INTERPRETIVE MEMO: 8-94       DATE: 9-12-94

PERSONNEL POLICY BULLETIN:

REGULATION REFERENCE NO.: 4.3.1

INDEX REFERENCE: CERTIFICATE ORDER OF APPOINTMENTS:
Appointments and Promotions From a Civil Service List

Issue:
The attached memo was prepared in response to questions raised by employees regarding the usage of the "one-in-three" Rule in selecting candidates for appointment or promotion from a CUNY Civil Service list. The memo clarifies the responsibilities and procedures to be followed by a college in ensuring that the State Civil Service Law and CUNY Civil Service Commission Rules are followed.

The City University of New York

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February 2, 1994

TO: Dr. Joan Rome
FROM: Mr. Samuel Phillips
RE: Promotion Appointments from Civil Service Lists

I am following up our conversation today about perceptions at your college regarding the January 14, 1994, response from Vice Chancellor Brenda Malone to several letters she received from employees of Brooklyn College whose names appear on the College Administrative Assistant (CAA) list. The facts stated in the letter are absolutely accurate, but the letter may have triggered unintended anxiety about the administration of the list. The laws of the State of New York and the Civil Service Commission Rules of The City University of New York mandate that a municipal employer such as CUNY make appointments or promotions according to the so-called one-in-three rule. This rule requires a hiring authority to appoint an eligible whose score is equal to or higher than the third person on a civil service list to a competitive class position. All CUNY colleges must follow this process in hiring and promoting civil service staff.

Current State civil service law dates back to 1909 and was recodified in 1958. Although sections of the law are periodically amended, this can only be accomplished through State legislation following public hearing. The one-in-three rule is at the heart of the civil service system.

The CAA title was established in the CUNY classified service as a promotional title with higher duties and responsibilities than the entry level CUNY Office Assistant/Secretarial Assistant title. Promotion occurs to a position that has been classified in the higher title on account of the requisite duties and responsibilities. Incumbents are selected competitively for the promotion in accordance with the one-in-three rule. Passing a promotional examination or placement on a civil service list does not guarantee a promotion; the list provides a pool from which appointments may be made to existing vacancies.

The one-in-three rule was established in recognition that civil service tests are not perfect predictors of future job
performance and that all qualified individuals with approximately the same scores may not be equally suited to each opening. A hiring supervisor in the library may prefer to select an eligible with experience in the library rather than an eligible with a higher rank of one from the payroll office. The rule gives the Personnel Directors and the hiring supervisors recommending the appointment the discretionary authority to match individual skills with individual job requirements.

A college has the option of appointing in rank order because that selection process meets the requirements of the rule of three. One eligible in three is appointed to each opening -- an appropriate, more complex CAA position. However, this approach risks that managers have few or no choices in the selection of employees, that employees who may be valued as better performers may be precluded from consideration because management chose not to use its flexibilities, or that employees who are already performing more complex functions cannot be reached. The merit system was established to ensure that civil service positions including promotional positions are created and compensated according to the duties of the position and filled as a result of open competition in order to reduce the political pressures inherent in all organizations.

I believe Brooklyn College, in utilizing the one-in-three rule, has taken a prudent management course of action. The rule of three--and this office--do not preclude a college from following strict list order in making promotions, but there is absolutely no performance-based management reason for doing so. For the reasons cited above, I personally advise colleges to make use of all the management flexibilities that the law and the Rules provide. This is what you have done. Based on the information my staff and I have received to date from Brooklyn College with regard to this list, I commend you for a careful and timely execution of this rather complex responsibility.

Finally, all the recent CAA appointments at Brooklyn College were made consistent with the one-in-three rule and in compliance with State merit system requirements. Eligible incumbents were interviewed in rank order. I understand that, in several instances when eligible incumbents were interviewed for positions held by incumbents with step-up provisional status, these interviews were perceived as pro forma. However, when multiple positions are filled, CUNY's civil service regulations require that all eligibles whose final scores are higher than that of the selected individual be interviewed. The regulation may result in some interviews perceived as routine; however, it guarantees all eligible incumbents the opportunity to be considered for an opening for which they may be reached. The Brooklyn Personnel Office informed all interviewing supervisors that all eligibles interviewed must be considered for an opening including those held by step-up provisionals. No eligible was appointed randomly or unsystematically in non-compliance with civil service regulations.
Civil service systems encompass certain required procedures which may be perceived as rigid. The one-in-three rule is one effort to increase the flexibility of the system. Contrary to some perceptions, Brooklyn College in their scheduling of the interviews for the CAA openings and their instructions to the supervisors conducting the interviews made every possible effort to consider the feelings of the eligibles and make the system more humane.

APPROVED

University Personnel Director