

*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.

RULE 2

Applicability, General Powers and Separability

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.

RULE 2

Applicability, General Powers and Separability

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.

Section 8.3 Plan of Titles**8.3.1 Maintenance of Plan of Titles**

The Corporation shall maintain a list of the titles of all classes of positions. This roster shall be known as the Plan of Titles.

8.3.2 Change in Plan of Titles; Notice

Any change, addition or deletion in the Plan of Titles shall become effective upon ten (10) days notice appropriately posted in the facilities of the Corporation.

Section 8.4 Position Classification**8.4.1 Assignment of Positions**

The Appointing Officer shall assign every position to the appropriate title in the Plan of Titles. The assignment of a position to an existing title shall take into account that it is responsive to the same position description and measure of fitness.

8.4.2 Assignment of Newly Established Positions

When additional position(s) are established, the Appointing Officer shall determine which, if any, existing title in the Plan of Titles is appropriate.

8.4.3 Establishment of New Class of Positions

When a new position is established for which there is no appropriate title in the Plan of Titles, the position shall by rule be described, classified and the new class of positions made part of the Plan of Titles.

8.4.4 Modification of Duties; Requirements of Existing Position

When the duties, requirements, etc., of an existing position are to be modified in any significant way, the Senior Vice President shall determine whether another existing class of positions is appropriate or whether a new class of positions is required. The rights and status of any permanent incumbents of such positions shall not thereby be adversely affected or impaired.

Section 9.1 Authority and Approval Levels**9.1.1 Establishment of Salary Range and Pay Differentials**

The establishment of a salary range for any title and the establishment of pay differentials for such conditions as specified experience, education and assignment, shall be subject to the approval of the President, except for titles that are collectively bargained.

9.1.2 Across-the-Board or General Increases

The granting of across-the-board or general increases to groups of employees, with or without an accompanying change in the salary range for the titles, shall be subject to the approval of the President, except for titles that are collectively bargained.

9.1.3 Salary Adjustment for Individual Incumbents

Standards of salary adjustments for individual incumbents within the established salary ranges shall be promulgated by the Senior Vice President, except for titles that are collectively bargained.

Section 9.2 Salary Rate Structure**9.2.1 Minimum and Maximum Salary Ranges**

Each title shall have a fixed salary rate, expressed in terms of a stated minimum; or a stated minimum and maximum rate. For selected titles such as trainee titles, or titles covered by Section 220 of the New York State Labor Law the rate may be a single rate to be paid to all incumbents.

9.2.2 Single Rate for a Salary Range

The Senior Vice President may at his/her discretion substitute a single rate for a salary range for any title not collectively bargained.

9.2.3 Determining Salary Differentials: Factors

An established salary range for a title that is not collectively bargained shall not preclude the establishment and payment of rate differentials within such range of predetermined amounts for incumbents who meet specified conditions. Salary differentials may be established for such specific factors as education, experience or assignments which are in excess of those set forth in the position descriptions, but which are the same general character. Such a salary differential shall pertain only for the period of time that the incumbent meets the provisions that are prescribed for its payment.

9.2.4 Adjustment of Salary Rates: Conditions

- a) The Senior Vice President may periodically direct the adjustments of salary rates for selected titles in amounts necessary to insure continuing ability to recruit and retain qualified employees and to maintain internal equity in rates within the Corporation. The Senior Vice President shall prescribe how the salaries of incumbents in title shall be affected by such changes.
- b) The Senior Vice President may also provide for across-the-board general increases to employees, without changing the established salary range for the affected titles.
- c) Classes of positions or titles that are collectively bargained shall be excepted from this section.

9.2.5 Hiring at Higher than Minimum Range

- a) If the Senior Vice President determines that it has become impracticable to recruit at the stated minimum range for a title, he/she may direct that the hiring rate for all newly recruited candidates be set at a higher rate within the established rate range, provided, however, that all incumbents receiving a rate below the new hiring rate shall have their rate raised to it.
- b) Further, before offering the position at the higher rate to additional candidates from an eligible list it must be offered to those persons on the eligible list who declined for reasons of insufficiency of compensation within the last year.
- c) The use of the hiring rate above the stated minimum rate for the title shall be revocable at the discretion of the Senior Vice President.

9.2.6 Fair and Equal Pay for Equal Work

- a) The principle of fair and equal pay for equal work shall be followed by the Corporation under Section 9.1.1 in establishing salary ranges for classes of positions or titles. All such positions having the same titles shall have the same salary rate, and the salary rate established for different titles shall have a relationship to each other, which reflects this principle.
- b) The operation of the principle of fair and equal pay shall not preclude the payment of different rates within such established salary ranges to reflect differences in qualifications, experience and other job-related individual differences among incumbents.

Section 9.3 Compensation for Individual Employees**9.3.1 Hiring Rate**

- a) The hiring rate for a new employee shall normally be the stated minimum rate for the title except as otherwise provided in subsection 9.3.1(b).
- b) Individual employees may be hired at rates above the stated minimum in titles designated by the Senior Vice President.

9.3.2 Rate Adjustments for Individuals: Exceptions

Rate adjustments for individuals within the established salary range for their titles will be granted in accordance with the designation of titles established by the Senior Vice President, and in accordance with the economic terms of any applicable collective bargaining agreement.

9.3.3 Promotional Increases

- a) Incumbents who are promoted shall receive prescribed minimum promotional increases, which shall in no event be to a rate less than the stated minimum rate or more than the stated maximum rate for the new title.
- b) The formula for determining the amount of promotional increases for classes positions shall be prescribed by the Senior Vice President, except that this shall not apply to titles that are collectively bargained.

9.3.4 Reclassification and Increases

An incumbent whose position is found to belong in a higher rated class of positions, and who is retained in the position because he/she meets the qualification and is eligible for appointment to the new class of positions shall, upon reclassification of the position be appointed and receive an increase subject to the provisions of Section 9.3.3 above. If he/she does not meet the qualifications and is not eligible for appointment to the new class of position he/she shall be reassigned to another position in the same title as that held prior to the classification.

9.3.5 Merit Increases

Merit adjustments for Group 12 employees may be granted by the Appointing Officer in accordance with criteria and eligibility requirements established by the Senior Vice President.

Section 10.1 Maintenance of Rosters and Addresses**10.1.1 Maintenance of Employment History**

The Appointing Officer shall maintain a detailed employment history of each employee and each change of status and salary from the time they enter employment until separation therefrom.

10.1.2 Employee Address

Upon appointment or promotion each employee shall furnish the Appointing Officer with his/her address. The employee shall likewise inform the Appointing Officer of any changes of address during his/her employment.

10.1.3 Valid Mail Service to Employees

Any communication or service mailed to the last address, thus furnished in accordance with Section 10.1.2, above, shall be deemed a valid and sufficient communication or service upon such person.

Section 10.2 Certification of Payrolls

10.2.1 Payrolls shall not be certified except upon declaration by the Appointing Officer that the persons named therein are employed in their respective positions in accordance with law and the rules and regulations adopted thereto. The payroll of any person whose employment is in contravention of the foregoing provisions shall not be certified by the Appointing Officer.

Section 10.3 Length of Service of Employees Transferred to the Corporation**10.3.1**

- a) Employees who were employed by the City and who were transferred to the Corporation on July 1, 1970 under the Act, or pursuant to a transfer of functions from a City Agency in accordance with Section 10.6.2, below, shall be entitled to service credit to the extent of their allowable City service prior to transfer to the Corporation.
- b) Nothing contained in these rules shall be deemed to remove from those employees described in subdivision (a) of this section the coverage of the provisions relating to their transfer as contained in the Act.

Section 10.4 Time and Leave Provisions

- 10.4.1 The provisions of the City Standard Leave Regulations for the positions subject to the City's Career and Salary Plan shall constitute the Time and Leave Rules of the Corporation, unless otherwise specified. Section 220 employees are covered by regulations subject to their title.

Section 10.5 Dual Employment**10.5.1**

- a) Except as otherwise provided by law, an employee of the Corporation shall not be eligible to receive compensation for employment in an additional position in the Corporation, or an affiliate organization, or in the employ of the City of New York or any other government jurisdiction unless the Appointing Officer certifies, in writing, that such additional employment is not in violation of any law, rules or regulations and that it is not incompatible with the position the employee holds.
- b) If the employee does not receive such written certification from the Appointing Officer, the employee may not continue in his/her dual employment. A willful violation of the provisions of this section shall be deemed sufficient cause for disciplinary action, including removal.

Section 10.6 Acquisition of Private and Public Facilities and Functions**10.6.1 Employment of Employees in Acquired Private Facilities**

- a) Whenever the Corporation acquires a private facility for the purpose of operating it, or when the Corporation assumes functions previously performed by another employer (other than a voluntary hospital or medical school in New York City), it may continue the employment of persons who were employed for at least one year prior to the acquisition, whom HHC, in its discretion, considers eligible and necessary.
- b) The positions held by those transferred employees (which may be similar or corresponding to those they previously had) shall be in the non-competitive class pending description and classification, which shall be completed within one year following acquisition.
- c) In that interval, their seniority shall be the respective seniority they held amongst themselves prior to transfer to HHC.

- d) When description and classification of the positions are completed, the transferred incumbents shall assume the full rights and privileges of the jurisdictional class to which such positions have been allocated.

10.6.2 Employment of Employees in Acquired Public Facilities

- a) Whenever the Corporation acquires a public facility from another governmental employer for the purpose of operating it, or whenever the Corporation assumes functions previously performed by another public employer, provision shall be made for the transfer of necessary permanent competitive or labor class employees employed by that facility or employer, who are substantially engaged in the performance of the function to be transferred, whom HHC, in its discretion, considers eligible and necessary. The permanent employees in the competitive or labor class of that former employer who are transferred to HHC shall be transferred without further examination or qualification and they shall retain their respective civil service classification and status as employees in the Corporation in accordance with the Rules and Regulations of the Corporation.
- b) Employees of that other employer who serve provisionally in a competitive title or who are serving in a position classified as non-competitive shall be employed by the Corporation on the effective date of the acquisition if the Corporation, in its discretion, considers such employees eligible and necessary and if their titles exist in the Corporate Plan of Titles. Employees so acquired are subject to the Rules and Regulations of the Corporation on the effective date of transfer.

Section 10.7 Veterans - General

- 10.7.1 The Corporation shall recognize all rights of veterans as prescribed by the Civil Service Law, Sections 85, 86 and 87, and those set forth in these rules.

REGULATION NO. 1

UNSATISFACTORY JOB PERFORMANCE OF PERMANENT EMPLOYEE RESULTING FROM MEDICAL DISABILITIES

This Regulation sets forth the steps to be taken when dealing with all permanent Group 12 employees whose job performance is unsatisfactory due to a medical disability in accordance with Rule 6, Section 6.2 of the Corporation Personnel Rules and Regulations. In this regulation, a "medical disability" shall include both physical and mental conditions. It shall not include those medical disabilities resulting from occupational illness or on-the-job injuries, as described in New York State Worker's Compensation Law or Section 7.3.4 a) & b) of the Corporation's Personnel Rules and Regulations.

I. SCOPE:

This regulation applies solely to all permanent Group 12 employees (competitive, non-competitive and labor class).

II. POLICY:

- A. Continuing medical problems shall not constitute an acceptable excuse for unsatisfactory performance. As used in this regulation, "unsatisfactory performance" includes incompetence and/or misconduct.
- B. Each Corporate facility is responsible for compliance with the Americans with Disabilities Act. When the employee is unable to perform the duties of his or her position, it must be determined whether the essential duties can be performed with or without a reasonable accommodation. If the requested accommodation is reasonable, proceeding pursuant to this operating procedure shall cease and such accommodation shall be made.
- C. When in the judgment of the Director of Human Resources (or designee) an employee is unable to perform the essential duties of his/her position by reason of a medical disability, other than a disability resulting from occupational injury or disease, the Appointing Officer (or designee) may require an employee to undergo a medical assessment to be conducted by a physician selected from the Personnel Review Board Panel of Physicians.

- D. Continuing unsatisfactory performance due to a medical disability may constitute the basis for placing an employee on a leave of absence for up to one year. Continuing inability to perform thereafter may result in separation from employment.

III. PROCEDURE:

A. Pre-hearing involuntary leave of absence

Notwithstanding the procedure set forth below, if the facility's Appointing Officer (or designee) determines that there is probable cause to believe that the continued presence of the employee on the job is a potential danger to persons or property, or would seriously interfere with operations, he/she may place the employee on involuntary leave of absence pending the medical assessment, hearing, and final determination of the Appointing Officer (or designee).

B. Disciplinary Process

Where the disciplinary process has been invoked, this process shall be followed.

1. If, during the course of pre-disciplinary or disciplinary procedure, there is reason to suspect that the misconduct and/or incompetence, which is the basis for the pre-disciplinary or disciplinary procedure, may be due to a medical disability, this Regulation should be followed.
2. If the employee's performance warrants pre-disciplinary measures (e.g., counseling, warning notice), and, if the performance or disciplinary conduct appears to be related to a medical problem, the supervisor, in consultation with the Director of Human Resources, may offer whatever assistance is appropriate. This may include, but is not limited to, reasonable accommodation, upon such request by the employee; a leave of absence; counseling and personal services (where available), and referral to the Occupational Health Service (OHS).
 - a. Any offer of assistance, and the employee's response, should be noted in a memorandum of Counseling or Warning Notice form.
 - b. If a reasonable accommodation is not possible, or assistance is not available, the matter is to be referred to the Director of Human Resources for the initiation of this Operating Procedure.

3. Where the employee's conduct involves acts of a "more serious nature," as defined in Operating Procedure 20-10, and disciplinary action is warranted, or where the preliminary steps of counseling and/or warning have been exhausted, the supervisor shall refer the matter to the facility's Director of Human Resources for disciplinary action.
 - a. If at the disciplinary meeting or hearing it is determined that the cause of the employee's misconduct or incompetence may be based on a medical disability, the review officer shall, at his/her discretion, offer the employee the option of taking a medical leave of absence for up to one (1) year, subject to submission of appropriate documentation.
 - b. If the employee requests an accommodation, rather than leave of absence, the Director of Human Resources must determine whether the accommodation is reasonable as set forth by the Americans with Disabilities Act, and will enable the employee to perform the essential functions of his/her position with such reasonable accommodation.
 - c. If the employee does not accept the offer of a medical leave of absence, and no reasonable accommodation is possible, the review officer shall, at his/her discretion, discontinue, and hold in abeyance the disciplinary hearing process until a determination of medical fitness has been made pursuant to this Regulation.

C. **Involuntary Medical Leave of Absence**

1. If an employee's unsatisfactory job performance appears to be due to a medical disability and the employee refuses to voluntarily take a medical leave of absence and disciplinary action is not presently an effective response, this process must be followed in order to determine the employee's fitness for duty.
2. **Responsibility of Department**
It shall be the responsibility of the Department Head of the employee to send the following information to the Director of Human Resources:

- a. Documentation, including specific incidents with dates, detailing behavior which is the basis for believing that the employee is not fit to perform his/her duties, with or without reasonable accommodation, due to a medical disability, and
 - b. The functional position description for the employee.
3. Responsibility of the Director of Human Resources:
Once the Director of Human Resources receives the information from the Department Head, the following steps shall be taken:
- a. Appendix "A"
The Director of Human Resources shall prepare a written statement containing the facts and providing the basis for determining that the employee is not fit to perform the duties of his/her position, with or without reasonable accommodation (otherwise known as "Appendix A"). Appendix "A" shall contain:
 - i. A precise description of the nature of the employee's conduct or disability, including dates, time and places of the behavior; and
 - ii. The manner in which it interferes with the performance of the employee's duties; and
 - iii. The effect on the facility's operation, personnel, patients and/or public.
 - b. Appointment of Physician
 - i. The Director of Human Resources shall appoint a physician from a panel of physicians designated by the Personnel Review Board (PRB) to conduct the examination of the employee and shall schedule examination appointment for the employee with the physician prior to sending notice to the employee.
 - ii. The following documents must be sent to the appointed physician prior to the examination of the employee:
 - Appointment letter;
 - Appendix "A";

- Notice to the employee;
- Documentation supporting incidents described in Appendix "A"; and
- Functional and Corporate position descriptions for employee's title.

c. Letter to Employee

The Director of Human Resources shall send a letter to the employee informing him/her that he/she is to undergo a medical examination and the basis for the ordered examination. The letter shall be sent by first class, registered or certified mail, return receipt requested. The letter shall contain the following information:

- i. Name, address and telephone number of the physician who is to conduct the examination;
- ii. Appendix "A." (See, Section III.C.3.a, above); and
- iii. The date of the appointment with the physician as scheduled by the Director of Human Resources.

4. Failure to undergo medical assessment

An employee's failure to follow a directive to undergo a medical assessment may constitute an act of misconduct and subject the employee to disciplinary action.

5. If the Findings of the Physician are that the employee is fit to perform his/her duties, with or without reasonable accommodation, this procedure ends.

- a. If the conduct by the employee, which led to this procedure, is disciplinable in nature, or if the disciplinary proceeding had been held in abeyance pending the completion of this procedure, the facility may proceed in accordance with Operating Procedure 20-10.
- b. The physician's findings may not be used as evidence in any future action concerning the employee, except as contradiction to any claim of the employee claiming disability as a defense to the disciplinary charges.

6. If the Findings of the Physician are that the employee is not fit to perform his/her duties, with or without reasonable accommodations, this procedure continues.

a. Notice to the employee

The Director of Human Resources shall notify the employee that he/she is being placed on medical leave of absence.

b. Content of the notice to the employee

The notice directing a medical leave shall be in writing and shall be served upon the employee in person, or by first class, registered or certified mail, return receipt requested. It shall state the reasons for the leave and the date on which the leave of absence, of up to one (1) year, shall commence and terminate, which commencement date shall be not less than ten (10) working days from the date of personal service or not less than ten (10) workdays plus five (5) days, if the notice was served by mail. The notice shall also inform the employee of appeal rights. (A sample letter is annexed.)

7. Objection to involuntary medical leave of absence

a. The employee has ten working days from service of this notice to submit a written objection and a request for a hearing with the employee's Director of Human Resources. Filing must be either in person or by first class, certified or registered mail, return receipt requested.

b. Once the employee requests a hearing pursuant to this regulation, the employee cannot be placed on an involuntary medical leave of absence until after a hearing is conducted, and a final determination is made by the facility's Appointing Officer (or designee), except as stated in Section III.A., above.

c. Upon receipt of the written objection and request for hearing by the employee or his/her representative, the Director of Human Resources shall send the physician's report and recommendation to the employee, and upon the employee's request, to his/her personal physician and/or upon his or her authorized representative.

8. Transmittal of Documentation to Corporate Office of Labor Relations

- a. Upon receipt of the written objection to the involuntary medical leave of absence, the Director of Human Resources shall send the following information to the Corporate Office of Labor Relations:
 - i. Appendix "A;"
 - ii. All documentation that was sent to Physician;
 - iii. Physician's Report;
 - iv. Functional and Corporate position descriptions; and
 - v. All supporting documentation;
 - vi. The employee's letter objecting to the involuntary medical leave of absence and request for a hearing.
- b. Upon receipt of the documentation from the facility Director of Human Resources, the Corporate Office of Labor Relations shall submit the request for hearing, and supporting documentation to the PRB and request that a hearing be scheduled. The hearing should be held within thirty (30) days of receipt of the employee's written objection.

9. Failure to object to involuntary medical leave of absence

If the employee does not serve a written objection to the involuntary medical leave of absence in accordance with Section III,B.7, above, the involuntary medical leave of absence shall become effective on the date stated in the letter (See, III.C.6.a. and b.) and shall commence for a period of up to one (1) year.

10. Hearing

- a. Upon receipt of the documentation from the Corporate Office of Labor Relations, in accordance with Section III.C.8.b. above, the PRB shall appoint a Hearing Officer to conduct the hearing.

- b. Upon the appointment by the PRB, the Hearing Officer shall have all the powers of the Appointing Officer. A written transcript of the hearing shall be made. A copy of the transcript of the hearing shall, upon request of the employee or his/her representative, be transmitted to him/her without charge.
- c. The employee may be represented at the hearing by an attorney or a certified union representative.
- d. The burden of proof is on the party alleging unfitness.
- e. The Hearing Officer's recommendations and record of the hearing (transcript) shall be forwarded to the Appointing Officer (or designee) for review.

11. Determination

- a. The Appointing Officer (or designee) shall make a final determination within ten (10) working days of receipt of the hearing officer's report and recommendation. The final determination shall be provided to the employee and his/her attorney or representative.
- b. The Appointing Officer (or designee), upon receipt of the Report and Recommendation, transcript and exhibits may:
 - i. uphold the original proposed notice of leave of absence, or
 - ii. withdraw such notice, or
 - iii. modify the notice as appropriate.

12. Notice to Employee

- a. The Appointing Office (or designee) shall notify the employee of the final determination in person or by first class, registered or certified mail, return receipt requested.
- b. If the employee is placed on an involuntary medical leave of absence, the employee may draw all accumulated unused annual, sick and overtime leave.
- c. The notice shall contain the date of the commencement of the leave of absence of up to one (1) year, and inform the employee of his/her right to appeal.

13. Right to Appeal

- a. The Appointing Officer (or designee) shall notify the employee of his/her right to appeal the final determination to the PRB.
- b. The PRB may conduct an inquiry, at its discretion, and may direct reinstatement if it finds the action of the Appointing Officer was arbitrary or capricious. The determination of the PRB shall be final and binding on both parties; however, that determination may be reviewed in accordance with Article 78 of the civil practice law and rules (CPLR).

D. Returning From Medical Leave of Absence

1. An employee placed on medical leave pursuant to this Regulation, may, within one year after the commencement of his/her leave of absence, or at any time thereafter until his/her employment status is terminated, make application to the Director of Human Resources for a medical examination by a physician from the PRB panel of physicians (other than the physician who examined him/her if leave was involuntary).
2. If, upon medical examination, the physician certifies that the employee is fit to perform the duties of the position, the Appointing Officer (or designee) shall so notify the employee within ten (10) working days of receipt of the physician's report whether he/she is to be returned to duty. If the employee is to be returned to duty, that should be accomplished with a reasonable period of time.
3. If the physician certifies that the employee is still not medically fit to perform the duties of the position, the employee may appeal that determination to the PRB. The PRB may conduct an inquiry, at its discretion, and may direct reinstatement if it finds the action of the Appointing Officer (or designee) arbitrary or unreasonable. The determination of the PRB shall be final and binding on both parties; however, that determination may be reviewed in accordance with Article 78 of the CPLR.

4. If the employee does not apply to be returned to duty within the prescribed period of the leave, or if the employee has applied to be returned to duty but has been found to remain unfit to return to duty, or if the employee does not contact the Corporate facility, his or her employment status may be terminated at the end of the one year leave of absence.
 - a. Notice shall be sent to the employee of the effective date of termination.
 - b. The letter shall be sent by first class, registered or certified mail, return receipt requested.
 - c. A copy of Section 7.3.4 of the Corporation Personnel Rules and Regulations shall be annexed to the notice of termination, which sets forth the individual's rights concerning requests for reinstatement following the termination of his or her disability.

SAMPLE LETTER

INVOLUNTARY MEDICAL LEAVE OF ABSENCE
FOR PERMANENT GROUP 12 EMPLOYEES

[Date]

Name
Address

Dear :

I have been informed by Dr. _____ that as a result of his/her medical assessment of you on [date of examination], he/she found that you are medically unable to perform the essential duties of your position as [title] _____. A copy of Dr. _____'s Report is attached for your information.

In accordance with Section 6:2:2 and Regulation 1 of the Corporation's Personnel Rules and Regulations, I am hereby advising that you shall be placed upon an involuntary medical leave of absence commencing [date - 10 business days plus 5 days for mailing from the date of this letter].

The medical leave of absence shall be for a period of up to one year from the above-cited date. If at any time during the year you believe you have recovered, and are able to resume the full duties of your position, you may apply to the Personnel Review Board for reinstatement. At that time, arrangements will be made for you to be assessed by a physician. If that physician certifies that you are then able to perform the essential duties of your positions, you will be returned to duty.

You have the right to object to the imposition of this leave of absence, and to request a hearing, within ten (10) working days from the date of receipt of this notice. An objection must be filed with the Human Resources Department, in person, or by first class, certified or registered mail, return receipt requested.

Sincerely yours,

Attachment

Sent: Regular, 1st class mail

Certified, return receipt requested - Certification # _____

REGULATION NO. 2

RECIPROCAL TRANSFERS BETWEEN CIVIL SERVICE JURISDICTIONS

This Regulation sets forth the steps to be taken when dealing with the voluntary transfers of permanent competitive employees between the Corporation and other civil service jurisdictions, pursuant to Rule 7:1:6 of the Corporation's Personnel Rules and Regulations. This regulation does not apply to functional transfers.

I. SCOPE:

This Regulation is applicable only to individuals who hold permanent status in a competitive class (Group 12) title in the Corporation, or in another civil service jurisdiction.

II. POLICY:

A. Transfers Between Jurisdictions

Transfers between Corporate positions subject to this Regulation 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 responsible for personnel and labor relations, provided the State Civil Service Commission, Administrative Board of the Judicial Conference or municipal civil service commission (as applicable) has adopted reciprocal rules and approves such transfers.

B. Transfers out of the Corporation

A transfer out of the Corporation is subject to the terms and conditions established by the jurisdiction to which the transfer is sought.

C. Transfers into the Corporation

A transfer into the corporation is subject to the following terms and conditions:

1. Transfers can be made only to those titles in the Group 12 Competitive Jurisdictional Classification in the Corporation's Plan of Titles, and only for those titles appropriate to the organizational unit to which the transfer is sought.
2. The current examination and qualification requirements for the position sought must not be higher than those required for the position held by the applicant.
3. An employee accepted for transfer into the Corporation under this Regulation shall be granted permanent status as a Corporation employee on the date of the transfer, subject to Section III, (B)(4), below. The effective date of a transfer shall be considered the date of the appointment to the Corporation.¹
4. An application for transfer may be approved while the applicant is currently serving a probationary period. However, such applicant must serve a new, full one-year probationary period following the effective date of appointment to the Corporation.
5. The facility Appointing Officer's decision not to accept an applicant's request for transfer is final and not subject to review.
6. An application for transfer will not be approved if there is an existing Corporate promotion or preferred list for the title to which the transfer is sought, except in the case of a promotion list when there are fewer than three eligible candidates remaining.
7. The salary rate of the transferee shall be the salary he/she received immediately prior to the date of transfer, or the minimum salary rate of the Corporate title to which he/she is being transferred, whichever is greater. In no case, however, may the transferee's salary exceed the maximum for the title as it is then specified in the Corporation's Plan of Titles or applicable personnel order.
8. Where applicable, final approval and appointment is subject to medical clearance of the transferred employee.

¹ In the case of subsequent downsizing, the effective date of transfer shall be considered the date of permanent appointment to the Corporation, in accordance with Section 80 of New York State Civil Service Law and Section 7:6:1 of HHC's Personnel Rules and Regulations.

D. Transfers to the Corporation are subject to the following limitations on time and leave.

1. Annual Leave. Transfer of credits to the Corporation shall not exceed the maximum number of days earnable by the employee in a two-year period in the other civil service jurisdiction, limited (based on years of service in the other civil service jurisdiction), to the number of days of annual leave Corporate employees having a similar length of service may accrue. Transferees from New York City agencies covered by the Citywide Contract who have annual leave credits in excess of two years accrual maximum, shall have the excess credits transferred only if the employee was previously directed or authorized, in writing, to forego use of all or part of his/her annual leave in any year by the Mayor, or by the appointed or elected head of the original employing agency or department.
2. Sick Leave. There shall be no limitation on transfer of accumulated sick leave balances.
3. Compensatory and/or Overtime Credits. This leave shall not be transferable.

III. PROCEDURE

A. Employees of other jurisdictions requesting to transfer to a Health and Hospitals Corporation facility.

1. Applicants employed in other jurisdictions wishing to transfer into the Corporation shall apply, in writing, directly to the Human Resources Department of the facility in which they are interested in working.
2. If the facility wishes to accept a transferee, a completed "Request for Transfer and/or Change of Title" form HHC 1142(a) and covering memorandum shall be forwarded by the facility's Appointing Officer (or designee) to the Corporation Office of Certification and Examinations, Room 100, 125 Worth Street. If acceptable, the Office of Certification and Examinations shall obtain the signature of the Senior Vice President responsible for personnel and labor relations (or designee) and forward the transfer form, along with a request for approval, to the other jurisdiction.

3. Upon receipt of a Certificate of Approval of transfer, the Office of Certification and Examinations shall contact the releasing agency and the receiving Corporation facility to arrange a mutually agreeable date of transfer.

B. Health and Hospitals Corporation employees requesting to transfer to another jurisdiction.

1. A Corporate employee requesting to transfer to a City agency shall complete and submit a Request for Transfer, New York City form DP 72, to the agency to which he or she wishes to transfer. Employees requesting transfer to another jurisdiction other than the City shall complete and submit the appropriate form of that jurisdiction.
2. The Corporation Office of Certification and Examinations, upon receipt of a request for approval of transfer from the jurisdiction to which the employee wishes to transfer, shall request from the employing facility a transcript of employment record and verification of employee's permanent status.
3. The Corporation Office of Certification of Examinations shall obtain the signature of the Senior Vice President responsible for personnel and labor relations (or designee) and forward the completed DP 72 transfer form and transcript of employment history to the other jurisdiction.
4. On transfers to City agencies, the NYC Department of Citywide Administrative Services shall issue a Certificate of Approval of transfer. The Corporation Office of Certification and Examinations, upon receipt of a Certificate of Approval of transfer, shall contact the employing facility to obtain a release date for the transferring employee. The transfer shall subsequently be confirmed, in writing, to the employing facility.

ATTACHMENT: HHC 1142a – Request for Transfer
DP-72 (City Form) – Request for Transfer and/or Change of Title

New York City Health and Hospitals Corporation

125 Worth Street, New York, New York 10013

REQUEST FOR TRANSFER

REQUEST IS HEREBY MADE FOR A CERTIFICATE OF TRANSFER			
NAME OF EMPLOYEE		SOCIAL SECURITY NUMBER	
PRESENT STATUS		PROPOSED STATUS	
AGENCY		HHC FACILITY	
TITLE & LEVEL		TITLE & LEVEL	
TITLE CODE NUMBER	SALARY	TITLE CODE NUMBER	SALARY
SIGNATURE OF AGENCY HEAD OR DESIGNEE		SIGNATURE OF APPOINTING OFFICER OR DESIGNEE	
DATE		DATE	
I HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS ON THE BACK OF THIS FORM AND I HEREBY CONSENT TO THIS TRANSFER.			
SIGNATURE OF EMPLOYEE		DATE	
SPACE BELOW IS FOR USE OF THE OFFICE OF CERTIFICATION AND EXAMINATIONS			
PREFERRED LIST IN EXISTENCE	PROMOTION LIST IN EXISTENCE	PERMANENT EMPLOYEE	DATE
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/> RECOMMENDED APPROVAL UNDER RULE	SUBJECT TO:		
<input type="checkbox"/> RECOMMENDED DISAPPROVAL	REASON:		
SIGNATURE OF DIRECTOR			
<input type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED	CORPORATE OFFICER, PERSONNEL/LABOR RELATIONS (OR DESIGNEE) NEW YORK CITY HEALTH AND HOSPITALS CORPORATION	DATE
<input type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED	DEPUTY COMMISSIONER FOR CITYWIDE PERSONNEL SERVICES	DATE

READ TERMS AND CONDITIONS ON REVERSE SIDE

TERMS AND CONDITIONS

1. An application for transfer may be approved while the applicant is on probation. The employee's probationary period starts anew, and a full one-year probationary period must be served following the effective date of transfer.
2. An application for transfer shall not be approved whenever there exists a Corporate promotion or a preferred list for the position to which transfer is sought unless the list is promotional and it consists of fewer than three available eligibles.
3. Transfers are subject to the Corporation's Personnel Rules and Regulations applicable to transfers, Rules 7.1.1 through 7.1.6, and any amendments thereto.
4. The effective date of transfer shall be deemed the date of original appointment to the New York City Health and Hospitals Corporation.

Signature of Applicant

THE NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 DIVISION OF CITYWIDE PERSONNEL SERVICES
 1 CENTRE STREET, 21ST FLOOR, NEW YORK, NY 10007

REQUEST FOR TRANSFER OR REDEPLOYMENT AND/OR CHANGE OF TITLE

Request is hereby made for a certificate of TRANSFER OR REDEPLOYMENT AND/OR CHANGE OF TITLE

Name of Employee		Social Security Number	
<u>PRESENT STATUS</u>		<u>PROPOSED STATUS</u>	
AGENCY		AGENCY	
TITLE & LEVEL		TITLE & LEVEL	
TITLE CODE #	SALARY \$	TITLE CODE #	SALARY \$
Signature of Agency Head or Designee _____		Signature of Agency Head or Designee _____	
Date _____		Date _____	

I have read and understand the terms and conditions as set forth on the reverse side of this form and all rules and regulations governing transfer, deployment and/or change of title. If this action is payrolled in the City's Payroll Management System (PMS), I authorize the payroll deduction of the required Personnel processing fee.

I hereby consent to this TRANSFER OR REDEPLOYMENT AND/OR CHANGE OF TITLE

 Signature of Employee _____ Date _____

THE SPACE BELOW IS FOR USE BY THE DIVISION OF CITYWIDE PERSONNEL SERVICES

referred List in Existence? Promotion List in Existence? Permanent Employee (completed probation in present title)?
 Yes No Yes No Yes No Promotion rights reviewed.

Rule: _____ Subject to: _____

Reason: _____

 Personnel Audits & Transactions Authorized Signature _____ Date _____

RECOMMENDATION TO ORDER A RULE 6.1.9 EXAMINATION		Exam. No. _____
Is maximum salary of present title \$ _____ equal to or greater than minimum salary of proposed title \$ _____ ?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Is proposed title in a direct promotional line from present title or construed as a promotion?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Is proposed title and level comparable to present title and level?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Is candidate transferring to or from the management class?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Does candidate meet the minimum qualification requirements for requested position?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
_____ Bureau of Examinations Authorized Signature	_____ Date	

APPROVED DISAPPROVED _____
 Deputy Commissioner for Citywide Personnel Services _____ Date _____

TERMS AND CONDITIONS

- It is important that this form be filled out completely before it is submitted to the Division of Citywide Personnel Services for consideration.
2. An application for transfer can be approved while the applicant is on his/her probationary period. On transfer, the probationary period starts anew, as the one year period must be served completely in the same agency. **(Exception: Redeployment is governed by the Memorandum of Agreement).**
 3. An application for transfer shall not be approved whenever there exists a departmental promotion or a preferred list for the position to which transfer is sought unless, in the case of a promotion list, such list consists of fewer than three available eligibles.
 4. Transfers are subject to the applicable Personnel Rules and Regulations of the City of New York, Rule VI, Section I, Rules 6.1.1 through 6.1.9.
 5. An application for a title change cannot be approved while the applicant is on probation. In addition, a title change is subject to a one-year probationary period unless waived by the Commissioner of the Department of Citywide Administrative Services. **(Exception: Redeployment title changes are governed by the Memorandum of Agreement).**

BUREAU OF EXAMINATIONS COMMENTS

REGULATION NO. 3

REINSTATEMENT OF PERMANENT COMPETITIVE AND NON-COMPETITIVE GROUP 12 EMPLOYEES

This Regulation sets forth the steps to be taken when dealing with the reinstatement of former permanent competitive, non-competitive and labor class employees to Group 12 positions in accordance with Section 7.3 of the Corporation's Personnel Rules and Regulations.

I. SCOPE:

This Regulation applies to former permanent competitive, non-competitive and labor class employees of the Corporation.

II. POLICY:

A. Reinstatement of Resignees and Retirees

1. Employees who have completed their probationary period and who thereafter resign or retire may, subject to the consent of the Appointing Officer, be reinstated without examination to the same title, provided that their separation was without cause or delinquency and does not otherwise violate current Corporate policies or procedures.
2. Reinstatement under this procedure must be completed within the length of time the employee previously served in a permanent capacity, but not more than four years after the date of separation from previous service. Time spent on active duty in the Armed Services of the United States (which resulted in Honorable Discharge), subsequent to the date of separation from service, shall not be considered in computing the time limitations governing reinstatement.
3. Employees reinstated within one year shall be deemed to have had continuous service. They shall be restored to the same leave status which they held at the time of their separation, and any sick leave and annual leave balances unused at the time of separation, which was not paid out at separation, shall be restored to their credit. However, the time off payroll following separation shall not be used for the purposes of computing "years of service" in determining the applicable annual

leave rate and other benefits. Upon reinstatement to the same or similar title, the employee shall be restored at the salary he/she had attained at the time of the original separation, or at the minimum of the title, whichever is greater.

4. Employees who are reinstated beyond one year following separation shall be given permanent status only. They will be classified as new appointees with regard to salaries, annual leave and sick leave accrual and retention.

B. Reinstatement After Separation for Job-Related Disability or Illness

1. An employee who has been separated from service pursuant to Section 7.3.4(a) of the Corporation's Personnel Rules and Regulations because of a job-related disability or illness (as defined in the Workers' Compensation Law) shall be entitled to a leave of absence of at least one year, unless declared permanently incapable of performing the duties of the position.
2. An employee may request reinstatement within one year following termination of the job-related disability or illness. Reinstatement of employees who have been separated from service by reason of disability resulting from occupational illness or injury requires the prior approval of the Personnel Review Board.

If found physically and medically fit to perform the essential duties of the former position, with or without reasonable accommodation, by a physician appointed from the Personnel Review Board Panel of Physicians, the employee shall be reinstated to the former title, if there is a vacancy, or to a similar or lower title in the same occupational group.

If no appropriate vacancy exists to which reinstatement can be made, or if the filling of a vacancy is not warranted, the name of the former employee shall be placed on a preferred list for his or her former title and he/she shall be eligible for reinstatement for a period of four years following placement on that list.

3. Upon reinstatement to the same or similar title, the employee shall be restored at the salary he/she had attained at the time of the original separation, or at the minimum of the title, whichever is greater.

4. When an employee is reinstated to a lower title, his/her salary shall be constructed as if the years of service in the former higher title had been served in the lower position. The employee shall be reinstated to the reconstructed salary or to the minimum of the title, whichever is greater.
5. In the event that such person is reinstated to a position in a grade lower than that of his former position, his/her name shall be placed on the preferred eligible list for his/her former position.

C. Reinstatement After Separation for Non-Work Related Disability or Illness

1. An employee who has been separated from service pursuant to Section 7.3.4(b) of the Corporation's Personnel Rules and Regulations, because of a non-work related disability or illness shall be entitled to a leave of absence of at least one year, unless declared permanently incapable of performing the duties of the position.
2. An employee may request reinstatement within one year following termination of the non-work related disability or illness. Reinstatement of employees who have been separated from service by reason of non-work related disability or illness requires the prior approval of the Personnel Review Board.

If found physically and medically fit to perform the essential duties of the former position, with or without reasonable accommodation, by a physician appointed from the Personnel Review Board Panel of Physicians, the employee shall be reinstated to the former title, if there is a vacancy, or to a similar or lower title in the same occupational group, in accordance with the Personnel Rules and Regulations.

If no appropriate vacancy exists to which reinstatement can be made, or if the filling of a vacancy is not warranted, the name of the former employee shall be placed on a preferred list for his or her former title and (s)he shall be eligible for reinstatement for a period of four years following placement on that list.

3. Upon reinstatement to the same or similar title, the employee shall be restored at the salary he/she had attained at the time of the original separation, or at the minimum of the title, whichever is greater.

4. When an employee is reinstated to a lower title, his/her salary shall be constructed as if the years of service in the former higher title had been served in the lower position. The employee shall be reinstated to the reconstructed salary or to the minimum of the title, whichever is greater.
5. In the event that such person is reinstated to a position in a grade lower than that of his former position, his/her name shall be placed on the preferred eligible list for his/her former position.

III. PROCEDURE

A. Reinstatement of Resignees or Retirees

1. Resignees or retirees who wish to be reinstated shall apply to the Human Resources Department of the facility in which they wish to be employed.
2. Applicants shall complete a Request for Reinstatement Form (Form HHC-3530, agreeing to the terms and conditions of the proposed reinstatement, along with an Application for Employment Form (Form HHC-568).
3. A request for reinstatement does not confer a right to reinstatement. Reinstatement is at the discretion of the Corporation and the Appointing Officer of the facility/network.
4. Employees reinstated after more than one year of separation, shall be required to undergo medical assessment, investigation, fingerprint clearance or any other qualifying tests required by the Appointing Officer as a precondition of their reinstatement.
5. An official transcript of the applicant's employment record shall be obtained from his or her former facility, if different from the facility to which the applicant is applying for reinstatement.
6. The Human Resources Department of the facility to which the applicant is seeking reinstatement shall obtain an endorsement from the applicant's former employing facility to insure that the applicant is eligible for reinstatement and was not separated from a former position for cause or delinquency.
7. After all personnel and budgetary approvals to effect the reinstatement have been obtained, the applicable Human Resources Department shall prepare the PAF Form (Form HHC-732), reflecting this action, and shall make the appropriate entries on the official personnel record.

8. The reinstated employee shall be advised, in writing, of the effective date of reinstatement, and the title, salary and probationary period (s)he will be required to serve, unless the latter is waived by the Appointing Officer.

B. Reinstatement After Separation for Job-Related Disability or Illness

1. Employees separated from service due to disability resulting from occupational illness or injury as defined in the Workers' Compensation Law who wish to be reinstated shall file an appeal with the Personnel Review Board (PRB). The appeal shall also include the termination letter and medical documentation indicating the applicant is fit to perform the essential duties of his/her former permanent position, with or without reasonable accommodation. The PRB shall assign a physician in the appropriate specialty who shall examine the applicant and submit a report to the Chairman of the PRB indicating whether the employee is fit to perform the essential duties of the former position with or without reasonable accommodation.
2. Upon receipt of the physician's report finding the former employee medically and mentally fit to perform the essential duties of the former position, with or without reasonable accommodation, the PRB shall issue a Decision of Reinstatement, subject to vacancy in the title.
 - a) Once the PRB Decision is issued, the Human Resources Director, or designee, shall determine whether a vacancy exists in the applicant's former position, or in a similar or lower title in the same occupational group, or to a vacancy in another title for which the applicant qualifies.
 - b) If a vacancy exists which the facility intends to fill, the Human Resources Director, or designee, shall notify the former employee, in writing, of the date, time and location of said reinstatement.
 - c) If no appropriate vacancy exists to which reinstatement may be made, or the workload does not warrant the filling of such vacancy: The Human Resources Director, or designee, shall notify the former employee in writing that his or her name shall be placed on a preferred list.

- d) A copy of this letter, with the PRB Decision, shall be forwarded to the Corporation's Office of Certification and Examinations.
- e) The Corporation's Office of Certification and Examinations shall place the name of such person on a preferred list for his/her former position, and he/she shall be eligible for reinstatement from such preferred list for a period of four (4) years.
- f) In the event that such person is reinstated to a position in a grade lower than that of his/her former position, his/her name shall be placed on the preferred list for his/her former position. He/she shall be eligible for reinstatement from such preferred list for a period of four (4) years.

C. Reinstatement After Separation for Non-Job Related Disability or Illness

1. Employees separated from service due to disability resulting from non-work related illness or injury who wish to be reinstated shall file an appeal with the Personnel Review Board (PRB). The appeal shall also include the termination letter and medical documentation indicating the applicant is fit to perform the essential duties of his/her former permanent position, with or without reasonable accommodation. The PRB shall assign a physician in the appropriate specialty who shall examine the applicant and submit a report to the Chairman of the PRB indicating whether the employee is fit to perform the essential duties of the former position with or without reasonable accommodation.
2. Upon receipt of the physician's report finding the former employee medically and mentally fit to perform the essential duties of the former position, with or without reasonable accommodation, the PRB shall issue a Decision of Reinstatement, subject to vacancy in the title.
3. Once the PRB Decision is issued, the Human Resources Director, or designee, shall determine whether a vacancy exists in the applicant's former position, or in a similar or lower title in the same occupational group, or to a vacancy in another title for which the applicant qualifies.
 - a. If a vacancy exists which the facility intends to fill, the Human Resources Director, or designee, shall notify the former employee, in writing, of the date, time and location of said reinstatement.
 - b. If no appropriate vacancy exists to which reinstatement may be made, or the workload does not warrant the filling of such vacancy:

- i. The Human Resources Director, or designee, shall notify the former employee in writing that his or her name shall be placed on a preferred list.
- ii. A copy of this letter, with the PRB Decision, shall be forwarded to the Corporation's Office of Certification and Examinations.
- iii. The Corporation's Office of Certification and Examinations shall place the name of such person on a preferred list for his/her former position, and he/she shall be eligible for reinstatement from such preferred list for a period of four (4) years.
- iv. In the event that such person is reinstated to a position in a grade lower than that of his/her former position, his/her name shall be placed on the preferred list for his/her former position. He/she shall be eligible for reinstatement from such preferred list for a period of four (4) years.

Attachment: HHC 3530 – Request for Reinstatement

NEW YORK CITY HEALTH AND HOSPITALS CORPORATION REQUEST FOR REINSTATEMENT

TO BE COMPLETED BY APPLICANT

FACILITY: _____		DATE: _____
NAME OF EMPLOYEE: _____		SOCIAL SECURITY NO.: _____
ADDRESS: _____		

TO BE COMPLETED BY FACILITY/NETWORK HUMAN RESOURCES

FORMER PERMANENT STATUS	PROPOSED STATUS
Title: _____ Title Code No.: _____ Date of Employment: From: _____ To: _____ Leave of Absence: From: _____ To: _____ Salary: _____ Status: <input type="checkbox"/> Competitive <input type="checkbox"/> Non-Competitive Corporate Facility: _____	Title: _____ Title Code No.: _____ Salary: _____ Status: <input type="checkbox"/> Competitive <input type="checkbox"/> Non-Competitive Corporate Facility: _____
If the total time for eligibility for reinstatement includes employment in a title other than that listed above, please supply the following information: Title: _____ Years: _____ Months: _____ Days: _____ I hereby certify that _____ _____ was separated from the above described position for reasons other than fault or delinquency on his/her part. Signature of Appointing Officer (of Corporate facility, or network from which applicant was separated)	I have read, understand and consent to the terms and conditions of reinstatement as set forth on the reverse side of this form. Signature of Applicant _____ Date _____

I hereby certify that there is not a preferred list in existence.

Signature of Personnel Director: _____ Date: _____

Approved, to be effective on: _____

Signature of Appointing Officer: _____

READ TERMS AND CONDITIONS ON OTHER SIDE

TERMS AND CONDITIONS

1. This Request for Reinstatement must be accompanied by an Application for Employment, HHC Form 568.
2. A request for reinstatement does not confer a right to reinstatement. Reinstatement is at the discretion of the Corporation and the Appointing Officer of the facility/network.
3. The applicant must have completed his/her probationary period in a Group 12 competitive or non-competitive class position, prior to separation from service.
4. Reinstatement after a separation of more than one year is subject to investigation, fingerprint clearance, medical assessment or any other qualifying tests and deemed to be conditional pending a favorable report on these requirements.
5. Reinstatement must be accomplished within the prescribed period of time indicated in Rule 7.3.2 of the Corporation's Personnel Rules and Regulations.
6. Reinstatement beyond one year after separation from service will confer permanent status only. The employee will otherwise be deemed a new employee, as of the effective date of reinstatement to the Corporation.
7. Reinstated employees are subject to a probationary period, unless such probationary period is waived by the Appointing Officer.

Signature of Applicant

*New York City-Health and Hospitals
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