualification.
- b) When a person on an eligible list does not qualify under Subdivision (a) hereof for the title for which the list is established and where such list is declared appropriate for a position requiring lesser medical and physical standards than those required for the original position, he/she shall if he/she meets such lesser standards, be qualified for the latter position and shall be certified thereto in his/her regular order on such list. The burden of establishing required qualifications shall be on the applicant or eligible.

**4.4.4 Investigation**

Investigation of the qualifications and background of an eligible may be made after he/she is appointed. Upon finding of such facts, which, if known prior to appointment, would have warranted disqualification, or upon finding of illegality, irregularity or fraud in his/her application, examination or appointment, the appointment may be revoked and his/her employment terminated, provided, however, that no revocation or termination shall be more than three years after appointment, except in the case of fraud.

**4.4.5 Appeal of Disqualification**

When a person has been disqualified by the Examining Authority, he/she shall be entitled to appeal the disqualification to the Personnel Review Board.

**Section 4.5 Examination Ratings****4.5.1 General Rating Standards**

The ratings in a competitive examination shall be comparative and in accordance with such standards as the needs of the Corporation may require.

**4.5.2 Passing Score**

- a) The required passing score in any test or part of an examination shall be fixed by the Examining Authority at a date not later than the time of the holding thereof.
- b) If in the preliminary scoring of any component test it appears that the number of eligibles will not meet the needs of the Corporation, the Senior Vice President may, in his/her discretion, direct the Examining Authority to authorize rescaling of scores for individual questions or parts of a test.

**4.5.3 Correction of Manifest Error**

- a) The Senior Vice President may direct the Examining Authority to correct any manifest error made in connection with the examination at any time before or after the eligible list is established and published. The Vice President may do so on his/her own initiative or in response to a claim made by a candidate that a manifest error has been made.

Such correction may result in a higher or lower rating and shall be officially recorded in the manner prescribed by the Examining Authority.

- b) A claim of manifest error shall be considered by a committee of three qualified persons appointed by the Examining Authority who shall consider the merit of the claim and recommend a disposition to the Senior Vice President. The action taken on the recommendation may result in higher or lower final scores and changes in positions on the eligible list.
- c) Candidates may make claims of manifest error with respect to scoring of test answers. Such claims must be made within 30 calendar days from the date of notice to candidate of the results of the test and must be submitted in writing to the Examining Authority.
- d) Claims of manifest error with respect to rejection of a candidate for failure to meet the preliminary requirements for such examination must be submitted in writing to the Examining Authority within two weeks following the date on which notice of such rejection was transmitted to the candidate.
- e) 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 or revoke eligibility or appointment for the reasons set forth herein shall not apply where the appointee has served satisfactorily for a period of at least one year after appointment to such position.
- f) When an appeal to the Committee for Manifest Errors has been denied, the applicant may appeal such determination to the Personnel Review Board.

**4.5.4 Tie Breaking Procedures**

When two or more candidates in competitive examinations receive the same final examination ratings, their respective places 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.

**Section 4.6 Eligible Lists****4.6.1 Establishment of Lists**

- a) The names of the candidates passing examinations shall be listed in order of their respective final ratings and promulgated by the Senior Vice President. The names of disabled and non-disabled veterans shall be reported in the manner prescribed by Law subject to verification of their eligibility for additional credits.
- b) An eligible list may be established subject to such medical, physical or other appropriate non-competitive qualifying tests, investigations and conditions as may be deemed appropriate by the Examining Authority.

**4.6.2 Notification**

Each candidate shall be notified of his/her rating and, if he/she has received a passing final examination rating, of his/her numerical place on an eligible list. Any candidate rejected for reasons other than failure to attain a passing final examination rating shall be advised of such reasons.

**4.6.3 Inspection of Examination Papers**

Except as otherwise provided, candidates may personally inspect their examination papers at a specified time and place in the presence of a designated employee as determined by the Examining Authority.

**4.6.4 Duration of Eligible Lists**

- a) The duration of either an open-competitive or promotion list shall not be for less than one or 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 new list for the same title.

**Section 4.7 Certification of Eligible List and Selection Therefrom****4.7.1 General Provisions**

Appointments or promotions shall be made from the eligible list most nearly appropriate for the position to be filled.

**4.7.2 Selection Procedure**

- a) Appointments or promotions from an eligible list to a position in the competitive class shall be made by selection of one of the three persons certified by the Senior Vice President as standing highest on such list who are available and willing to accept appointment or promotion.
- b) Candidates passed over for appointment or promotion will be given or sent written notice of their non-selection.

**4.7.3 Existing Eligible List**

- 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 the Appointing Officer with a sufficient number of eligibles from which selection may be made in accordance with Section 4.7.2(a).
- b) Where an old list is in existence for one year or more which contains less than three names, is continued upon the establishment of a new list, the Senior Vice President may certify the names on the old list with enough names from the new list to provide the Appointing Officer with a sufficient number of eligibles from which selection may be made.

**4.7.4 Limitation on Certification**

No name shall be certified more than three times to the same Appointing Officer for the same or similar position, except at the Appointing Officer's request. The Appointing Officer may review the application and the response to reference checks of each certified eligible at the office of the Examining Authority.

**4.7.5 Duration of Certification**

- a) The Appointing Officer has 30 days from the date of certification of an eligible list within which to make appointments and prepare dispositions. In no case shall any certification extend beyond the life of the eligible list.
- b) Until any certification has been exhausted or terminated no new certification shall be made to the same Appointing Officer.

**4.7.6 Additions to and Declinations of Certification**

- a) On written notification from an Appointing Officer that an eligible named in the certification has declined appointment, and on receipt of confirmation in writing, or of evidence of the failure of such eligible to respond to a notice properly sent, such certification shall be completed by the addition of the name of the eligible next in order of standing on the list.
- b) Notwithstanding Section 4.7.4, if there be more than one position to be filled or if there is reason to anticipate declinations, the Appointing Officer may request the Senior Vice President to supplement the certification for the selection by addition of the names of those next in order on the 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. Only those who have been actually entitled to consideration for selection shall be deemed certified.

**4.7.7 Conditional Certification**

- a) The Senior Vice President may, either upon request of an Appointing Officer or upon his/her own initiative, issue such certification subject to investigation, medical tests, physical examination or other qualifying test or requirement. Written notice of such conditional certification shall be given to such eligibles at the time of appointment or promotion.
- b) If, upon subsequent investigation or medical or other qualifying tests, a conditionally certified eligible is found to be not qualified, the certification shall be revoked and the employment, if any, of such eligible terminated. However, except in case of fraud, if a conditional certification has been revoked or an appointment terminated more than three years after it is made, it shall remain in effect.

**4.7.8 Certification Pools**

For the purpose of filling positions, the Appointing Officer may conduct appointment interviews or pools.

**4.7.9 Veterans on Educational Leave**

A veteran on educational leave of absence pursuant to the military law who is on an eligible list, and who is certified but passed over for an appointment or promotion from such a list during his/her leave of absence, shall not be deemed to have been passed over for the purpose of Section 4.7.4, above.

**4.7.10 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 for such position from such list.

**4.7.11 Selective Certification**

- a) At the request of the Appointing Officer, the Senior Vice President shall authorize selective certification from an eligible list to fill selected positions in the class of positions which require additional or special qualifications not tested specifically in the prescribed requirement or tests of an examination.
- b) Such selective certification shall be made only upon due notice to all affected eligibles on the list. Eligibles on the list who possess the additional or special qualifications such as appropriate licensure, possession of essential tools, or equipment and facilities, or who pass an appropriate qualifying test shall be qualified for selective certification. They shall be certified to such selected positions in the order of standing on the original list.
- c) Selective certification shall not be authorized until intention to do so has been posted for ten (10) days in the facilities of the Corporation or unless otherwise specified in the Notice of Examination.

**4.7.12 Continuing Eligible Lists**

- a) The Senior Vice President 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 his/her 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 4.8 Declination of Appointment****4.8.1 Effects of Declination and Exceptions for Declination**

An eligible whose name has been certified for employment and who declines or fails to respond to an offer of appointment by the required date, provided that such date is not less than four days after the date of mailing of such offer, or who fails to report to work after accepting such offer shall have his/her name withheld from further certification and shall be so advised in writing unless the declination be for the following reasons:

- a) the position offered is of temporary, seasonal or part-time duration; or
- b) the duties of the specific assignment offered are of an objectionable nature and not specified in the examination announcement; or
- c) the position offered is other than the one for which the eligible list was expressly established; or
- d) location on the basis of borough, in case of promotion only.

**4.8.2 Conditions for Restoration**

- a) The names of persons removed pursuant to Section 4.8.1 shall be restored to the eligible list only upon their written request and at the conclusion of any outstanding certification. No more than three such restorations shall be made in any event and such request must be filed not later than thirty (30) days prior to the expiration date of the eligible list.
- b) The names of eligibles restored to the active list shall be restored to their original position on the list for further certification.

**Section 4.9 Additional Credits for Examination Purposes - Veterans****4.9.1 Application for Additional Credit**

A veteran may exercise his/her claims for additional credit in an open competitive or promotion examination in accordance with Section 85 of the Civil Service Law.

**4.9.2 Withdrawal of Application for Additional Credit**

- a) If a veteran makes a request for such credits, he/she may in writing withdraw the request at anytime prior to the establishment of the eligible list without prejudice to a future request for use of such credits.
- b) At any time prior to permanent appointment from an eligible list a veteran may elect in writing to relinquish use of credits previously claimed by him/her for use on that list and may accept the lower position on the list to which he/she is resultantly entitled. Such an election is irrevocable for that list.

**4.9.3 Exhaustion of Credits**

If a veteran has previously been permanently appointed or promoted to a position in the Corporation or any other agency covered by Civil Service Law from an eligible list in which he/she used such credits, he/she shall not again be entitled to any additional credits.

**4.9.4 Exceptions to Exhaustion of Credits**

A veteran shall not be deemed to have used his/her credits where:

- a) his/her position on the list at the time of its establishment is not affected by the use of such credits;
- b) at the time of certification of names from an eligible list a veteran is reached for certification and he/she is certified in the same relative standing among eligibles remaining on the list as if he/she has not been granted his/her additional credits; or
- c) a veteran resigns or is terminated during his/her probationary period.

**Section 5.1 Appointments: General****5.1.1 Appropriate Appointment**

Each employee shall be appointed to a position which has been assigned to a class of positions that is in the Corporate Plan of Titles, and which is appropriate to the duties that he/she is expected to perform.

**5.1.2 Prohibition Against Out-of-Title Work**

Except for temporary emergency, an employee shall not be assigned to perform duties that are not contemplated by or do not come within the scope of the position description for his/her assigned title.

**Section 5.2 Terms of Probationary Service****5.2.1 Probationary Term**

- a) **General**

Every appointment and promotion in the competitive, non-competitive or labor class shall be made subject to the successful completion of a probationary period, unless otherwise set forth in the terms and conditions for certification for appointment as determined by the Senior Vice President.
- b) **Duration of Probationary Term**
  - i. The probationary period shall be twelve (12) months unless otherwise set forth in the terms and conditions of certification for appointment or promotion as determined by the Senior Vice President.
  - ii. Such probationary period may be extended for a period not to exceed an additional six (6) months.
  - iii. Notwithstanding the provisions of subdivisions b)i, b)ii and c) of this section, the probationary period shall be increased by the number of days the probationer does not perform the duties of the position. The Appointing Officer may terminate the employment of the probationer at any time during the extended period.

- c) **Extension of Probationary Term**  
The Appointing Officer and the probationary employee may, by mutual consent, extend the probationary period for one or more additional periods not exceeding in the aggregate six months; the Appointing Officer may terminate the employment of the probationer at any time during the extended period.
- d) **Written Notice of Probationary Term**  
At the time of appointment or promotion, the employee shall be informed in writing of the applicable probationary period.
- e) **Holding of Former Position Until Completion of Probation**  
Upon promotion, the permanent position formerly held by the employee shall be held open for him/her and shall not be filled, except on a temporary or provisional basis, pending completion of his/her probationary term.

### **5.2.2 Waiver Upon Promotion**

The Appointing Officer may waive the probationary period in the case of a promotion. Such waiver period must be in writing.

### **5.2.3 Termination of Probationer**

- a) The Appointing Officer may terminate a probationer's service for gross misconduct or because his/her performance is not satisfactory at any time during the course of his/her probation by written notice to the probationer.
- b) **Minimum Probationary Service Before Termination from Competitive or Labor Titles for Determination of Level of Performance.**
  - i. In the case of probationers in competitive or labor class titles where performance is not satisfactory, the Appointing Officer may terminate the probationer's services, by written notice, only after a minimum period of probationary service of two months for original appointment.
  - ii. In the case of probationers in promotional appointments in competitive or labor class titles where performance is not satisfactory, the Appointing Officer may terminate the probationer's services, by written notice, only after a minimum probationary period of four months, unless otherwise set forth in the terms and

conditions for promotion as determined by the Senior Vice President.

iii. Following completion of the required minimum probationary period, the Appointing Officer may terminate a probationer at any time during the maximum probationary period.

- c) **No Minimum Probationary Period for Non-Competitive Titles**  
The Appointing Officer may terminate the services of a probationer in the non-competitive titles at any time during the probationary period, by written notice.

**5.2.4 Termination of Probationary Employee after Formal Course of Training or Study**

Notwithstanding the provisions of Section 5.2.3, whenever there is a prescribed formal course of study or training for all probationary employees in a title, the Appointing Officer may terminate the employment of a probationer at the conclusion of such course if he/she failed to complete it successfully.

**5.2.5 Credit for Temporary or Provisional Service**

- a) **Promotional Appointments**
- i. Time served in a title on a provisional or temporary basis, for a continuous period equal to the probationary period immediately preceding permanent appointment, shall be construed, in the case of promotion, to have been the probationary period for such title. This shall apply, however, only when there has been no break in service in the promotional title.
- ii. If the period of temporary or provisional service has been for less than the required probationary period, it shall not constitute even partial fulfillment of the probationary period, unless otherwise set forth in the terms and conditions of certification for promotion as determined by the Senior Vice President.
- b) **Original Appointments**  
Time served in a title on a provisional or temporary basis, for a continuous period immediately preceding permanent appointment, shall not constitute even partial fulfillment of the probationary period, in the case of original appointment, unless otherwise set forth in the terms and conditions of certification for appointment as determined by the Senior Vice President.

- c) For purposes of determining whether the requirement of probationary service has been satisfied under the terms of this section, only the time spent in full pay status in the performance of the duties of the position shall be counted as time worked. The only exception to this shall be the provisions of the military law, where applicable.

#### **5.2.6 Restoration to Eligible List**

- a) A probationer separated from employment for any reason other than fault or delinquency may choose to be restored to the eligible list from which he/she was appointed if it is still in existence, with the same relative standing for certification.
- b) If he/she is subsequently reappointed by the same Appointing Officer to the same title, the time spent in his/her initial probationary period may be counted toward completion of a full probationary term. If appointed by another Appointing Officer, such time shall not be counted except if the new Appointing Officer elects to do so.

#### **5.2.7 Continued Employment Pending Appeal**

Whenever a probationer, who has been declared not qualified by the Examining Authority for the position he/she holds, files an appeal with the Examining Authority and/or the Personnel Review Board, the Appointing Officer may authorize his/her continued employment pending final decision of such appeal. However, 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.

#### **5.2.8 Veteran on Educational Leave**

If a veteran takes an educational leave of absence pursuant to military law before the completion of his/her probationary period, upon return to his/her position, he/she shall be required to serve the balance of the probationary period before his/her employment in the position is considered permanent.

#### **5.2.9 Probationary Term - Temporary or Provisional Service in Higher Level Position**

- a) When an employee who has not completed his/her probationary term is appointed on a temporary or provisional basis to a higher level position in the same title series, the period of temporary or provisional service rendered by such employee in such high level position may, in the discretion of the Appointing Officer or designee, be considered as

satisfactory probationary service in his/her lower position and may be counted as such in determining the satisfactory completion of such probationary term.

- b) At any time during the probationary term, or at the expiration of the term, the Appointing Officer or designee shall, on request of such probationer, furnish his/her decision in writing as to whether or not service in such higher level position shall be considered as satisfactory probationary service.
  - i. In the event of an adverse decision by the Appointing Officer or designee, such probationer, at his/her request, shall be returned to his/her lower position to continue his probationary term. The employment of such probationer returned to his/her lower probationary position shall not be terminated for unsatisfactory performance unless he/she shall have actually served in such position in the aggregate, at least a period of two months.
  - ii. Acts of misconduct by the employee while serving in the higher title, under the terms of this section, may be found as basis for failure of probation.

### **Section 5.3 Promotions**

#### **5.3.1 Internal Promotions**

As far as practicable, all positions in higher ranking titles will be filled by promoting qualified persons from within the Corporation.

#### **5.3.2 Criteria for Promotion**

- a) Promotions to positions in the competitive will be based on relative merit and fitness as determined by competitive examination.
- b) Promotions to positions in the non-competitive or labor class class will be based on non competitive examination as defined in Sections 4.1.3 and 4.1.4.

#### **5.3.3 Promotion Lists**

- a) Promotion lists may be established for such individual facilities or divisions of any facility of the Corporation as the Senior Vice President shall designate as appropriate promotion units.

- b) A general promotion list may also be established but shall not be certified to a promotion unit until after the promotion list for that unit has been exhausted.

**5.3.4 Eligibility for Promotional Examination**

Eligibility for promotional examinations will generally be limited to persons holding permanent status in lower rated positions in the direct line of promotion. If the Senior Vice President determines it is not practicable, or that it is against public interest to so limit eligibility, he/she may extend such eligibility to those holding positions in related or collateral lines of promotion, and may prescribe minimum training and qualifications therefor.

**5.3.5 Eligibility: Preferred List or Leave of Absence Status**

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

**5.3.6 Eligibility: Veteran on Educational Leave**

A veteran on an educational leave of absence pursuant to the military law shall be eligible to file for or participate in any promotional examination for which he/she is otherwise qualified, which is held during such absence. However, his/her inability to file for or participate in such examination because of such absence shall not be sufficient ground for granting a special examination.

**5.3.7 Eligibility Requirements**

Eligibility shall be limited to persons who meet the requirements prescribed in the Notice of Examination.

**5.3.8 Eligibility for Appointment from a Promotional List**

Eligibility for appointment from a promotional list shall be limited to permanent employees whose names appear on such list and who successfully complete their probationary period in the eligible title from which promotion is being made.

**5.3.9 Open Promotional Examinations**

- a) The Senior Vice President may open examinations to eligibles, otherwise qualified, in two or more lower titles in the direct line of promotion, who shall have served the required periods in any or all such titles. The Senior Vice President may also extend eligibility to compete in a promotional examination to persons holding positions in other titles which he/she has determined to be similar classes of positions.
- b) The Senior Vice President may permit employees in the non-competitive class who are holding or who have held a position in the non-competitive class for a period of two years the opportunity to participate in promotional examinations for which such non-competitive class service is determined by the Senior Vice President to be appropriate preparation, if such examination is to be held in conjunction with an open competitive examination.

**5.3.10 Promotion by Non-Competitive Examination**

Whenever there are no more than three persons eligible for promotion examination or no more than three persons have applied therefor, the Appointing Officer may nominate one of the three and such nominee may be appointed if he/she qualifies in an appropriate examination or if he/she has already qualified in another examination appropriate to the duties and responsibilities of the position.

**5.3.11 Filling Vacancies by Open Competitive Examinations**

- a) The Senior Vice President may decide to conduct an open competitive examination instead of, or simultaneously with, a promotion examination. Notice of a determination to conduct an open competitive examination instead of a promotion examination shall be duly posted for a period of fifteen (15) days.
- b) Any employee who believes that an open competitive examination should not be held instead of a promotion examination may submit in writing a request to the Senior Vice President for a promotion examination, stating the reasons why he/she believes it to be practicable and in the public interest to fill the vacancy by promotional examination. The request, in writing, shall be made within fifteen (15) days from the date of the notice.

**5.3.12 Rules Governing Promotional Examinations and Promotions**

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

**5.3.13 Credit for Provisional Service**

If an employee who has service in provisional status in a promotional title wishes to participate in a promotional examination for the title, the time he/she has spent as a provisional in the promotion title may be counted, along with any other time spent in permanent status in lower qualifying titles, to determine whether he/she has the total length of service in the lower title which is required for eligibility to participate in the examination for the promotion title.

**5.3.14 No Credit for Out of Title Work**

No credit shall be given for out of title work in promotional examinations.

**5.3.15 Promotional Examinations - Labor Class**

The Senior Vice President may permit labor class employees to participate as eligible candidates in appropriate promotion examinations.

**Section 5.4 Temporary Appointments****5.4.1 Temporary Appointments from Eligible Lists**

- a) A temporary appointment for a period not exceeding three months, where the need therefore is important, may be made without regard to existing 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 the list.

- c) A temporary appointment beyond a 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, provided however, that:
  - i. Such appointee may be withheld from further certification, at the request of the Appointing Officer, for a period of four months or for the duration of such employment, whichever period is shorter.
  - ii. This limitation, however, shall not apply during the last four months of the life of such eligible list.

#### **5.4.2 Status of Temporary Employee**

Any employee who is promoted to a temporary position after having qualified in the same manner as required for permanent promotion shall have all the rights and benefits of permanent status with respect to promotion eligibility.

### **Section 5.5 Provisional Appointments**

#### **5.5.1 Appointment Requirements**

If there is no appropriate eligible list from which to fill a vacancy in a position in the competitive class, the Appointing Officer may appoint a person on the basis of a non-competitive examination to fill such vacancy, provisionally, until selection and appointment can be made after competitive examination.

#### **5.5.2 Credit for Provisional Service**

A suitable method for the computation of experience credit for provisional service in open competitive, but not promotion examinations, shall be determined by standards promulgated hereafter by the Examining Authority upon approval by the Senior Vice President.

#### **5.5.3 Duration**

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

#### **5.5.4 Termination of Provisional Appointments**

A provisional appointment shall be terminated within two months following the establishment of an appropriate list except if the number of provisionals to be replaced at one time is so great as to interfere with the ordinary order of

business, the Senior Vice President may extend the period of their employment for up to four months after the list is established.

**Section 5.6      Exceptional Appointments**

**5.6.1      Temporary Appointment of Expert**

- a) The Appointing Officer may authorize a temporary appointment without examination when the person will render professional, scientific, technical, or other expert services.
- b) Such services must be rendered only:
  - i. on an occasional basis, or
  - ii. on a regular full time or part time basis in a position temporarily established to conduct a special study or project for a period not exceeding 18 months or its full time equivalent.

**5.6.2      Authorization of Exceptional Appointments**

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

**5.6.3      Status of Exceptional Appointee**

Persons employed pursuant to this section shall not have permanent status or rights.

**Section 5.7      Trainee Appointments**

**5.7.1      Authorization and Conditions**

- a) The Senior Vice President may require that permanent appointment to designated positions in the competitive class be conditioned upon the satisfactory completion of a stipulated period of service as a trainee in an appropriate lower trainee class of position and/or upon the completion of a specified formal course of training.
- b) The period of such trainee service and all relevant terms and conditions shall be set forth in the examination announcement.

**5.7.2 Effect of Service in Trainee Title upon Probationary Service in the Permanent Title**

Upon satisfactory completion of such trainee service and/or specified formal courses of training, an appointee shall attain permanent status in the designated position, subject to such probationary term prescribed in Rule 5.2. If the appointee conclusively demonstrates during his/her service in a trainee title his/her fitness and ability to perform the duties of the permanent title to which he/she is thereafter assigned, the Appointing Officer may waive the probationary period in the permanent title. Such waiver must be in writing.

**5.7.3 Termination of Trainee**

The employment of a trainee may be terminated at the end of his/her trainee service, or at any time within such period, if his/her conduct, capacity or fitness is not satisfactory, or if he/she fails to pursue or continue satisfactorily his/her formal course of study. The Notice of Examination shall set forth the appropriate information relative to such termination.

**Section 6.1 Performance Appraisal****6.1.1 Basis for Performance Appraisal**

- a) Periodically, but at least once a year, the performance of all employees shall be reviewed and appraised for the purpose of defining, in terms of quality, quantity and other factors, the effectiveness of the employee.
- b) The performance appraisal shall be based upon evidence of the acts, accomplishments, work traits and conduct of the employee.

**6.1.2 Appraisal During Probationary Period**

- a) There shall be at least one appraisal during the probationary period, to be concluded not later than midway through the period. However, where the post promotion/appointment probationary period has been reduced pursuant to the provisions of Section 5.2.5 a) or b), the appraisal shall be concluded within six months of appointment or promotion or before the end of the probationary period, whichever is earlier.
- b) In the event that a performance appraisal is not prepared in the period herein prescribed, the employee shall be presumed to have performed satisfactorily.

**6.1.3 Veteran on Educational Leave of Absence**

If a veteran goes on an educational leave of absence pursuant to the military law, he/she shall not receive a performance appraisal during any appraisal period unless he/she has had actual service in the position for at least three months during appraisal period.

**Section 6.2 Unsatisfactory Job Performance Resulting from Medical Causes\*****6.2.1 Requiring Employee to Undergo Medical Examination**

When, in the judgment of an Appointing Officer, an employee is unable to perform the essential duties of his/her position with or without reasonable accommodation, by reason of a disability, other than a disability resulting from occupational injury or disease as defined in the Worker's Compensation Law, the Appointing Officer may require such employee to undergo a medical examination.

**6:2:2 Notification of Leave of Absence**

If, upon such medical examination, such medical officer shall certify that such employee is not physically or mentally fit to perform the duties of his/her position with or without reasonable accommodation, the Appointing Officer shall notify such employee that he/she may be placed on a leave of absence.

**6.2.3 Right to a Hearing**

An employee placed on such leave of absence shall be allowed ten (10) work days from service of notice to object to the imposition of the proposed leave and to request a hearing.

**6.2.4 Hearing**

- a) The Appointing Officer shall afford the employee who objects to the involuntary leave of absence a hearing, to be held by an independent hearing officer, who shall make a record and submit a report and recommendation to the Appointing Officer for review and decision.
- b) The Appointing Officer may either uphold the original proposed notice of leave of absence, withdraw such notice or modify the notice, as appropriate.

\*See Regulation No. 1

**6.2.5 Medical Examination Following Leave of Absence**

An employee placed on leave pursuant to section 6.2.2, 6.2.3, or 6.2.4 may, within one year after the commencement of such leave of absence, or thereafter at any time until his/her employment status is terminated, make application to the Personnel Review Board for a medical examination. If, upon such examination, such medical officer certifies that the employee is fit to perform the essential duties of his/her position, with or without a reasonable accommodation, such employee shall be reinstated.

**6.2.6 Appeal Rights**

If the medical officer certifies that the employee is not fit to perform the duties of his/her position after examination pursuant to section 6.2.5, such employee may appeal to the Personnel Review Board. The determination of the Personnel Review Board shall be final; provided, however, that an employee may seek review in accordance with provisions of Article 78 of the CPLR.

**6.2.7 Termination of Employment**

If an employee placed on leave pursuant to this section is not reinstated within one year after the date of commencement of such leave, his or her employment status may be terminated.

**Section 7.1 Transfers****7.1.1 Definition**

The change of an employee from a position under the jurisdiction of one Appointing Officer to a position under the jurisdiction of another Appointing Officer shall be deemed to be a transfer.

**7.1.2 Elimination of Positions**

- a) If positions are to be eliminated because of changes in workload, the incumbents shall be placed on a special transfer list in the order of their original appointment. For a period not exceeding six months prior to the prospective elimination of the position, an employee whose name appears on such special transfer list shall be eligible for the filling of vacancies in the same or similar title before appointment is made from open-competitive or promotion lists, if the title is in the competitive class. Those not transferred prior to the elimination of the position shall be placed on an appropriate preferred list pursuant to Section 7.6, below.
- b) If the eliminated position is in the non-competitive or labor class, persons on the list shall be considered for appointment to fill subsequent vacancies before other appointments can be made.

**7.1.3 Voluntary Transfer**

A voluntary transfer at the request of the employee may be granted at the discretion of the Appointing Officers, subject to the other limitations set forth in these rules.

**7.1.4 Assignment During Period of Disability**

- a) An employee who has incurred a temporary disability which prevents him/her from performing his/her normal duties may be assigned during the period of disability to other appropriate duties which he/she is qualified and able to perform as determined by the Senior Vice President.
- b) Any right under the Worker's Compensation Law of the State of New York shall not be affected by this provision.

**7.1.5 Transfer of Probationer**

A probationer shall be eligible for transfer, provided that:

- a) If the transfer is voluntary the employee must serve a new probationary period; or
- b) If the transfer is involuntary due to shift of personnel upon transfer of function, or if voluntary to avoid lay off resulting from reduction in force, the employee shall receive credit for any part of the probationary period already served.

**7.1.6 Transfers Between Jurisdictions\***

Transfers between positions subject to the jurisdiction of these Personnel Rules and Regulations and positions subject to the jurisdiction of the State Civil Service Commission, Administrative Board of the Judicial Conference or any Municipal Civil Service Commission in the State may be approved by the Senior Vice President at the request of the Appointing Officer, provided that the State Civil Service Commission, Administrative Board of the Judicial Conference, or Municipal Civil Service Commission had adopted reciprocal rules therefor and approves such transfers.

**Section 7.2 Reassignments****7.2.1 Definition**

A change of assignment to another position in the same title which has the same salary rate and substantially the same educational and/or training requirements and which is under the jurisdiction of the same Appointing Officer shall be regarded as a reassignment.

**7.2.2 Discretion of Appointing Officer**

A reassignment may be made at the discretion of the Appointing Officer in the interest of managerial effectiveness.

\*See, Regulation No. 2

**Section 7.3 Reinstatement\*****7.3.1 General Provisions**

- a) An employee who has completed his/her probationary term in a position and who has thereafter resigned or retired may, subject to the written consent of the Appointing Officer, be reinstated to the same or similar position provided that his/her separation was without fault or delinquency on his/her part.
- b) The reinstatement shall be without further examination, but shall be subject to such probationary period, investigation and medical or other qualifying tests required by the Appointing Officer.

**7.3.2 Time Limitation**

The reinstatement must be accomplished within a period of time equivalent to the time the employee has actually served but not less than one or more than four years from the date of separation. In computing the time limitation, time spent in the Armed Services which resulted in honorable discharge shall not be considered.

**7.3.3 Effect on Continuous Service**

Reinstatements after more than one year of separation shall not constitute continuous service.

**7.3.4 Reinstatement after Separation for Disability**

- a) Reinstatement following Separation for Work-Related Disability or Disease.
  - i. A permanent employee who has been separated from service because of a job connected disability or disease as defined in the Worker's Compensation Law shall be entitled to a leave of absence for at least one year unless permanently incapacitated from performing the duties of the position.
  - ii. If, upon appeal to the Personnel Review Board within one year following termination of the disability, the PRB medical officer certifies that such person is physically, medically and mentally fit to perform the essential duties of his/her former title with or without a reasonable accommodation, he/she shall be reinstated to his/her former title if there is a vacancy or to a similar or lower title in the same occupational field or to a vacant position for which he/she is eligible for transfer.

\*See, Regulation No. 3

- b) Reinstatement following Separation for Non-Work Related Disability or Disease
  - i. A permanent employee who has been separated from service because of a non-job connected disability or disease shall be entitled to a leave of absence for at least one year unless permanently incapacitated from performing the duties of the position. If an employee placed on leave pursuant to this section is not reinstated within one year after the date of commencement of such leave, his or her employment status may be terminated.
  - ii. If, upon appeal to the Personnel Review Board within one year following termination of the disability or disease, the PRB medical officer certifies that such person is physically, medically and mentally fit to perform the essential duties of his/her former title with or without a reasonable accommodation, he/she shall be reinstated to his/her former title if there is a vacancy or to a similar or lower title in the same occupational field or to a vacant position for which he/she is eligible for transfer.
  
- c) For individuals who have applied for reinstatement pursuant to subdivisions a) and b) of this section, if no appropriate vacancy exists to which reinstatement may be made or the work load does not warrant the filling of a vacancy, the name of such a person shall be placed on a preferred list for his/her former title or a similar title and he/she shall be eligible for reinstatement for a period of four years thereafter. Acceptance of a position in a lower salary range shall not preclude his/her name from being retained on a preferred list for his/her former position.

**Section 7.4 Voluntary Demotions****7.4.1 Consent**

No permanent competitive class employee shall be demoted unless he/she consents thereto in writing; except that this shall not be applicable to penalties of demotion resulting from disciplinary proceedings.

**7.4.2 Restoration**

The Appointing Officer may restore a demoted employee to his/her former permanent title, except this shall not be applicable where demotion resulted from disciplinary proceedings.

**Section 7.5      Discipline****7.5.1      Eligibility for Hearing**

A person described in paragraphs a), b) or c) of this section shall not be removed or otherwise subjected to disciplinary penalty except for incompetency or misconduct shown after hearing upon stated charges.

- a) a person holding a position by permanent appointment in the competitive class, or
- b) a person holding a position by permanent appointment in the non-competitive or labor class who is an honorably discharged member of the armed forces and who served on active duty during times of war as defined in Section 85 of the Civil Service Law.
- c) an employee holding a position in the non-competitive class other than a position designated as confidential, who since his/her last entry into service has completed at least five (5) years of continuous service in the non-competitive class position.

**7.5.2      Suspension Pending Hearing**

Pending the hearing and determination of charges of incompetency or misconduct, the employee against whom such charges have been preferred may be suspended without pay for a period not exceeding thirty days.

**7.5.3      Notice and Hearing**

- a) A person against whom removal or other disciplinary action is proposed shall be given written notice thereof, and of the reasons therefor. He/she shall be given a copy of the charges preferred against him/her and shall be allowed at least eight days to respond in writing. The hearing on such charges shall be held by the person(s) appointed in writing by the Appointing Officer who has the power to remove the employee. The person so designated shall have the powers of such officer for the purposes of hearing, shall make a record of such hearing and forward it to the Appointing Officer for review and decision.
- b) Upon the request of the employee, the person(s) holding such a hearing shall permit him/her to be represented by counsel and to summon witnesses on his/her behalf. The burden of proof of incompetence or misconduct shall rest with the person alleging the same. Compliance with technical rules of evidence shall not be required.

**7.5.4 Dismissal of Charges**

If the charges are dismissed, the employee shall be restored to his/her position with full pay for the period of suspension, less the amount of any unemployment insurance benefits or wages received during that period.

**7.5.5 Sustaining of Charges - Penalty**

If the charges are sustained, the penalty or punishment may consist of the following and the time which the employee is suspended without pay pending the hearing may be considered as part of the penalty:

- a) A reprimand; or
- b) A fine not to exceed \$100.00 to be deducted from his/her salary; or
- c) Suspension without pay not exceeding two months; or
- d) Demotion in grade and title; or
- e) Dismissal from service.

**7.5.6 Statute of Limitations**

No removal or disciplinary proceeding shall be commenced more than eighteen (18) months after the occurrence of the alleged incompetency or misconduct complained or described in the charges except where the incompetency and/or misconduct complained of and so described would constitute a crime if proved in a court of appropriate jurisdiction.

**7.5.7 Appeal Rights**

- a) An employee who wishes to appeal a penalty or punishment other than a reprimand resulting from the foregoing, may do so either by application to the court in accordance with Article 78 of the Civil Practice Law and Rules, or by application to the Personnel Review Board.
- b) An employee who receives a penalty of a reprimand may file an appeal if he/she has served a pre-hearing suspension, without pay, pursuant to Section 7.5.2, without a remittance of the pay for the period of the pre-hearing suspension.

**Section 7.6 Abolition of Position, Reduction in Staff, Demotion and Preferred Lists****7.6.1 General Provisions**

- a) If budgetary restrictions, consolidations or abolition of functions or other curtailment of activities result in the abolition of positions or reduction of rank or salary grade of positions, the layoff or demotion among the incumbents holding the same or similar position shall be made in inverse order of their original appointment to the Corporation on a permanent basis, subject to the provisions of Section 7.6.4. The exception shall be those employees who, automatically and without break in service were transferred to the Corporation either on July 1, 1970 from employment with the City of New York under the Act, or, due to a transfer of functions, in which case the date of original appointment on a permanent basis shall be date of original appointment on a permanent basis in the classified service of the City.
- b) The date of original appointment shall be the first date of permanent appointment followed by continuous service on a permanent basis up to the time of the abolition or reduction of positions. For these purposes, continuous service shall include service in competitive, non-competitive, exempt, or managerial class titles.
- c) An employee who had resigned and who was reinstated or reappointed in the classified service within one year thereafter shall for the purposes of this rule be deemed to have continuous service.
- d) A period of employment on a temporary or provisional basis, or in the unclassified service, immediately preceded by permanent service in the classified service shall not constitute an interruption of continuous service for the purposes of this rule; nor shall a period of an authorized leave of absence without pay or any period during which an employee is suspended from his/her position pursuant to this rule constitute an interruption of continuous service for the purposes of this rule.

**7.6.2 Layoff Unit**

Layoff or demotion shall be made among employees holding the same or similar positions in the Corporation except that the Senior Vice President may by rule designate an individual facility or division of any facility of the Corporation as separate units for layoff or demotion under this rule. In such case layoff or demotion shall be made from among incumbents holding the same or similar position in each such unit.

**7.6.3 Order of Layoff**

Employees in affected titles in the layoff unit shall be laid off or demoted in the following order:

- a) All employees in probationary status in the same or similar titles. Among them, layoff shall be in inverse order to date of original appointment, except as modified in Section 7.6.4 with respect to blind employees, disabled veterans and veterans thereafter.
- b) All employees in permanent status in the same or similar titles. Among them, layoff shall be in inverse order to date of original appointment, except as modified in Section 7.6.4 with respect to blind employees, disabled veterans and veterans.

**7.6.4 Retention Preference**

Among probationary and permanent employees affected by layoffs or demotions as prescribed in Section 7.6.3, retention preference shall be granted as follows:

- a) Blind employees, who shall be granted absolute retention preference over other employees in the same titles regardless of the date of original appointment.
- b) Disabled veterans, spouses of veterans with one hundred percent service connected disability, and veterans as defined in Section 85 of the Civil Service Law, who shall be deemed to have been appointed 60 months, 60 months, and 30 months earlier, respectively, than the actual date of their original appointment.

**7.6.5 Displacement of Employees**

- a) Employees who are laid off or demoted under the terms of Section 7.6.3 and 7.6.4 shall have the right to displace (bump) employees with less seniority in the same layoff unit in the next lower title in the promotion line or title series.

- b) If there are no junior employees in the next lower title in the promotional line or title series laid off or demoted employees shall have the right to displace (bump) junior employees in the same layoff unit in any title with a lower salary in which they have served satisfactorily on a permanent basis since date of original appointment.
- c) Displacement of employees shall take place in the same order prescribed in Sections 7.6.3 and 7.6.4 for layoffs.
- d) Employees who are displaced (bumped) as a result of the processes described in subdivisions a) and b) of this section shall have the same rights with respect to displacement (bumping) as prescribed in those subdivisions; and for placement on preferred lists as prescribed in Section 7.6.6.

#### 7.6.6 Layoff and Preferred Lists

- a) **Creation of Layoff List**  
In the event of layoff or demotion for reasons listed in Section 7.6.1 the Appointing Officer shall furnish the Senior Vice President a statement showing the name, title or position, date of original appointment and date of and reason for layoff or demotion of the affected employees.
- b) **Creation of Preferred List**  
The names of all permanent and probationary employees who are on the layoff list shall be placed on a preferred list by the Senior Vice President together with others who have been suspended or demoted from this same or similar jurisdictional class of position. The Senior Vice President shall certify such list for filling vacancies in the same jurisdictional class; first, in the same or similar position, second, in any position in a lower grade in the line of promotion or title series; and third, in any comparable position.
- c) **Appointment from Preferred List**  
Such a preferred list shall be used for filling subsequent vacancies in any such position before any other list, including a promotion eligible list, is certified until the preferred list is exhausted. Persons on the list shall be called for reinstatement in the order of their original date of appointment.

Upon the occurrence of a vacancy in an appropriate position such persons shall be certified in the following order:

- i. where the vacancy occurs within a layoff unit that is a division of a facility and the names of those laid off or demoted were from such unit;
  - ii. where the vacancy occurs within a facility that is designated as a layoff unit and the names of those laid off or demoted were from said facility;
  - iii. Corporate-wide.
- d) **Duration of Preferred List**  
 The eligibility for reinstatement of a person on such a preferred list shall not continue for a period longer than four years from date of layoff or demotion.
- e) **Status of Employee Reinstated from Preferred List**  
 A person reinstated from a preferred list to his/her former or similar position in the same grade shall receive at least the same salary he/she was receiving at the time of layoff or demotion.

**7.6.7 Reinstatement of Laid Off/Demoted Probationary Employees**

Any person laid off or demoted prior to completing his/her probationary term shall not be certified for reinstatement until the exhaustion of all other eligibles on the preferred list and shall be required to complete his/her probationary term upon reinstatement.

**7.6.8 Relinquishment of Eligibility from Preferred List**

Failure or refusal to accept reinstatement from preferred lists to vacancies in the same or similar class of positions shall be deemed relinquishment of eligibility and the employee's name shall be removed from the list. An employee thus removed may subsequently request the Senior Vice President to restore his/her name if he/she furnishes an acceptable reason for his/her earlier refusal.

**7.6.9 Disqualification by Senior Vice President**

Notwithstanding any other provisions of this rule, the Senior Vice President may disqualify for reinstatement and remove from a preferred list the name of any eligible who is physically or mentally disabled for the performance of the essential duties of the position with or without reasonable accommodations for which such list is established, or who has been guilty of such misconduct as would warrant his/her dismissal except that a partially physically disabled person, who is laid off for reasons listed in Section 7.6.1 but who, within six months of the date of his/her layoff, is certified for reinstatement to any vacancy having the same physical requirements as the position from which the person was laid off shall not be disqualified because of his/her physical disability unless a medical examination discloses that because his/her disability has become greater he/she would not be able to satisfactorily perform in such position with or without reasonable accommodation. No person shall be disqualified pursuant to this subdivision unless he/she is first given a written statement of the reasons therefor and an opportunity for a hearing at which the reasons shall be established by appropriate evidence, and at which such person may be represented by counsel and present evidence. The Senior Vice President may designate a person to hold such hearing and report thereon.

**7.6.10 Identification of Separate Units for Layoff, Demotion or Displacement**

Pursuant to Section 7.6.2 of the Rules, the following are designated as separate units for layoff, demotion or displacement:

- a) Bellevue Hospital Center
- b) Central Office
- c) Coler Campus of Coler/Goldwater Specialty Hospital and Nursing Facility
- d) Coney Island Hospital
- e) Correctional Health Services
- f) Cumberland Diagnostic & Treatment Center
- g) Early Intervention Program
- h) East New York Diagnostic & Treatment Center
- i) Elmhurst Hospital Center
- j) Family Health Services
- k) Forensic Psychiatry Program
- l) Goldwater Campus of Coler/Memorial Specialty Hospital and Nursing Facility
- m) Gouverneur Skilled Nursing Facility/Diagnostic & Treatment Center
- n) Harlem Hospital Center
- o) HHC Health & Home Care

- p) Jacobi Medical Center
- q) Kings County Hospital Center
- r) Lincoln Medical & Mental Health Center
- s) MetroPlus Health Plan
- t) Metropolitan Hospital Center
- u) Morrisania Diagnostic & Treatment Center
- v) Neponsit Health Care Center
- w) North Central Bronx Hospital
- x) Queens Hospital Center
- y) Renaissance Health Care Network/Diagnostic & Treatment Center
- z) Sea View Hospital Rehabilitation Center & Home
- aa) Segundo Ruiz Belvis Diagnostic & Treatment Center
- bb) Woodhull Medical & Mental Health Center
- cc) Dr. Susan Smith McKinney Nursing & Rehabilitation Center
- dd) Community Health Partnership

**Section 8.1 Employee Designation**

The official title of the class of positions to which the employee is assigned shall be used for all official purposes and personnel records.

**Section 8.2 Position Descriptions****8.2.1 Establishment and Maintenance**

The Senior Vice President shall direct the establishment and maintenance of a position description for every class of position.

**8.2.2 Access to Position Description**

Each employee shall be informed of the content of the position description for his/her title. Access to copies of position descriptions shall be provided to employees and their representatives. The latest examination notice supersedes the current position description.

**8.2.3 Content of Position Description**

Position Descriptions shall include the following information:

- a) The title, which shall be descriptive of the nature and level of work performed; and
- b) The general purpose of the position; and
- c) The duties which shall include the major, most characteristic and the usual tasks of the position but need not necessarily be an encyclopedic statement of all individual tasks which may be regarded as part of the duties; and
- d) Required knowledge, skills and ability; and
- e) Required training and experience; and
- f) Distinguished features which differentiate the class of positions from other classes of positions in the same or collateral promotional lines; and
- g) Jurisdictional classification; and
- h) Promotional lines, if applicable; and
- i) Limitations if any, in the authority to use the class of positions in any specified organizational units.