REGULATION I: Scope and Application of Regulations

SECTION I: General Provisions

1.1.1. Applicability

These regulations shall apply to all positions in the classified service of The City University of New York.

1.1.2. Continuity

Except as provided in these regulations, any policies or procedures in effect on the date of these regulations shall be presumed to continue in force until specifically discontinued or superceded by the Rules or Regulations of The City University of New York Civil Service Commission, the Bylaws of the University, or by Regulations or policies of the Vice Chancellor.

1.1.3. Delegations to Colleges

Colleges are encouraged to undertake all functions which may be delegated by the Vice Chancellor and which are within the ability of the college to assume. The Vice Chancellor may enter into an agreement with each college with respect to the delegations made to that college. In some cases the Vice Chancellor may determine that delegations are mandatory. Delegations provided elsewhere in these Regulations shall be superceded by an individual college agreement. For the purpose of conducting carefully planned pilot programs involving new concepts in public personnel administration, the Vice Chancellor may enter agreements with one or more colleges to delegate activities not provided for in these Regulations. (See also Regulation XII).
SECTION II: Definitions

The following definitions shall apply to these Regulations and to any policies or procedures issued by the Vice Chancellor or by any designated college officer in support of these Regulations, unless another definition or use is specifically provided elsewhere in these Regulations.

1.2.1. **CUNY** and **University** mean The City University of New York.

1.2.2. **College** means a CUNY college, the Central Office of CUNY, or any other CUNY unit separately designated by the Vice Chancellor for the purpose of these Regulations.

1.2.3. **College President** means the named chief executive or named acting chief executive of any of the colleges and any unit designated by the Vice Chancellor as a college of The City University for purposes of these Regulations.

1.2.4. **College Appointing Officer** means the official at a College designated by the College President to make or approve appointments and to direct or oversee other classified service personnel actions at a College, as provided in these Regulations.

1.2.5. **Commission** means The CUNY Civil Service Commission.

1.2.6. **Regulation** means a Regulation promulgated by the Vice Chancellor.

1.2.7. **Rule** means a Rule of The CUNY Civil Service Commission.

1.2.8. **Trustees** means The Board of Trustees of The City University of New York.

1.2.9. **Vice Chancellor** means The CUNY Vice Chancellor for Faculty and Staff Relations or a successor title.
1.2.10. **Director** means the University Personnel Director or a successor title.

1.2.11. **Promotion** means an appointment to a higher title in the same career series or in a title designated for promotion opportunity, accompanied by an increase in base salary.

1.2.12. **Title** means a group of positions having similar duties, requiring similar qualifications, paying wages within a single range, and which are combined for ease of transacting certain personnel actions.

1.2.13. **Title Levels** or **Assignment Levels** means, within a title, tiers differentiated by function, duties, qualifications, seniority, or specialization.

1.2.14. **Trial Period**
   (a) for transfers within CUNY - a time limited period in which an employee can either voluntarily return or be required to return to his/her prior college and assignment

   OR

   (b) a time limited period in which an employee who is advanced to a higher level within a title may be returned to a lower level within the same title with an accompanying reduction in salary.

1.2.15. **Title Code** means a number used to identify a title.

1.2.16. **Campus-Unique Title** means a title which, when established, is limited in use to one CUNY college, or a title which, at the time of an examination announcement, has budgeted positions at only one CUNY college.
1.2.17. **Title Specification** means a formal written statement of the class which defines the general character and scope of the duties and responsibilities of positions in the class; lists typical or illustrative examples of work for positions in the class; enumerates the knowledge, skills and abilities required for successful performance of the work; and states the required minimum experience and training for positions in the class.

1.2.18. **Position** means an office or employment involving an aggregation of duties to be performed and responsibilities to be exercised by one full-time equivalent person.

1.2.19. **Jurisdictional Classification** means the assignment of a position by the Commission into a class other than the competitive class of the classified service.

1.2.20. **Position Classification** means the process by which a position is assigned to an appropriate title based on the duties of the position and or the qualifications and specifications established.

1.2.21. **Career Series** means two or more titles ordered by increasing minimum pay, increasing responsibilities, or some other measure by which eligibility for successive higher titles is determined by promotional exam or by maturation.

1.2.22. **Reclassification** means the movement of a position from one title to another title in order to rectify a prior classification error or because of a permanent and material change of the duties of that position.

1.2.23. **Covered-in** means the continuation in service without further examination of an employee who was legally appointed to the classified or unclassified service of CUNY, whose position has been reclassified to a different class in the classified service.
1.2.24. **Original Appointment Date** means (1) for a CUNY employee with a permanent appointment as of July 1, 1979, the date of first such appointment in any agency under the jurisdiction of the New York City Department of Personnel followed by continuous service, or (2) for employees with a permanent appointment who transferred from the City of New York to CUNY in a permanent position after July 1, 1979 but prior to September 14, 1982, the date of first such appointment in any agency under the jurisdiction of the New York City Department of Personnel followed by continuous service, or (3) for employees appointed to CUNY after July 1, 1979 from a competitive civil service list that was promulgated prior to July 1, 1979, or for which the examination was announced prior to July 1, 1979, the date of first permanent appointment in a CUNY College or the date of first permanent appointment in an agency under the jurisdiction of the New York City Department of Personnel, whichever is earlier, followed by continuous service, or (4) for an incumbent in the unclassified service of CUNY who does not have a prior permanent appointment in the classified service of CUNY, upon being "covered in" the classified service, subject to these Regulations, following the reclassification of the position, the date calculated to be the initial performance of the reclassified duties followed by continuous service in CUNY, or (5) for all others, the date of the first permanent appointment in CUNY, followed by continuous service, subject to these Regulations. A permanent appointment or reinstatement to a position following a break in continuous service shall be regarded as a new original appointment date.

1.2.25. **Continuous Service** means: for purpose of pay and benefits, see 2.3.1; for purpose of reinstatements see 5.9.1; for purpose of seniority on layoff see 7.1.1; for purpose of fingerprinting and filing fees, see 3.1.1.

1.2.26. **Transfer and Reassignment**, see 7.1.1

1.2.27. **Maintenance Pay** means all additions to base salary provided by CUNY, including additions provided under negotiated agreement, which compensates an employee for covered expenses (e.g., meal allowances, uniform allowances, etc.).

1.2.28. **Continuous Recruitment Examinations** means examinations conducted on a continuous schedule; as a result of which the final scores of passing candidates are interfiled among all presently qualified candidates, resulting in continuing eligibility lists (See 4.3.4).
REGULATION II: Classification and Pay Plans

SECTION I: Jurisdictional Classification

2.1.1. General Provisions

Each position in the classified service will be in the competitive class unless the CUNY Civil Service Commission jurisdictionally classifies such position in the non-competitive, exempt, or labor class. A College Appointing Officer may propose to the Director for classification any new set of duties, in such form as the Director may prescribe, which describe a position not yet provided for in the classified service. Upon determination by the Director that any new set of duties describes a position which may not be suited to the competitive class, the Director shall report such determination to the Vice Chancellor and may recommend that the Vice Chancellor submit a proposal to the Commission for jurisdictional classification.

2.1.2. Unclassified Service

Incumbents in positions in the unclassified service whose duties are determined by the Vice Chancellor or by the Commission to be appropriate to positions in the classified service shall, when eligible, be subject to Section 2.2.5 and Section 2.3.3 or such other classification and pay provisions as the Vice Chancellor may provide in policy issuance.

2.1.3. Positions for the Physically or Mentally Disabled

The University Personnel Director may determine a prescribed number of positions, not to exceed the maximum set by state law, with duties which can be performed by physically or mentally disabled persons who are found qualified, in the manner prescribed by law, to perform such duties.
Upon a determination, such positions shall be classified in the non-competitive class, and shall be filled by persons who shall have been certified by either the Commission for the Blind and Visually Handicapped in the State Department Of Social Services as physically disabled by blindness or by the State Education Department as otherwise physically or mentally disabled and, in any event, qualified to perform satisfactorily the duties of any such position. At least three hundred of such positions shall be filled by persons who have been certified as physically disabled. If no qualified physically disabled persons have applied for such positions, the University Personnel Director may determine to fill those unfilled positions with qualified mentally disabled persons.

The University Personnel Director shall issue procedures for approval of appointments of physically or mentally disabled persons to such non-competitive positions as are established pursuant to this Regulation.
SECTION II: Classification Plan

2.2.1. General Policies

The Vice Chancellor establishes and maintains a uniform Classification and Pay Plan applicable to all positions in the classified service, and is responsible for the overall coordination, review, and maintenance of the Plan. The preparation of this Plan shall be the responsibility of the Director and shall consist of, but is not necessarily limited to, (a) all approved positions, by jurisdictional class, (b) the title specifications for classes of positions (c) salary ranges for titles, (d) title codes, and (e) the rules governing the administration of the plan.

2.2.2. Classification of Competitive Class Positions to Approved Titles

(1) Each College Appointing Officer may be delegated the authority to allocate, reallocate, and classify vacant non-managerial positions whose duties are appropriate to titles that have been established in the competitive class by the Director and for which a pay range has been determined by the Vice Chancellor. As a result of audits or other reviews of classification actions delegated to the colleges, the Director may institute one or more of the following actions:

(a) revoke a classification

(b) reclassify a position

(c) institute additional training for college personnel staff

(d) temporarily require prior approval of future college allocation and classification actions

(e) recommend to the Vice Chancellor that the delegated allocation and classification authority of a college be suspended in whole or in part.
(2) Each college classification of a position must be made on the basis of a then current position description approved by the College Appointing Officer.

(3) No action shall be taken to fill any position until it has been classified in accordance with the Classification Plan.

2.2.3. Powers and Duties of the Director

It shall be the responsibility of the Director:

(1) in the absence of delegations to the colleges, to classify positions, or as a result of an audit or review to institute actions enumerated in Section 2.2.2;

(2) to review and determine all college requests for the abolishment or reclassifications of positions;

(3) to recommend to the Vice Chancellor appropriate salary ranges or pay grades to be specified in the Classification and Pay Plan, except for those hourly employees and other positions whose salaries are specifically set forth in a statute;

(4) to establish adequate title specifications showing the qualifications for and the nature and extent and scope of the duties and responsibilities of positions; to issue procedures by which the duties and responsibilities of all positions in the classified civil service are to be recorded at the colleges; to promulgate forms; to designate title names, levels within titles, and title codes for use in classifying positions; for positions substantially similar in the essential character and scope of their duties and responsibilities, to assign the same descriptive title and level within title to designate them; to
require the same qualifications for appointment; to establish competitive or non-competitive tests of fitness which shall be the same except when selective certification or sub-title specialty is provided for, subject to these regulations; and to apply the same salary range for compensation;

(5) to investigate all matters affecting the classification and compensation of positions; to hear and recommend to the Vice Chancellor resolutions to all complaints with respect to the classification and compensation of competitive positions (see also Section 8.5.1); from time to time to review the duties, responsibilities, qualification requirements, and compensation of positions and to make such revisions or recommendations for revisions in the classification or compensation of positions as may be necessary; subject to approval of the Vice Chancellor, to promulgate guidelines for a system of records and to specify what information must be filed with the Director.

2.2.4. Authority Retained Solely by the Vice Chancellor

The Vice Chancellor retains sole discretionary responsibility for:

(1) Overall coordination, review, and maintenance of the Classification Plan.

(2) Establishment of new titles and the revision or abolition of existing titles.

(3) Establishment and revision of pay ranges or pay grades.

(4) Authorization of periodic studies and surveys to assure that the Classification Plan is maintained or a current basis.
(5) Suspension of a College Appointing Officer's delegated responsibilities in classifying or reclassifying positions.

(6) Distribution to each College Appointing Officer of the new or revised title specifications, including:

(a) the effective date,
(b) the assigned pay range or pay grade,
(c) designation of the form of examination to be used for positions in the title,
(d) titles from which and to which the title has promotion eligibility, and
(e) the minimum qualification requirements.

2.2.5. Classification of Positions

The Vice Chancellor is responsible for maintaining a position classification system for the classified service pursuant to Section 20 of the Civil Service Law. Similar responsibilities attend for the unclassified service pursuant to Subdivision 7 of Section 6206 of the Education Law. The Vice Chancellor shall classify and from time to time reclassify positions as required.

I. Reclassification of Permanently Filled Positions Through December 31, 1993

In order to regularize position classification within the CUNY Civil Service, the Vice Chancellor shall identify prior to December 31, 1993, all existing positions which, by virtue of their duties and responsibilities, would be appropriate to titles in the classified service.
When, as a result of this position study it is determined that a position identified with an unclassified service title would be more appropriately assigned to a new classified service title due to a substantial similarity in duties, the position will (a) be reclassified to the appropriate classified service title, or (b) for good cause shown, be earmarked for reclassification to the classified service title upon vacancy. The Vice Chancellor shall adopt standards and procedures to determine whether reclassification shall be immediate or deferred. For permanently filled positions according to (a) above, incumbents, where qualified, shall be eligible to continue in such reclassified positions without further examination.

No position which has been identified for immediate or deferred reclassification and which thereafter becomes vacant prior to such reclassification shall be refilled on a permanent basis until the appropriate classification of the Vice Chancellor.

For permanently filled positions described in (b) above, incumbents shall retain all rights and benefits associated with such unclassified service employment; and shall not obtain classified service rights and benefits that would have accrued had the position been reclassified to (a) above.

After December 31, 1993, any positions in the unclassified service which may be identified as appropriate to the classified service, shall be earmarked for conversion to the appropriate classification upon vacancy. Incumbents in such earmarked classified service positions may be eligible for further advancement within the unclassified service, only within guidance and policies to be issued by the Vice Chancellor.
II. Reclassification of Positions Filled by Provisional Appointees Through December 31, 1993; Probationary Service Requirements Upon Appointment

When, pursuant to Section 2.2.5 I of these Rules, the Vice Chancellor determines that in order to assure the equitable treatment of employees for employment continuity and to assure the maintenance of essential services and programs, a reclassification of a position filled on a provisional basis prior to the reclassification to a new title is in order, the Vice Chancellor shall administer a qualifying examination to such employees and to the extent permissible by law, the University Personnel Director shall consider for appointment on a permanent basis those who pass the qualifying examination; provided that such employees who are appointed with less than one year of service performing the duties prior to the reclassification of the position to a new classified title shall be required to serve a one year probationary period as if this appointment were an original service appointment. If the appointment is an original permanent appointment in the classified service, the effective date of such appointment, regardless of length of prior provisional service, shall be the effective date of the establishment of the new classified title.

III. Seniority Date for Incumbents of Positions Reclassified Pursuant to Rules 2.2.5 I and 2.2.5 II; Probationary Service Requirements Upon Appointment

a. For incumbents of unclassified positions without prior classified service whose positions are reclassified to a new title of the competitive service, seniority for the purpose of Section 80 of the Civil Service Law shall be determined based upon length of service performing the duties which formed the basis for the new reclassification, as determined by the Vice Chancellor.
provided that such service commenced no later than one year prior to the effective date of reclassification; and provided however that such incumbents with less than one year of service in an unclassified service position which is reclassified to a new classified service title shall be required to serve a one year probationary period as if this appointment were an original service appointment.

b. For incumbents of unclassified service positions with immediate prior classified service not in the competitive class, seniority for the purpose of Section 80 of the Civil Service Law shall be determined based on all continuous service subsequent to original permanent appointment, provided such service commenced no later than one year prior to the effective date of reclassification; and provided however that such incumbents with less than one year of service in an unclassified service position which is reclassified to a new classified service title shall be required to serve a one year probationary period as if this appointment were an original service appointment.

c. For incumbents of unclassified service positions with immediate prior permanent service in a competitive class position, seniority for the purpose of Section 80 of the Civil Service Law shall be determined based on all continuous service subsequent to the original permanent appointment; provided however that such incumbents with less than one year of service in an unclassified service position which is reclassified to a new classified service title other than the one in which prior permanent service occurred shall be required to serve a one year probationary period in the new reclassified title.

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SECTION III: Pay Plan

2.3.1 Definition

For the purpose of this Section of this Regulation:

(1) **Continuous Service** means uninterrupted service in CUNY including service in the unclassified service or other uninterrupted service following an original appointment as provided in 1.2.24 parts 1-3, except:

(a) when an interruption in full-time CUNY service follows a resignation or termination from CUNY and is for 31 days or less; or

(b) when an interruption in CUNY service is due to the abolition and reduction of positions and reinstatement from a preferred list or reappointment occurs within the time provided by Civil Service Law; or

(c) when an interruption in CUNY service is due to termination for a disability resulting from occupational injury or disease as defined in the worker's compensation law and reinstatement or reappointment follows; or

(d) when an interruption in part-time CUNY service is exempted in policies issued by the Vice Chancellor.

A leave of absence without pay and a reinstatement within one year as provided in these Regulations shall not constitute an interruption of continuous service of a permanent CUNY employee for the purpose of this section.

2.3.2 General Policy

(1) The Vice Chancellor maintains a schedule of pay ranges, consisting of the maximum and minimum pay rates for all titles and title levels in the CUNY Classification and Pay Plan, a schedule of any automatic pay adjustments such as longevity increases or promotion increments, and a schedule of annual and sick leave accrual rates.

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(2) Time in non-pay status shall not be counted as part of the years of service in determining annual or sick leave accrual rates; time in non-pay status shall not be counted for calculating longevity pay, service pay, or level changes unrelated to change in duties. (For exceptions regarding military leave, see Regulation XVI.)

Corrections to pay ranges or to individual employee pay rates that result from clerical errors may be made by the College Appointing Officer or the Director within 3 months of the initial action for an amount not to exceed $1,000 per year without refiling all appointment papers with the Director. A notice of the correction shall be forwarded to the Director.

(3) Except as provided in policies issued by the Vice Chancellor or in negotiated agreements with a recognized bargaining agent, longevity increases shall be based on continuous service as defined in 2.3.1.

2.3.3. Employment Rates

1. An employee shall not be paid a basic annual salary, calculated without maintenance pay, either below the minimum or in excess of the maximum of the pay range for a title, unless payments either below or in excess are authorized by these Regulations or by legislation.

2. Except as provided in these Regulations, an employee who is given a sub-managerial original appointment shall be paid at the minimum of the pay range for the title to which appointed, unless the employee is appointed in a trainee status. In a trainee status the employee shall be paid at a rate established by the Vice Chancellor or in a covered title at a rate established with the appropriate bargaining unit and in accordance with an individual training schedule established by the College President or his or her designee and approved by the Director.
3. Pay may be set at the minimum for a title level other than Level I, or for an established pay step other than the first pay step in a title, when making an original appointment if the following conditions are met:

   (1) that the title of the position being filled contains more than one level or established pay step,

   (2) when the progression between levels or pay steps depends on a fixed period of service at a lower level or pay step, that the appointee has equivalent experience, and

   (3) for titles with levels, that the levels were established with different duties or are associated with different qualifications.

Appointments to a level or pay step other than Level I or Pay Step I of such a title shall have no effect on the minimum pay for Level I or Pay Step I of the title.

4. Appointments to a position in a title for which a special rate or differential has been established by the Vice Chancellor shall be paid at the approved special rate.

5. An employee who is reinstated from a preferred list to a position in a title with the same or higher minimum pay than was paid in the title occupied prior to separation, bumping or demotion shall be paid at the rate of pay the employee received at the time of separation, bumping, or demotion plus any negotiated, across-the-board increases that are unrelated to length of service or merit which the employee would have earned in the former title or at the minimum of the title to which the employee is reinstated, whichever is greater.

6. In making an initial or original appointment, a College President having determined and documented that the salary is not sufficiently competitive to attract well qualified candidates or that the person selected is exceptionally well-qualified based on training and experience may authorize
supplementary pay in the year of the initial or original appointment, that is not an addition to base pay, of no more than 10% above the minimum for the title, subject to budget limitations. In no case can such supplementary pay result in compensation above the maximum for the title. Criteria for awarding such supplementary pay may be established by the College President, with the approval of the Vice Chancellor. The Vice Chancellor, in policy, will provide the method of payment.

7. A permanent employee who is reinstated with continuous service to a position in a title or title level with a lower minimum salary than for the position previously held shall receive initial compensation in the lower position, not to exceed the maximum salary for the title or title level based on the minimum salary for the title or title level plus any pay adjustments based on service seniority, excluding service time in non-pay status. At the discretion of the College Appointing Officer, a percentage value based on the minimum salary for the lower title or title level for meritorious performance increases which the employee was granted may be added to the salary.

8. Upon appointment of a provisional employee to a subsequent position immediately following at least 6 months of continuous service at CUNY to a position in the same occupational group, the employee will be paid according to the following:

   a. If the appointment is permanent to the same or a higher level title, the employee shall receive the same salary rate as received as a provisional employee or the minimum of the higher title, which ever is greater, or

   b. If the appointment is permanent or provisional to a lower title, the employee's salary rate in the new title shall be the minimum of the title plus service and longevity increase or the salary earned during a prior provisional appointment in this title, whichever is greater.

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In no case shall the resultant salary rate be lower than the minimum or higher than the maximum rate for the new title.

9. A sub-managerial employee who is either:

   a. on leave from a permanent position to serve provisionally in a higher title or

   b. a provisional who is selected to serve provisionally on a higher title or title level shall be paid at the minimum of the new title or title level, or a salary increment pursuant to a formula to be prescribed by the Vice Chancellor, whichever is greater. In special circumstances at the discretion of the College Appointing Officer and with the approval of the Vice Chancellor, an additional increase may be permissible in accordance with guidelines to be issued by the Vice Chancellor. In no event shall the salary be less than the minimum nor more than the maximum for the new title.

10. An employee who is:

    a. appointed or moved as a result of reclassification of a position to any title regardless of minimum salary, or

    b. reinstated with continuous service from other than a preferred list to a position in a title or title level with the same or higher minimum salary as the prior position, shall be paid the same salary in the new position as was received in the former position, or the minimum for the new position, whichever is greater, except that the salary may not exceed the maximum for the title;

    c. reinstated under the provisions of Regulation 5.9 but who does not meet the terms of continuous service of Section 2.3.1, shall be paid the minimum of the title.

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In special circumstances on reinstatement, the College Appointing Officer with the approval of the Vice Chancellor may recommend the granting of an additional increase which may be permissible under guidelines to be issued by the Vice Chancellor. In no event may the discretionary increase exceed the maximum salary for the title or title level.

11. An employee who is:
   a. demoted for other than disciplinary reasons, or
   b. displaced in accordance with Section 80 of the Civil Service Laws, or
   c. appointed to a lower title in a different occupational group, or
   d. appointed permanently to a higher title in a different occupational group,

shall receive compensation in the new position, not to exceed the maximum for the title or title level, either based on the minimum salary for the title level plus any pay adjustment based on service seniority for time in both higher and lower titles, or equal to the last salary earned during prior service in the new title, whichever is greater. At the discretion of the College Appointing Officer, a percentage value based on the minimum salary for the title or title level of meritorious salary increase(s) which the employee was granted in either title may be added to the salary.

12. An employee who is demoted for disciplinary reasons shall receive the minimum for the lower title or title level plus any pay adjustments based on service seniority unless a different pay is set as a result of the disciplinary proceeding.

13. A managerial employee who is reassigned for other than either disciplinary reasons or unsatisfactory performance from one title level to another level within the same title:

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a. shall, if the reassigned level is lower, receive the same salary as in the previous level but not more than the maximum of the new level except as provided in Section 9.9.2,

b. shall, if the reassigned level is higher, receive the same salary as in the previous level plus any assignment differential provided or the minimum for the higher level, whichever is greater. In special circumstances, the College Appointing Officer with the approval of the Vice Chancellor may recommend the granting of an additional increase which may be permissible under guidelines to be issued by the Vice Chancellor. The employee may not receive more than the maximum of the new level except as provided in item 9.9.2.

14. A person transferred to a CUNY position from another civil jurisdiction (see 7.1.5) shall be paid in accordance with guidelines to be issued by the Vice Chancellor.

15. An employee who is promoted from a promotion list to a title with a higher minimum salary than the prior position shall be paid either the minimum of the new title or granted a promotional increment pursuant to guidelines prescribed by the Vice Chancellor, whichever is greater, but in no event shall the salary be less than the minimum nor more than the maximum for the new title.

16. An employee who is given a temporary assignment of extra duties at a higher title or title level and whose assignment lasts 30 days or less may be compensated (See 5.2.1), at the discretion of the College Appointing Officer. An assignment of such duties for longer than 30 days shall not be compensated at less than the minimum for the title associated with those duties (See 5.6.1, 5.6.2.). Upon return to the regular assignment, any temporary salary

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increase will be rescinded. At the discretion of the College President and with the approval of the Vice Chancellor under guidelines to be established, a meritorious lump sum award may be recommended.

17. No classified employee shall be paid for multiple assignments in CUNY or for dual employment in CUNY and the civil service of any other governmental agency or jurisdiction, regardless of location, unless the College Appointing Officer(s) certifies that such additional employment:

a. is not in violation of any Law, Rule, or Regulation and,

b. is not incompatible with the first position that the employee holds.

The Vice Chancellor shall establish criteria and procedures for this and other dual employment.

18. Each College President may establish criteria and procedure with the guidance and subject to the approval of the Vice Chancellor, that provide full-time employees with periodic lump sum awards and incentives that are not additions to base salary and are based in all cases on sustained meritorious service, productivity improvement, or on an exceptional performance in a special assignment. Awards made in any given year may not exceed 4% of a sub-managerial employee’s base pay, and the total value of all such awards in any given year shall be subject to limitations established by the Vice Chancellor. Limits on the size of managerial awards shall be issued by the Vice Chancellor. Awards made to the same employee in consecutive years shall be subject to such additional review as provided in guidance from the Vice Chancellor. No awards may be made without an annual or special performance evaluation conducted within the previous six months. Provisional employees must have a minimum of 18 months of continuous CUNY service. No awards may be made during a probationary period regardless of prior length of service.
19. Justifications for additions to any employee’s base salary based on merit within criteria established by the Vice Chancellor shall be submitted by the College President to the Vice Chancellor or designee for approval.

20. Except as provided under the disciplinary procedures, a sub-managerial employee who is reassigned within a title to a lower assignment level in a class of positions having two or more assignment levels based on job activities shall receive the salary the employee would have been receiving had the employee served continuously in the lower assignment level. An employee who has had continuous service in a higher assignment level of either less than 36 months yet greater than 24 months, or over 36 months may not be assigned unless:

a. An employee who has served for less than 36 continuous months but more than 24 continuous months at an assignment level in a title with two or more assignment levels may only be reduced in salary based upon the employee’s last performance evaluation, whether annual or special, provided such overall performance evaluation rating is unsatisfactory. A special evaluation may not serve as the basis for a reduction to a lower pay level, if made less than six months after an annual evaluation. When an employee’s salary has been reduced pursuant to this subsection, the employee may claim that the evaluation on which it is based is improper or incorrect and appeal such claim only to the Vice Chancellor or the designated representative of the Vice Chancellor, whose decision shall be final and binding.

b. An employee who has served for 36 continuous months at an assignment level above the lowest assignment level of a title with two or more assignment levels, may only be reduced in salary based upon the employee’s last performance evaluation, whether annual or special, provided such overall evaluation is unsatisfactory. A special evaluation may not
serve as the basis of a reduction to a lower pay level, if made less than six months after an annual evaluation. When an employee’s salary has been reduced pursuant to this subsection, the designated bargaining agent appeals the evaluation under the grievance procedure of the Collective Bargaining Agreement governing the employee’s job title. The respective Union representing the employee’s job title shall have the burden of showing that the evaluation was improper and incorrect.

21. The maximum pay of the title shall not be a bar to awarding a longevity increase for which an employee is otherwise eligible based on continuous service as defined in 2.3.1.
REGULATION III: Eligibility Determination

SECTION I: General Eligibility Determination Procedures For Competitive Class Positions

3.1.1. Definition

For the purposes of this regulation, **continuous service** means uninterrupted service in the CUNY including service in the unclassified service following an original appointment as defined in Section 1.2.24, except when an interruption is followed by a reinstatement with continuous service as defined in 5.9.1.

A leave of absence without pay as provided in these Regulations shall not constitute an interruption of continuous service for the purpose of this section.

3.1.2. General Provisions

a) Upon establishment of a position in the competitive classified service for which no examination exists for that position, or as soon thereafter as is practicable, the Director, subject to approval of the Vice Chancellor, shall determine by job analyses and/or other means by which method or multiple methods of selection candidates will be examined. Such examinations may include, but are not limited to, written tests, evaluations of training and experience, structured oral interviews, assessment exercises, skill or proficiency examinations, medical examinations, tests of physical ability, or other tests for determining qualifications. For each title, the Director may establish minimum qualifications that a candidate must possess in order to be competitively examined and shall determine if the examination will be a scheduled examination, a continuous examination, or administered on some other basis, all subject to the approval of the Vice Chancellor.
b) Absent a specific delegation, only the Vice Chancellor may establish eligibility equivalencies or rule on when such equivalencies satisfy either the minimum qualifications or can be rated among the competitive factors.

An equivalency so established applies only to the title for which it is designated. A person granted an equivalency in a title may be denied a similar equivalency in a title outside the original career series. No delegation to a College for eligibility determination shall include a delegation to determine equivalencies.

Within a career series of titles or among levels of a single title, an equivalency will be valid for any title in the series or level within the title.

c) Only the Vice Chancellor may appoint examiners to address and access alleged errors which, if true, would significantly affect eligibility and/or the relative standing of candidates. The Vice Chancellor may establish these or other procedures to consider such alleged errors as:

1) a manifest, material error in the examination

2) a mistake appearing in the rating key or in the non-competitive evaluation key

3) a mistake in the application of the key to a candidate's test papers or other records of examination performance, including papers submitted for non-competitive evaluation, or

4) a mistake in determining eligibility to be examined or eligibility to be placed on a list based on the examination score or on minimum requirements.

An allegation by the applicant of error in determination made by a College Appointing Office under delegated authority shall be reviewed by the Director prior to being submitted for a determination by the Vice Chancellor. A

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decision of the Vice Chancellor may be appealed to the CUNY Civil Service Commission subject to the Rules and Regulations of the Commission.

d) Whenever he or she determines that a competitive examination cannot be given validly or is impracticable to give for a new position, the Vice Chancellor may, by authority of the Commission, authorize a temporary appointment pending jurisdictional classification by the Commission.

e) When an appointment may be made with provisional status, the College Appointing Officer, absent a delegation of authority, may nominate a candidate to the Director for non-competitive examination, which may consist of a review of the training, experience, or other qualifications of the nominee. If ruled qualified by the Director, the candidate may be appointed.

3.1.3. Applications for Eligibility Determination

a) Applications shall be accepted for eligibility determination for permanent or provisional appointments to competitive class positions in a title only during a period of time when consideration for eligibility for such positions is open, such time periods having been stated on each examination or vacancy announcement.

b) In the case of eligibility determination for CUNY-wide titles with continuing lists, open application periods may start or end in one or more boroughs at the discretion of the University Personnel Director, provided there shall be a minimum of two-weeks prior public notice of the beginning of such application periods and that such periods shall last not less than two weeks; after two weeks the Director may close the application period on any day without prior public notice.

c) The deadline for receipt of an application on the final day of an open application period shall be the hour specified and posted by each College
Appointing Officer; applications not physically received and dated in one of the offices named in the vacancy or examination announcement by the hour specified may be returned unprocessed.

d) All applications must be submitted on the forms or a photocopy of the forms prescribed by the Vice Chancellor for Faculty and Staff Relations.

e) All applications must bear the applicant's original signature; the information submitted shall be certified as true by the applicant's signature. Applicants may be disqualified from an examination or after examination if an application is not certified, subject to Section 50.4 of the New York State Civil Service Law. Falsification of an application including signed papers submitted as attachments to the application or omission of pertinent information legally requested shall result in removal of an applicant's name from one or more eligible lists by the Director and the dismissal of the employee by the College Appointing Officer, unless the Vice Chancellor finds or accepts the falsification or omission to be minor or inadvertent. Recommendations of the City Department of Personnel or another governmental agency with regard to actions that should be taken based on findings of investigations which are conducted under contract with CUNY and which reveal falsified applications or omitted information may be modified or overruled by the Vice Chancellor; a College Appointing Officer may request reconsideration by the Vice Chancellor of actions required because of falsifications and may provide any information that the Officer may have obtained which is pertinent to the decision.

f) Applicants are subject to investigations which shall include the fingerprinting of candidates, eligibles, and appointees when required by the Vice Chancellor. Any applicant may request a pre-employment investigation. The results of background investigations conducted through the auspices of another governmental agency shall be acted on by the College Appointing Officer.
Officer subject to policies issued by the Vice Chancellor; recommendations of another agency, if any, may be modified or overruled by the Vice Chancellor, subject to the Law. Each case involving a criminal conviction shall be considered on its own merits. A candidate, eligible, or appointee shall not automatically be disqualified or barred from certification solely on the basis of a criminal conviction unless mandated by statute.

In the review of the criminal convictions, full consideration shall be given to the nature and seriousness of the offense; circumstances under which the offense was committed; the lapse of time since the offense was committed; the person's age at the time of the offense; relevant history since the offense; relationship of the nature of the offense to the position sought; evidence of rehabilitation and other factors that the Vice Chancellor may provide in guidance.

g) All employees in the classified service regardless of number of hours worked shall be fingerprinted the first time the employee is placed on a CUNY payroll, except for student aides and for full-time students in the same college who are employed as college assistants and who the College Appointing Officer, based on duties, wishes to excuse from this requirement. Exceptions for other student aides or college assistants require the approval of the Director. A fee for fingerprinting will be assessed, as provided for in policies of the Vice Chancellor.

h) Policies governing application procedures for positions to be filled provisionally and for approved, campus unique competitive positions may be established by the College Appointing Officer, subject to the approval of the Vice Chancellor.
3.1.4. Filing Fees

Filing fees for eligibility determination that are assessed under guidelines of the Vice Chancellor shall be submitted with the application.

Fees are required for all eligibility determinations for CUNY titles except for a change in level within a title, as a result of a rule conversion or as a result of reclassification. Persons appointed or reinstated and who have not maintained continuous service (3.1.1) are also subject to filing fees. The amounts of such fees may vary by title, based on such concerns as special expenses associated with giving an examination, or other reasons developed by the Vice Chancellor but not to exceed the reasonable cost of processing applications under guidelines of the Vice Chancellor. Policies governing collection, transmittal to the central office, and any waivers of fees will be issued by the Vice Chancellor. Returned personal checks will result in suspended applications. Failure by the applicant to clear a returned check or make other payment arrangements within ten days of the date of CUNY's notification of the applicant shall cancel the applicant's application or appointment.

3.1.5. Refund of Filing Fee

An applicant who was unable to take or complete an examination administered by CUNY may apply for refund of the filing fee by submitting written request therefore to the University Personnel Director within sixty (60) days from the date of the first test or examination at which the applicant was unable to appear with verification that such absence was due to:

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

(b) hospitalization
(c) manifest error or mistakes for which the University is responsible

(d) other reason provided in guidance of the Vice Chancellor

An applicant who was unable to take the first test in an open competitive examination because of active military service with the armed forces of the United States may apply for refund of the filing fee by submitting a written request with verification of such service to the Director no later than sixty (60) days from the termination of military duty.

3.1.6. Non-Return of Applications

All applications shall be dated by the applicant and stamped by the receiving CUNY office on receipt of the application. A completed application will not be returned to the applicant nor to any agent of the applicant.

3.1.7. Application Review

An application found to be incomplete, defective, or illegible may be held in suspense pending corrections or disqualified. Such application shall not be processed unless the defect or omission has been corrected. The date of resubmission of the corrected application will become the amended date of official submission. Resubmissions received after the closing date will not be processed. Mail sent to the address set forth on the application shall be deemed an adequate effort to contact the applicant for this section or any other section of the regulations. Mail not returned by the post office shall be presumed received.

3.1.8. Eligibility Determination Assistance

The Vice Chancellor may contract with outside experts in the development, administration, scoring, review, and defense of examinations, except that a

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president may authorize the College Appointing Officer to contract for assistance for examinations wholly delegated to the campus, subject to prior review by the Vice Chancellor before the contract is awarded.

3.1.9. Job Analysis

Job analyses may be conducted and examinations developed by a college only for examinations in a campus unique title. When the college, under delegated authority, chooses to develop and administer the examination, a copy of the job analysis, the notice of examination, and the examination itself shall be filed with the University Personnel Director at least one month prior to the college administering the examination.

3.1.10. Delegation of Eligibility Determination

Delegations of eligibility determination and examination administration become effective when the University Personnel Director certifies that the campus examination administrator designated by the College Appointing Officer has satisfactorily completed training in the delegated functions.

3.1.11. Reexamination in Titles with Continuous Eligibility Determination

Any applicant may apply to be reexamined for a title after six (6) months from the most recent date of notification of a score, but only during an open application period. A final determination by the University Personnel Director that a candidate has failed a second examination for the same title within a twelve-month period shall result in the candidate being barred from further examination for that title for an additional year from the date of the second notification. A candidate who receives a lower passing score on reexamination shall not be permitted to use the previous score.
SECTION II: General Eligibility Determination Procedure for Other-Than Competitive Class Positions

3.2.1. General Provisions

Upon jurisdictional classification of a position by the Commission in the non-competitive, labor, or exempt class or designation of a temporary classification by the Vice Chancellor pending jurisdictional classification by the Commission, the Director shall determine, subject to the approval of the Vice Chancellor, by what means the minimum eligibility requirements that are specified for the position will be assessed. These may include but are not limited to pass-fail written examinations, reviews of training and experience, unranked pass-fail measures of skill or strength, medical evaluations, unranked pass-fail assessment exercises or interviews, etc. The Director shall determine if such positions will be filled from rosters, will be subject to continuous recruitment, or will be recruited through some other means. The Director shall develop, where appropriate, guidelines, tables, forms, etc. for certifying eligibility. When eligibility determination for these positions is delegated to the colleges, the College Appointing Officer shall certify the eligibility and all certification policies and forms issued by the Director shall be used and are subject to post audit by the Director, including termination of appointments which are inappropriately made. Appointments to positions pending classification by the Commission in the exempt, non-competitive, or labor class may be filled by the Vice Chancellor only on a temporary basis.
3.2.2. Applications for Eligibility Determination

Applications for eligibility determination for appointment to positions in these classes will be accepted only at the college where the position exists for which the applicant is applying and during a time specified in the examination or vacancy announcement. A favorable eligibility determination made by a college under delegated authority for that position applies only to that campus and to the minimum qualifications in existence at that time, except when by collective bargaining agreement present incumbents may retain their eligibility. A favorable or unfavorable eligibility determination made by the Director shall apply to all colleges for the minimum qualifications in existence at that time.

Provisions which are made elsewhere in these Regulations for competitive class positions with regard to equivalencies (3.1.2 (b), use of application forms (3.1.3 (c) and (d), falsification of applications (e), investigations (f), fingerprints (g), and filing fees (3.1.4) shall also apply to positions in these classes.

Special provisions for non-competitive positions in the titles of college assistant and student aide are covered in 3.1.3 (g).

3.2.3. Refiling for Examination

An applicant ruled ineligible may refile for an examination during an open application period except when such ineligibility was due to insufficient required minimum experience and an insufficient time has elapsed to accrue such additional experience. An applicant who contends that the original application inadvertently omitted relevant prior experience must submit additional evidence that such experience was, in fact, part of his or her working history. The Director shall determine what evidence is required.

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3.2.4. Eligibility Determinations Made Under Contract

Determinations made under contract with other governmental or non-governmental organizations may be made subject to the Regulations and/or validation procedures of those units when so specified in the contract. (See also Section 3.3.1 for Assembled Examinations).
SECTION III: Administration and Rating of Examinations

3.3.1. General Provisions for Assembled Examinations

Except when provided by the Vice Chancellor, assembled examinations, including written examinations, shall be unreleased examinations. Those examined shall have access to key answers and be allowed to review their own answer sheets, subject to procedures of the Vice Chancellor. No candidate in any assembled examination shall copy, record, or transcribe any examination question or answer or remove from the examination room any materials relating to such examination. A candidate may keep a record of his/her own key answers. Provisions will be made at the time of each assembled examination or at other such times as the Vice Chancellor may provide whereby those being tested may lodge written protests to any examination question or procedure, except when the CUNY Civil Service Commission has given prior approval of the answer to a question prior to the examination. (See also Section 8.2.1). For CUNY administered examinations, the Vice Chancellor shall have final authority to resolve such protests, which will be resolved prior to establishing the list based on the examination results. The Director shall provide reasonable public notice in the event that any protest results in a revision of the examination answers. The Director may authorize inspection of examination papers by law enforcement officials where there appears to be satisfactory and compelling reasons. The application but not the examination papers of an eligible who is being considered for appointment may be shown to the appointing officer.

3.3.2. Designation of the Examining Unit
Written and oral examinations may be administered by the Vice Chancellor or under contract between CUNY and a governmental entity or non-governmental organization. For examinations administered under contract, the contract shall specify what protest procedures shall apply, by what means the test results will be validated, consistent with Section §50 of the Civil Service Law, and what other examination regulations are in effect. In addition the Vice Chancellor may elect, with public notice, to use eligibility list promulgated as a result of open competitive examinations administered by The State of New York or The City of New York when the Vice Chancellor determines that such a list would not adversely affect promotional or inter-college transfer opportunities of CUNY employees and that the duties of positions in the CUNY classified service are virtually the same as the duties for those positions for which the State or City tests were designed. If such lists have been established using different scoring procedures than those covered by these Regulations, such lists will, nevertheless, be deemed acceptable under these Regulations when so specified in a contract between CUNY and the City or State.

3.3.3. Competitive Oral Examinations Administered by CUNY

Subject to the approval of the Vice Chancellor, the Director, or when delegated by the Vice Chancellor, the College Appointing Officer shall determine the procedures by which an assemble oral examination will be conducted. Interviewers shall disclose each instance in which they know an applicant personally, and the Vice Chancellor, the Director, or the College Appointing Officer shall determine if such knowledge would prevent impartiality, thereby disqualifying the interviewer. A candidate who communicates directly or indirectly with any other candidate concerning the content of an oral
examination prior to the completion of testing all applicants shall be subject to disqualification, under procedures to be established by the Vice Chancellor. A stenographic or recording device record of all questions and answers shall be made part of the examination record.

3.3.4. Passing Ratings

(a) Unless otherwise specified by the announcement of competitive examination, final scores for any tests or combination of tests shall be reported on a scale of 100, where a score of 100 shall represent the best performance possible, expected, or attained, and where a score of 70 shall represent the minimum needs of the position to be filled, except as provided in paragraph (e) below.

(b) The Vice Chancellor shall set the required passing rating for any test, subject, or part of an examination not later than the time of the holding of the examination, including points, if any, assigned for seniority, veterans credit, or performance ratings. Nothing in this Regulation shall prevent the Vice Chancellor from eliminating a subject or part of an examination at any time prior to the issuance of an eligibility list. In the event that the Vice Chancellor determines that an examination has or is likely to have an adverse impact, the Vice Chancellor will take such actions as may correct such impact including, but not limited to, alternative scoring techniques subject to the provisions of (d) below and removing questions that contribute to the bias of the examination.

(c) The Vice Chancellor will, as needed, issue clarifying regulations regarding the award of additional points for veterans and disabled veterans as provided in State Laws.

(d) The Vice Chancellor, after consultation with the University
Personnel Director or the Associate Director for Examinations, may in order to report examination results as provided in paragraph (a) and to provide an eligible list to meet the needs of the service, authorize the use of any type or combination of types of conversion methods, including, but not limited to, weighted or corrected raw scores, or mathematical formulas, including but not limited to arithmetic or statistical adjustments, provided that no candidate is failed who would have passed with seventy (70) percent of the maximum raw score, the relative order of scores is preserved, and the necessary quality of eligibles is not jeopardized.

(e) The Vice Chancellor may prescribe that the passing mark shall be the lowest grade received among a certain fixed number of candidates graded highest in the examination. When such determination will result in a passing score higher than seventy (70) percent of the maximum raw score, notice shall be given in the examination announcement.

3.3.5. Finality of Rating

(a) As provided in Section 50.7 of the State Civil Service Law, no test, subject, or part of a record of an examination shall be subject to review, alteration, or rescoring after the ratings of the examiners have been registered or attested by the Commission on submission of the Vice Chancellor.

(b) The Vice Chancellor by policy and procedure shall provide for notification of applicants of examination results, and for the maintenance of examination records.

3.3.6. Correction of Manifest Errors or Mistakes

The Vice Chancellor, at any time prior to the establishment of or during the existence of an eligible list, may correct any manifest error or mistake.
made in an individual record in connection with an examination. The granting of a claim of manifest error or mistake by an applicant shall be in accordance with the appeals procedures established in these regulations and may result in a higher or lower rating. The nature of such manifest error or mistake shall be recorded. No change in rating shall be made as a result of granting such a claim unless it shall affect the candidate's relative position on the eligible list.

3.3.7. Assistance to Colleges

The Vice Chancellor and the University Personnel Director shall consult with colleges that request assistance in administering the delegated eligibility determination processes.

3.3.8. Alternate Examining Date

In the case of written exams given only on a specified date or dates, an applicant who is unable to attend for reasons of religious observance, mandated attendance at a court of law, documented death in the immediate family, or some other reason established by the Vice Chancellor in policy or acceptable to the Vice Chancellor, may apply for an alternate testing date under procedures to be specified in the examination announcement.

3.3.9. Appeals

Determinations of the Vice Chancellor regarding examinations may be appealed to the Commission where provided for in Regulation VIII and under procedures established by the Rules of the Commission. See Section 8.2.
REGULATION IV: Civil Service Lists & Certificates

SECTION I: General Regulations Governing Eligibility Lists and Certificates


(a) Eligibility lists maintained by the Vice Chancellor shall be certified by the Director for use by colleges as provided in these Regulations.

(b) Placement on a list of eligibles shall be based solely on successful completion of any required examination and possession of established minimum education, training, and experience requirements for entrance to a title, except that the applicant's qualifications may be determined by the Vice Chancellor (or by a College Appointing Officer who has been specifically delegated this responsibility) to be equivalent to the required minimum education, training, and experience where standards of equivalency are established for the title by the Vice Chancellor.

(c) A CUNY list shall be considered established only by order of the Vice Chancellor. The date the Vice Chancellor approves the list shall be the date of establishment.

(d) An eligible list may be established subject to the conduct of such medical, physical, or other appropriate non-competitive qualifying tests, investigations and conditions as may be deemed appropriate by the University Personnel Director.

(e) Except for a continuing eligibility list, an established eligible list shall be published as soon as practicable. Upon the establishment of an open competitive eligible list, notification thereof shall be published as soon as practicable there-after, stating the title of the examination, the
examination number, the number of passing candidates, the date of establishment, and such other information as the University Personnel Director shall prescribe.

(f) Except as provided for in the notice of examination, the University Personnel Director, upon the establishment of an eligible list, shall notify each candidate of the candidate's ratings and, if the candidate has received a passing final examination rating, of the numerical place on such list. Any candidate rejected for reasons other than failure to attain a passing final examination rating shall be advised of such reasons.

(g) Certification pools may be conducted at the discretion of the University Personnel Director for the purpose of filling positions more expeditiously. Such certification pools shall be conducted pursuant to appropriate terms and conditions not inconsistent with the Civil Service Law or these Regulations.

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SECTION II: Establishment of Lists

4.2.1. Centrally Maintained Lists

The following lists, when established by the Vice Chancellor, shall be maintained by the University Personnel Director:

(a) Open-Competitive – A designated University-wide list or a list for each borough which may be used in making original appointments to titles not in a career series; to entry titles of a career series; after exhaustion of a promotional list, to positions at a higher title in a career series; or to any competitive managerial position;

(b) Promotion Unit List – A list for each college of employees at that college with permanent status in an eligible lower title which must be used prior to a promotion list in making promotion appointments, usually to the next higher title in a career series;

(c) Promotion List – A list for each borough of employees at any CUNY college who have permanent status in an eligible lower title and which may be used in making promotion appointments at a college in that borough, usually to the next higher title in a career series;

(d) Preferred List – A list which shall be used within one or more layoff units for the rehiring of former employees who are entitled to be rehired as a matter of law;

(e) Other Lists – such other lists as the Vice Chancellor may from time to time establish.

4.2.2. College Maintained Lists

The following lists may be established and maintained by the College Appointing Officer using criteria established by the Vice Chancellor:
(a) Campus Unique Title Open-Competitive or Promotional List – where delegated, a required register of those who passed an exam for that title from which appointments at that campus only may be made, as appropriate;

(b) Other Lists – such other lists as the College Appointing Officer finds administratively useful and do not conflict with these Regulations.

4.2.3. Areas of Consideration for Eligible List

Except in the case of an examination that is to result in a University-wide list, applicants who are eligible to be placed on lists described in paragraph 4.2.1 above, and excluding preferred lists, shall designate prior to certification, usually at the time of application or examination, how their names shall be sorted among the various boroughs or colleges for each title for which the applicants are determined eligible. The choices include the following options:

(a) Borough-wide eligibility in one or more boroughs – names are placed only on the eligible lists for that title in the borough or boroughs selected by the candidate. Failure to designate an area of consideration at the time provided shall result automatically in a designation by the Director; for New York City residents, the borough of the candidate's address on the application. When the Vice Chancellor determines that any borough has special recruitment difficulties, the Vice Chancellor may institute such incentives or mergers of lists as are reasonable and effective to improve that borough's lists.

(b) College-specific eligibility, available to those eligible for promotional unit lists only, -- names at a college are placed on the eligible list at that college only, except when upon request of a College President the
Vice Chancellor merges the promotion unit lists within a borough or boroughs to meet recruitment difficulties.

4.2.4. Change in Area of Consideration

On written request, the applicant may be made eligible in one or more additional boroughs than the applicant's original request in 4.2.3 above. On written request, a permanent CUNY employee may also switch the area of consideration from one college or borough to another college or borough if he or she has been appointed or transferred to work in that college or borough or from one borough to another borough if his or her permanent address has changed to that borough since the original designation. A switch for a CUNY employee shall result in interfiling the candidate's scores with those of the list on which his or her name appears. No other changes in an area of consideration shall be permitted during the life of the list; or, in the case of continuing lists, for the life of the list or for one year following the original notice of a candidate's examination results whichever is sooner. A change in area of consideration shall not reduce the number of job declinations or considerations in that title recorded for a candidate during the life of a list.
SECTION III: Administration of Certificates

4.3.1. Certificate Order for Appointments

A. For Certificates Issued With Tied Scores

Certificates containing the names of at least the three persons standing highest on the eligible list, based on final examination ratings, shall be issued by the Director for filling a vacancy by appointment or promotion. Any eligible whose final examination rating is equal to or higher than the third highest standing eligible willing to accept such appointment or promotion shall likewise be included in such certification. Selection for appointment or promotion may be made from among any such eligibles. When the person having the third highest final rating cannot be determined due to tied ratings, any eligible among those tied ratings shall be regarded as satisfying the requirement for such a third highest standing eligible and all eligibles on that list having that same final rating shall be certified together.

All eligible lists created as a result of competitive examinations and which are established and administered by CUNY shall follow these regulations:

a) an eligible will be removed from a list as a result of selection, or due to voluntary request; an eligible will be withheld from further certification if he/she declines an offer, unless the eligible requests in writing to be restored. Regulations governing declinations are found in Section 4.3.2;

b) no candidate shall be marked "considered, not selected" unless the candidate has been interviewed by an authorized selecting official for the vacancy to be filled;

c) no candidate shall be marked "considered, not selected" if the eligible chosen to fill the vacancy has a higher final rating on the examination;

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d) when official must interview all eligibles having fewer than three considerations whose final rating on the examination is higher than the person selected;

e) if more than one candidate is selected from the same certificate to fill more than one vacancy, the candidate with the higher rating shall be presumed to be selected first;

f) when a candidate on an eligible list has received three considerations, the candidate's name shall be withheld from certification from that list unless the name is restored for certification by the Director. Upon written request for restoration, a name restored after being withheld due to three considerations shall be restored to the original list order.

g) when there are fewer than three remaining eligibles on the list, the list need not be used for making a selection;

h) whenever a passover is permitted, as in Section 5.6.1 dealing with certain temporary appointees or in Section 8.7.1 dealing with persons having unsatisfactory performance evaluations, such passovers will not be marked as "considered, not selected", nor will such passovers prevent the consideration of candidates with a lower final examination rating who could otherwise be considered.

B. For Certificates Issued With Untied Scores

The Vice Chancellor may elect to rank order tied scores using standards to be issued in guidance. Procedures for administering Certificates with untied scores will be issued by the Vice Chancellor.

4.3.2. Declinations

The policy of the University with regard to declinations is consistent with its long time practice while governed by the Rules and Regulations of the
City of New York. Except for the preferred list (4.4.1(a), an eligible who declines four separate offers for positions in the same title during the life of any lists for that title on which the candidate's name appears shall not be certified from any of those lists for that title for the remaining life of those lists or be permitted to reapply for twelve months following the date of the fourth declination in the case of continuing lists. A candidate will be notified when his or her name has been so withheld from certification eligibility.

Except in the case of a promotion list that has been created by merging the unit lists within or among boroughs, each time a candidate declines an offer, his or her name shall be withheld from certification from the list in that borough and for that title on which his or her name appears. On written request within ten (10) days of notification of such withholding from certification the candidate's name may be restored in that borough but not to exceed a total of three restorations in all boroughs. A person whose name is withheld from certification due to declination shall not be eligible, upon restoration, for like certification until all eligibles on that list have been reached for like certification.

Failure to reply to a letter for an interview, refusal of an interview or failure to appear for a scheduled interview, refusal to accept an offer or to respond to an offer within ten days when made by mail or within two days when made by telephone, and a request by a CUNY employee to switch the area of consideration after an interview has been scheduled but before an offer has been made shall each be counted as one declination and result in withholding of an applicant's name from certification for that list.

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4.3.3. Expiration of Lists

A regular list established by CUNY shall expire after one year unless extended by the Vice Chancellor or unless a different length of time is established in the examination announcement; names shall expire on a continuing list after two (2) years. Following expiration, eligibility may be regained only by reexamination.

4.3.4. Continuing Eligible Lists

A continuing eligible list assists in filling hard to recruit for vacancies by permitting constant or frequent replenishment of the list; thus, even a continuing list with fewer than three names of candidates who are available to accept a position, must be used unless an open filing period that closed within sixty (60) days of the date of a selection resulted in too few additional eligibles to raise the number on the list to three. In that case, the College Appointing Officer may make a provisional appointment or request permission to make an appointment to trainee status. The Vice Chancellor shall interfile all scores for continuing lists.

4.3.5. New and Old Eligibility Lists

When a new list other than a continuing eligible list has been established, names in score order from the new list will be added to the bottom of the old list until enough eligibles for consideration have been reached and until the old list expires.

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4.3.6. Preferred Lists

Subject to guidelines to be issued by the Vice Chancellor, preferred lists shall have absolute priority over all other lists and names shall be considered in strict seniority order, regardless of the number of persons on the list. The preferred list shall apply to any college at which there is a vacancy or a provisional serving in the list title.
SECTION IV: Removal and Restoration

4.4.1. Removal from Lists:

(a) Except when restored by the Director, a person's name shall be removed from a list by the Director, under guidelines of the Vice Chancellor, for the life of that list, or in the case of a continuing eligible list for the life of the list or for one year, whichever is sooner, for any of the following reasons:

(1) the person's current mailing address cannot be determined as evidenced by returned, non-forwardable mail;

(2) the person has otherwise indicated in writing that consideration for employment is no longer desired;

(3) expiration of the person's eligibility to remain on a continuing eligible list;

(4) the expiration of the list;

(5) for any of the causes stipulated in law;

(6) disqualification under 3.1.3(e) or 3.1.3(f) of these Regulations;

(7) refusal of a person on a preferred list to accept a reinstatement to the former position or to a comparable position in the same pay range;

(8) in the case of a promotion or promotion unit list the person has discontinued service as defined in Section 3.1.1.

(b) Except when permitted by the Director, a person's name shall be withheld from further certification by the Director for the life of a list; or, in the case of continuing eligible lists for the life of the list or for one year, whichever is sooner, for any of the following reasons:

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(1) the person has exhausted the number of declinations permitted under provisions of Section 4.3.2 above.

(2) a person who has exhausted the number of considerations on any list on which his or her name appears, as provided in Section 4.3.1 above, fails to request reinstatement to the list.

4.4.2. Restoration to Lists Following Appointment

The appointee from a list to a permanent position cannot apply to be retested for twelve months from the date of appointment for any title from which list the appointee's name was removed as a result of appointment, except if the candidate has subsequently resigned the appointed position. An appointee who served at least three months before resignation, upon request in writing will be restored to the original list rank without being retested. An appointee terminated during a probationary period but after at least three months employment shall, upon written request, be restored to the list. If restored, the date of original eligibility determination shall be the date of the original placement on the list.

4.4.3. Restoration to Lists Following Removal or Withholding From Certification

Except as provided in 4.4.1 and 4.4.2, no person may be restored to a list without the express permission of the Director and for reasons satisfactory to the Director.
REGULATION V: Appointments To Vacancies

SECTION I: General Provisions

5.1.1. Approval of Appointments

All appointment actions in this section are to be reported to the Vice Chancellor, as provided by these regulations or by subsequent policy statements. Appointments requiring prior approval of the Vice Chancellor or a designee are invalid until the Vice Chancellor or the designee has authorized a hiring action. The Vice Chancellor or designee may rescind an appointment action made improperly or one that lacks proper approval and the Vice Chancellor may, consistent with the Board of Trustees' Resolution, withdraw appointment authority from a College Appointing Officer if there is evidence of improper actions, including failure to follow reporting procedures.

5.1.2. Vacancies

(A) Consistent with the University's Commitment to Equal Employment Opportunity and Affirmative Action, it is the policy of the University that vacancies to be filled by open recruitment be widely posted for one month by the college, including University-wide posting for non-managerial positions in the competitive class, unless the college's affirmative action officer has approved an exception. Exceptions must be reported to the University Affirmative Action Director prior to appointment. It is also the policy of the University that the College Appointing Officer provide prior notice when practicable at the college of the intent to fill the following:

(a) positions for which there is a preferred list,

(b) positions subject to an established open-competitive, promotion, or promotion unit list and, in the case of continuing
eligible lists, for which the filing period is closed and will not be reopened for at least 5 working-days from the date shown on the certification used to fill the position,

(c) positions for which the candidate is eligible for reassignment within the College or for transfer using an existing University transfer roster,

(d) positions for which the candidate is eligible for jurisdictional transfer, subject to Section 7.1.5,

(e) positions subject to college-maintained lists (See 4.2.2),

(f) positions for which the candidate is eligible for reinstatement,

(g) positions requiring emergency or temporary appointments (See Section 5.6.1 for limitations),

(h) positions entailing part-time non-permanent employment, including College Assistants.

(B) All vacancies in managerial titles to be filled by other than reassignment shall be filed with the University Personnel Director and posted for at least one month at all CUNY colleges.

(C) The date of official posting of vacancies posted University-wide shall be the date of the issuance of the vacancy announcements by the University Personnel Director.

(D) All vacancy announcements must include the statement: "CUNY is an Equal Employment Opportunity/Affirmative Action Employer."
SECTION II: Assignments of Extra Duties

5.2.1. Temporary Assignment of Duties at a Higher Level

It is the policy of the University to confine assigned duties to those of the position description except in emergencies or other justifiable circumstances. Compensation above the current salary rate for a temporary assignment of fewer than 30 calendar days of related, higher level duties not covered by an employee's position description is discretionary with the College Appointing Officer, but in no case shall the rate exceed the minimum of the title for which the duties are being performed, or the employee's current salary, whichever is greater. An assignment of such duties for longer than 30 days shall require a temporary appointment (5.6.1), an appointment with trainee status (5.8.3), an appointment to a trainee title (5.8.2), or an emergency appointment (5.6.2) and be subject to the appropriate pay policies governing such appointments.

5.2.2. Assignment of Related Duties

An assignment of related duties which are consistent with the type and level of duties enumerated in the position description does not constitute out-of-title work and does not require a special assignment.
SECTION III: Processing of Appointments and Promotions

5.3.1. Fingerprinting and Oath of Office

As provided in Section 3.1.3(g), an eligible shall be fingerprinted and shall complete the prescribed identification form. Upon original appointment or upon reappointment following an interruption of continuous service, other than an appointment to the labor class, an eligible shall take and file the oath or affirmation required by law. Upon promotion, an eligible may be fingerprinted as provided by policies of the Vice Chancellor.
SECTION IV: Probationary Service

5.4.1. Term of Service

It is the intent of the Vice Chancellor that full-time permanent appointments, promotions, reinstatements, and jurisdictional transfers under reciprocal rules shall require, as provided in this section, the satisfactory completion of a probationary period of one year.

Each person permanently appointed, promoted, reinstated, or transferred under reciprocal rules shall be informed of the requirement to serve a probationary period. The College Appointing Officer may extend the required probation period by any period of leave without pay and any period of paid leave which is in excess of total sick and annual leave days earned during the probationary year. The employee shall be notified in writing of such extension prior to the end of the original probation period and a copy sent to the University Personnel Director. Probationary service at any level within a title satisfies the probationary requirements for the title as a whole.

5.4.2. Awards of Permanent Status for Competitive Positions

It is the policy of the University that every probationary employee will be evaluated prior to the end of the probation period. In the case of competitive class positions, permanent status may be granted by the College Appointing Officer after the minimum probation period for a person who has received at least an overall satisfactory performance rating in the most recent evaluation and who has been requested to continue employment by the supervisor or the College Appointing Officer. If the supervisor has failed to rate the performance prior to the end of the probation period, the College Appointing Officer may nevertheless grant permanent status with the written concurrence of the employee's first or second level supervisor. In the event that an
overall evaluation is less than satisfactory the College Personnel Officer may extend the probation period subject to the agreement of the probationer, but in no case by more than six additional months.

No person shall be granted permanent status with less than an overall satisfactory performance rating, except that failure to notify an employee of termination or extension on or before the last day of the original probationary period shall constitute approval of permanent status. A letter explaining the conditions under which a person is granted permanent status by default must be filed by the College Appointing Officer with the Vice Chancellor. All awards of permanent status must be reported to the Vice Chancellor as provided in policy issuances. A College Appointing Officer may waive in whole or in part the probationary period for any employee transferred under a reciprocal rule or any employee reinstated with continuous CUNY service. A College Appointing Officer may grant credit to an employee for provisional service as provided in 5.4.4.

5.4.3. Failure to Complete Satisfactorily the Probation Period

A College Appointing Officer may (a) terminate the employment of a person in an original appointment, reinstated or transferred under a reciprocal rule anytime after eight (8) weeks service and during the probationary period or (b) rescind a promotion, or rescind a new permanent appointment of a person on leave from a different permanent position anytime after twelve (12) weeks service and during the probationary period. Any person so terminated or who resigns employment shall, on request, be provided a statement documenting the employment dates; a person whose promotion or assignment to a higher level is rescinded shall be notified in writing. A College Appointing Officer may withdraw after twelve (12) weeks service a discretionary assignment to a
higher level during a trial period. When termination, rescission of a promotion or of an appointment to a permanent position in a different title or withdrawal of an assignment level occurs because the employee failed to complete satisfactorily a prescribed course of study or training, the Vice Chancellor shall be notified of such action, as provided in policy issuances. Termination of an original appointment, of a reinstatement, or of a transfer under a reciprocal rule of a person during the first eight (8) weeks of a probationary period; or rescinding a promotion or rescinding a permanent appointment in a different title of a person on leave from a permanent position during the first twelve (12) weeks of a probationary period may require an administrative review consistent with policies to be issued by the Vice Chancellor and is subject to Section §75 procedures or collectively bargained disciplinary procedures. If an employee who is terminated during the probationary period is maintained on payroll for the administrative convenience of paying out accumulated annual leave, compensatory time and/or overtime, such continuation shall not constitute ongoing employment with the University for the purpose of fulfilling the probationary period provided written notice of termination has been given.

5.4.4. Special Provisions for Probation and Trial Periods

A College Appointing Officer may waive a portion of the probationary period not to exceed 26 weeks or time served, whichever is less, for an employee whose prior service has been satisfactory and who:

1. is currently serving in a higher level title in the same occupational group in a provisional, temporary, or emergency position, or

2. after at least 26 weeks probationary service in the lower title is promoted to higher title in the occupational group while still on probation, or

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3. has served in the permanent title on a continuous basis in a provisional, temporary, emergency, or exceptional appointment; time credited for part-time work shall be prorated.

In special circumstances the College Appointing Officer may request approval by the University Personnel Director that service in or promotion to classified titles other than in the same occupational group qualifies an employee for waiver of his/her probationary period under the same guidelines. In exceptional circumstances the College Appointing Officer, with the approval of the Vice Chancellor, may waive a portion of the probationary period not to exceed 44 weeks or time served, whichever is less, for an employee whose prior service has been satisfactory.

Waiver of any probationary time required for an original appointment, reinstatement or transfer under a reciprocal rule or for a promotion appointment will not reduce the specified minimum probationary period required before an employee may be terminated without cause.

An employee who holds a provisional appointment while on leave from a position with probationary status in a lower title shall continue to be credited with time served in the higher title as fulfilling on a week by week basis the completion of his/her probationary period in the lower title.

An employee may not use the same service to waive probation in more than one title.

5.4.5. Performance Appraisal During The Probationary Period

Probationary employees shall be informed about their performance during the probationary year; they shall also receive such written probationary performance reports during their first year as provided in the University's Performance Appraisal Plan (See Regulation X). A copy of the final evaluation of performance during the probationary period issued prior to the end of the period of probationary service shall be filed with the College Appointing Officer and maintained in the employee's personnel record.
SECTION V: Promotions

5.5.1. Eligibility for Promotion Exams

In an effort to provide an adequate number of qualified applicants and to broaden the sex and ethnic representation in titles, the University Personnel Director may determine when to make collateral titles or more than one lower grade title eligible for a promotion examination or when to hold an open competitive examination in addition to a promotion examination. In no case shall any person be eligible to participate in a promotion examination unless he or she is serving on other than a provisional basis in the designated lower grade or collateral grade title; he or she cannot be appointed from the resulting list until the probation period in the lower title has been completed or waived in accordance with these Regulations and other requirements associated with the eligible title are met. Following a public hearing as provided in Section 8.1.4, the Vice Chancellor may elect to hold an open-competitive examination in lieu of a promotion examination.

5.5.2. Subject to Satisfactory Prior Performance

An employee with an unsatisfactory performance evaluation completed in the 12 months previous to a promotion action may be passed over on a promotion list until 12 months has passed or until an interim satisfactory evaluation has taken place; a passover does not count as one of the three allowable considerations; an employee so passed over may appeal this action to the Vice Chancellor, who upon review of the unsatisfactory evaluation, will determine if the passover was warranted. The decision of the Vice Chancellor is final.
SECTION VI: Procedures for Special Appointments

5.6.1. Temporary Appointments

The College Appointing Officer may, subject to additional guidance of the University Personnel Director, make full or part-time temporary appointments for 3 months or less to duties of a non-permanent nature; make full-time temporary appointments not to exceed one year to established positions from which the incumbent has an unpaid leave; and make full-time temporary appointments not to exceed one year to positions which the Vice Chancellor has approved for recommendation to the Civil Service Commission for establishment in a jurisdictional class other than competitive (See Rule 5.2.1). Approval of the University Personnel Director is required for other temporary appointments or to extend a temporary appointment, but in no case may an extension exceed twelve months.

Temporary appointments shall be for stated periods. Full or part-time temporary appointments for less than 3 months may be made without using a list (5.6.1A). For a stated period longer than three months, appointments must be made from the list of eligibles for that title, (5.6.1B) if any, and if longer than six months, in score order (5.6.1C). In the absence of a list or of a person on the list willing to accept a temporary appointment, appointments may be made from other than the list. A temporary appointment, not to exceed twelve months (5.6.1D), may also be made to a title which has been recommended by the Vice Chancellor for use pending approval by the Civil Service Commission to a jurisdictional class other than competitive. Resignation from a temporary appointment, accepted with prejudice by the college, shall be a bar to a permanent appointment until the end date of the temporary appointment or until 3 months have passed, whichever is sooner.
5.6.2. Emergency Situations

When a College determines that using the normal selection procedures in an emergency situation would jeopardize the safety or hamper the essential services of the University, the College Appointing Officer may make a temporary appointment, not to exceed three months, to any classified position.

5.6.3. Appointments to Encumbered Positions

A position in the competitive class left temporarily vacant by the leave of absence of the permanent incumbent who has accepted another appointment in the classified service or in the instructional service at the same college may be filled through open-competitive appointment, promotion, transfer or reinstatement on a permanent basis, subject to a probation period in the new position. Any person securing an appointment of any of these types under these circumstances shall have all the rights and benefits of a permanent competitive class employee, except that in lieu of Section 7.3, the person shall be subject to the following limitation: in case of the return from leave of absence of the prior permanent incumbent of such a position necessitating termination, replacement or demotion of an employee, no person appointed under this section shall be separated from the service, replaced or demoted unless there is no incumbent in the promotion unit in a position in the same title serving temporarily or provisionally, but shall be separated, replaced or demoted before a person having an earlier permanent appointment pursuant to this section in such title and promotion unit.

An employee having permanent status under this section who is separated from the service, replaced or demoted as a result of the return from leave of the prior incumbent shall have his or her name placed on a preferred list for certification for reinstatement as well as being restored to any list still in
existence on which the employee's name appeared prior to this appointment. Persons on leave from a permanent position to accept a position under this section shall have all the rights accorded in Section 6.2.1.

5.6.4. Seasonal Appointments (TBA)
SECTION VII: Part-Time Appointments

5.7.1. Permanent Part-Time Appointments

Upon request of a full-time permanent employee, a College President may convert an encumbered position in any title to permanent part-time. Such conversions shall be for renewable periods not to exceed one year each. The number and nature of such conversions shall be subject to guidance by the Vice Chancellor. Positions may not be made permanent part-time when doing so would jeopardize the services of the University. The employee must be employed at least half-time. The employee will accrue seniority credit from the date of original appointment, but insofar as possible, will earn prorated benefits, under guidance to be issued by the Vice Chancellor. If a position established under this section, when vacant, is to be filled part-time, preference shall be given to full-time permanent employees wishing to apply for such a part-time reassignment or promotion. The probation period for a permanent part-time appointment shall be one year. All such appointments shall be reported to the University Personnel Director.
SECTION VIII: Trainee Appointments


The Vice Chancellor or designee may permit or require for any entry-level title (1) the satisfactory completion of a period of service in an appropriate, lower trainee title established in the competitive or non-competitive class; or, (2) the satisfactory completion of specified training or academic courses; or, (3) both. The Vice Chancellor or designee may also extend the probationary period by the length of time of the required period of training. The Vice Chancellor shall establish criteria for satisfactory completion of the trainee period of service for each title having such a requirement.

5.8.2. Appointments to Positions in a Trainee Title

Positions in trainee titles that are part of a career series may be in either the competitive, non-competitive or labor class. In cases where a trainee position is established in the competitive class, all service in the position shall be probationary, and incumbents completing satisfactorily the requirements of the trainee period shall mature to the next higher position in the career series. In cases where a trainee position is in the non-competitive or labor class, all service in the position shall be probationary, and incumbents who satisfactorily complete the requirements of the trainee period shall be eligible to take a promotion examination when the next higher position in the career series is in the competitive class and the Vice Chancellor has determined the trainee positions to be appropriate preparation (See §52.15).
5.8.3. Appointments With Trainee Status

A college that demonstrates the inability to recruit well-qualified applicants for a title for which there is no list containing at least three names, no transfer roster, and fewer than three persons in a lower title qualified to take a promotion exam may post a vacancy announcement with lower qualifications and select an applicant under this regulation for trainee status. The posting requirement may be waived if an employee in a lower title is to be appointed in the position with trainee status. Appointments in a trainee status are provisional and can only be made when the appointee meets the lower, established minimum qualifications, and when the training plan, as approved by the Vice Chancellor, will satisfy an equivalent standard. Upon satisfactorily completing the requirements of the training plan, the trainee shall be eligible to take a promotion examination for the position.
SECTION IX: Reinstatements

5.9.1. Definition

For the purpose of this section, continuous service shall be defined as uninterrupted service in the CUNY including all service following an original appointment as defined in Section 1.2.24, except:

(1) When an interruption in full time CUNY service follows a resignation and is for one year or less, or

(2) When an interruption in CUNY service is due to a reason covered by Section 2.3.1(b) and (c).

(3) When an interruption is because of a leave of absence without pay as provided in these Regulations.

For the purpose of this section, where an employee on leave of absence resigns, such resignation shall be deemed effective as of the date of commencement of such leave.

5.9.2. General Provisions

(a) An employee who has completed a probationary term in a permanent position and who has resigned or retired therefrom may be reinstated with the approval of the University Personnel Director to:

a position in the title from which the employee has resigned or retired, if vacant, or to any similar vacant position.

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

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

5.9.3. Period of Eligibility for Reinstatement

(a) In no event shall an employee who has less than one year of CUNY service be eligible for reinstatement. A reinstatement granted by the University Personnel Director may not occur after four years from the date of resignation or retirement. In exceptional circumstances, The CUNY Civil Service Commission may, for good cause shown and where the interests of The City University of New York would be served, permit the reinstatement of a person under the same guidelines covered in 5.9.2 more than four years after resignation or retirement.

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

5.9.4. Reinstatement and Continuous Service

(a) When an employee is reinstated with continuous service as defined in 5.9.1, such employee shall be eligible to accrue annual and sick leave benefits at a rate for that title based on total continuous service excluding time in non-pay status with CUNY.

(b) When an employee is eligible to be reinstated but does not meet the definition for continuous service in Section 5.9.1, such reinstatement shall constitute a new appointment for all purposes other than examination.
5.9.5. Reinstatement After Separation for Disability

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

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

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

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

SECTION I: General Provisions

6.1.1. Policies and Procedures

The Vice Chancellor or designee will issue by bulletin the University's policies and procedures with regard to time and leave which, in addition to those provided below, govern the operation of the University. The Vice Chancellor may enter into collectively bargained agreements regarding attendance as he or she deems is in the interest of the University and which are consistent with policies of The Board of Trustees of the University.
SECTION II: Authorized Absences

6.2.1. Unpaid Leaves To Serve In Another Position

Unpaid leaves of absence from a classified position for the purpose of taking a different position in a different title at the same college or at a different college in the classified service as a result of selection from a civil service list or in the instructional staff shall be granted when the employee has permanent status in the previous position, subject to the following:

(a) When a permanent classified employee accepts a position within the instructional staff at a different college, the employee shall be placed on a leave of absence from his/her prior permanent position by the sending college for a minimum of three months but not more than 1 year. At the end of the designated leave period the employee's leave status shall be transferred with all rights to the receiving college.

(b) When a permanent classified employee accepts a provisional promotion at a different college, the sending college shall transfer the employee with all rights to the receiving college where the employee shall be placed on a leave of absence from his/her permanent title.

(c) When a permanent classified employee is selected from a civil service list for a different title by a different college, the employee shall be given a one-year leave of absence from the sending college. All rights shall be transferred along with the employee at the end of one year.

See Section 7.1.4 and 7.1.5 for regulations governing leaves of absence for transfers in the same title.

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The awarding of tenure or the granting of an appointment that is not subject to annual or multiple-year reappointments in an instructional staff position shall result in the cancellation of leave status in the civil service position. An employee whose leave will be cancelled will be so advised prior to the cancellation. The awarding of permanent status in a civil service position shall cancel the leave status from a different civil service position. No notification is required.

6.2.2. Leave For Training and Professional Activities

Attendance at job-related training courses, professional functions, or conferences in an official, college approved or college sponsored capacity when conducted during scheduled working hours is part of normal work duties. No leave is required. Training courses sponsored by a bargaining agent and approved on a case-by-case basis by the college are covered by this section.

6.2.3. Other Unpaid Leaves of Absence

Except as provided in Section 6.2.1 or in policy issuance by the Vice Chancellor, full or part-time unpaid leaves of absence for permanent employees may be granted for an aggregate of no more than one year by the College Appointing Officer. An aggregate of an additional year may be granted by the President of the College. Additional leave requires approval by the Vice Chancellor, upon submission by the College of satisfactory evidence that such an extension of leave would be in the interest of the University. Time spent in an unpaid leave status shall not count toward eligibility for additional leave credits. Eligibility for unpaid leaves of absence may be reestablished.

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by continuous full-time service of not less than six months. Leaves for probationary and provisional employees are limited to maternity/child care leaves, military leaves, and other legally mandated leaves under guidelines to be issued by the Vice Chancellor.

6.2.4. Falsification of Leave Records

Any employee who knowingly falsifies time and leave records shall be subject to disciplinary action, including dismissal for cause.

Any supervisor who knowingly approves a falsified time and leave record shall be subject to disciplinary action, including dismissal for cause.
SECTION III: Unauthorized Absences

6.3.1. Initial Failure to Report

An employee who fails to report to work on the day established when the offer was tendered by a college shall be deemed to have declined and to have exhausted the allotted number of declinations for that title. An appointment is consummated by appearing for work.

6.3.2. Procedures for Disciplinary Action

An employee who has been accorded disciplinary rights and (1) who is absent for more than five consecutive scheduled work days without approved leave and without having notified the appropriate supervisor or College Appointing Officer in a manner prescribed by the College or (2) who has a record of repeated unexcused absences as defined in guidelines to be issued by the Vice Chancellor shall be brought up on charges unless the College Appointing Officer accepts the employee's explanation for such unauthorized absence. Notification of such disciplinary action must be delivered to the employee or sent by certified mail to the address of record. A hearing may be scheduled after the employee has been notified or when there has been certified receipt at the address of record or when two certified letters are returned as undeliverable. The hearing may be conducted in the employee's absence when there has been adequate notice or attempts to notify. The College Appointing Officer may accept as reasonable the explanation of the employee for the absences if provided prior to final separation. For appeals by the employee, see Section 8.7.

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REGULATION VII: Personnel Changes

SECTION I: Reassignment and Transfers

7.1.1. Definitions

For the purposes of this Regulation:

(a) Reassignment means a change of an employee from one position to another position in the same title, at the same level or at a level that is discretionary within the title for which the employee is eligible, within a single college of CUNY.

(b) Transfer means a change of a permanent employee or an employee in the non-competitive or labor class without further examination from one position to another position which (1) is in the same title, between two colleges of CUNY; or which (2) is in a different title of the CUNY classified service but for which the employee is qualified and meets all the criteria of Section 70 (4) of New York State Civil Service Law; or which (3) is similar to the former position which was under the jurisdiction of another municipal commission or of the State Civil Service Department, pursuant to Regulation 7.1.5.

(c) Continuous Service for this Regulation shall be the same as the definition found in Section 80.2 of the New York State Civil Service Law.

(d) Layoff Unit is defined as each senior college, each community college, the Central Office of the University, and each other unit defined as a college by the Vice Chancellor for the purposes of these Regulations.

7.1.2. Reassignment Within a College

A College President may reassign any employee within the College. (See 9.9.2 for special provisions concerning managers). In filling a vacancy a College Appointing Officer may reassign an employee who requests a

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reassignment. An opportunity to be considered for reassignment shall be provided to permanent employees before using an open-competitive list or making a provisional appointment, except that a College President or designee may disallow any requested reassignment when he or she feels the efficient operation of the University would be jeopardized. Each College shall establish policies and procedures for ascertaining employee interest in reassignments.

7.1.3. Placement Rosters In Lieu of Layoff

For positions occupied by permanent employees serving in titles not covered by a collectively bargained agreement for transfer in lieu of layoff, the following shall apply:

When it has been determined that such positions occupied by permanent employees shall be eliminated by a college, the college will notify the University Personnel Director, as prescribed in University procedures. The College will submit to the University Personnel Director a placement roster not less than 15 days prior to scheduling the date of layoff. The existence of a placement roster shall be used to replace provisionals serving in that title in colleges were permanent employees to be laid off are willing to work, under guidance of the Vice Chancellor. Appointments from a placement roster permit the receiving institution to require a trial period of up to three months. There is no rank ordering of the individuals who are placed on a placement roster. Colleges may select for placement any individual regardless of service seniority. After a placement roster has been in effect for no less than 15 days, the College may schedule a date for layoff, to be not less than the number of days set forth in guidance by the Vice Chancellor. Employees who have not been placed at the time a layoff date is scheduled shall be

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placed on the preferred list as of the date of their layoff. An employee appointed from a placement roster who is not satisfactory in the trial period shall be restored to the placement roster for a different college, or if the date of layoff has passed, to the preferred list.

7.1.4. (a) Voluntary Transfers Between Colleges

Permanent employees with two or more years of continuous service shall be eligible for voluntary transfer between two colleges, subject to policies to be issued by the Vice Chancellor. (See 9.9.3 concerning managers). A voluntary transfer roster containing fewer than three names may be considered, at the discretion of the College Appointing Officer.

(b) Voluntary Transfer Roster

Transfer rosters shall be used to fill vacant non-managerial classified positions in titles prior to the selection of provisionals or of permanent employees from an open competitive list. A college may request the Vice Chancellor to grant that college permission to use a civil service list prior to using a CUNY transfer roster for a period not to exceed 90 days following the establishment of the list in either of the following cases.

a) when the use of the civil service list would enhance implementation of the college's affirmative action plan;

b) when the use of the transfer roster, following the establishment of the civil service list, has resulted in filling as many as 10% of the vacancies in the title at that college.

If the Vice Chancellor grants approval of the college's request, the University Personnel Director shall establish such special reporting requirements as the Director deems necessary. The Vice Chancellor shall give public notice when a college has been granted permission to give priority to the civil service list over the transfer roster.

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7.1.5. Transfers Between CUNY and Jurisdictions with Reciprocal Rules

For civil service titles designated by the Vice Chancellor as hard to fill, an employee in another New York civil jurisdiction may be transferred with written consent of the transferee and the other jurisdiction to a CUNY position by the College Appointing Officer with prior approval of the Vice Chancellor. No such transfer shall be made unless: (a) there is no preferred list appropriate for filling the position containing the name of an eligible willing to accept appointment; (b) there is no promotion unit list or promotion list containing the name of three or more eligibles willing to accept appointment; (c) the voluntary transfer list between colleges was considered; and (d) either the scope and qualifications of the position held by the permanent employee would qualify the employee for a non-competitive examination for the CUNY title or are substantially the same as those of the position to which the transfer is proposed, or the Director has determined that the examination for the position held by the permanent employee involves essentially the same or greater tests and qualifications for the position for which the transfer is proposed. A permanent employee transferred from CUNY to another civil jurisdiction under a reciprocal rule may be granted leave from the CUNY position, subject to Regulation 6.2.3.

All persons transferring from other jurisdictions under a reciprocal rule, whether permanent or in probable-permanent status at the prior jurisdiction, shall be subject to a new one year probationary period at CUNY. (See Regulation V, Section IV.)
SECTION II: Demotions

7.2.1. Voluntary

A permanent employee may request to be placed without examination in a lower title, the qualification for which is encompassed by the present position with the approval of the Vice Chancellor. The Vice Chancellor may waive the probationary period. (See 2.3.3 (7)). A permanent employee may be placed without examination in a lower title as a result of a layoff as provided in Section 80 of the Civil Service Law.
SECTION III: Suspension or Demotion Upon the Abolition or Reduction of Positions

7.3.1. Definitions

For the purpose of this Regulation the following terms shall mean:

(a) Direct line of promotion shall be strictly construed in that in order to be considered as direct line all titles must have the same generic root.

(b) Next lower occupied title shall mean the title in direct line of promotion immediately below the title from which the incumbent is suspended or demoted, unless no one is serving in that title in that layoff unit, in which case it shall be the closest lower title in direct line of promotion in that layoff unit in which one or more persons do serve.

(c) Satisfactory service shall mean service by an employee during which he/she did not receive an "Unsatisfactory" or equivalent performance rating and was not found guilty of misconduct or incompetency pursuant to Section §75 of the Civil Service Law which resulted in the imposition of any of the following penalties upon such employee:

(1) dismissal from the service, or

(2) suspension without pay for a period exceeding one month, or

(3) demotion in grade and title.

7.3.2. Layoff Units

Subject to procedures established by the University Personnel Director, when it has been determined that certain positions shall be eliminated by a college, permanent competitive class employees and other permanent employees to whom layoff rights have been extended by collective bargaining agreements
or by law holding the same or similar positions may be suspended, demoted or displaced. The abolishment of positions may be because of economy, consolidation or abolition of functions in the classified service, changes in organizational or management procedures, or other curtailment of activities. For the purpose of such layoffs and reductions, each College as defined in 1.2.2 shall constitute a layoff unit. Layoffs occasioned by the return of a permanent employee from an approved leave of absence under 5.6.3 are not subject to these procedures.

7.3.3. Layoff Order

(a) Employees within the same title subject to layoff in 7.3.2 shall be suspended or demoted within a layoff unit in the following order of priority: (1) Seasonal and non-permanent part-time employees; (2) provisional employees and non-permanent full-time employees regardless of the date of appointment; (3) Probationary employees in the inverse order of the date of original appointment on a permanent basis in the classified service, except as modified in Section 7.3.4 pursuant to Section 85 with respect to blind employees, disabled veterans, spouses of disabled veterans, and veterans; (4) Permanent employees in the inverse order of the date of original appointment on a permanent basis in the classified service except as modified in Section 7.3.4 pursuant to Section 85 with respect to blind employees, disabled veterans, spouses of disabled veterans, and veterans.

(b) When two or more permanent incumbents of positions in a specific title are suspended, demoted or displaced at the same time, the order in which they shall be entitled to displace shall be determined by their respective retention standing with those having the greater retention standing entitled to displace first.
(c) When several employees were originally appointed on a permanent basis on the same day, their retention rights shall be determined either by their rank on the eligible list from which they were appointed, that person having the highest rank having greater retention rights over those having lower ranks, or by other measures to be designated by the Vice Chancellor.

7.3.4. Preference in Layoff

(a) Preference in retention of probationary or permanent employees who would otherwise be subject to suspension, demotion or displacement pursuant to the order of priorities of Section 7.3.3 shall be granted to (1) blind employees, who shall be granted absolute preference over other employees with the same status and in the same or similar titles regardless of the date of original appointment; (2) disabled veterans and veterans as defined in Section 85 of the Civil Service Law who, for the purposes of this Regulation, shall be considered as having been appointed sixty months and thirty months earlier, respectively, than the actual date of their original appointment, and (3) under conditions set forth in Section 85, spouses of veterans with one hundred percent service connected disabilities, who shall be considered as having been appointed sixty months earlier.

(b) A blind person eligible for absolute preference in retention may not be deemed to have an earlier original appointment date when he or she also happens to be either a veteran or disabled veteran.

(c) A person is considered blind if he or she is so certified by the Commission for the Visually Handicapped of the New York State Social Services Department.

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7.3.5. Displacement

Employees who are subject to suspension shall have the right to displace employees in lower titles or in formerly held titles, as provided in Civil Service Law § 80 (6), in the inverse order of the original appointment of the employees. Permanent employees on leave and serving in another title on a provisional basis shall have the right to displace employees in the title in which they hold permanent status and for which there are employees subject to being displaced. The total service of provisional employees who are on leave from permanent positions shall include all continuous service. Employees on leave from a permanent position in the classified service to a position in the unclassified service shall have, for layoff and displacement purposes, their total continuous service computed including time in the unclassified service.

When a next lower title has been occupied by means of displacement, regardless of when the displacement into the title has occurred, it is considered to be occupied for further displacement purposes; however, a next lower title which has all of its positions abolished at the same time as positions are abolished at the higher level cannot be considered as occupied. A title which is occupied by an incumbent on a temporary, provisional, contingent permanent, probationary or permanent basis is considered occupied for the purposes of this section.

7.3.6. Retreat

(a) Retreat occurs when and only when there is no lower occupied position in direct line of promotion at any level.

(b) An employee may retreat by displacing the incumbent with the least retention right who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in the...
title from which he/she is currently suspended or displaced. Retreat may only occur where the position in the title formerly held by the displacing incumbent is occupied in the competitive class, in the same layoff unit, and at a lower salary grade; the service of the displacing incumbent while in the former title must have been satisfactory, and the junior incumbent must have less retention standing than the displacing incumbent.

(c) The service of the displacing incumbent in the title to which he/she is retreating need not have been in the same layoff unit as the one from which he/she is displaced.

(d) An employee may also displace by retreat to a position in a title he/she last served on a permanent basis although he/she had intervening service in the unclassified service or in other titles as long as his/her service in each of the intervening titles was on other than a permanent basis. He/she may also displace by retreat to a position which does not count in the computation of his/her continuous service.

(e) Where a title change has been effected to better describe the duties of a position but the duties have not substantially changed since the suspended employee last served in that title, the new title will for retreat purposes be deemed to be the former title.
REGULATION VIII: Hearings, Reviews, and Appeals

SECTION I: General Provisions

8.1.1. Relationship to Negotiated Agreements With Employee Organizations

(a) Provisions of Section VII of this Regulation with regard to the removal, suspension, or other disciplining of an employee shall not apply to an employee of the CUNY classified service covered by disciplinary agreement collectively negotiated with a recognized employee organization under Article 14 of the State Civil Service Law.

(b) Provisions of Section VI of this Regulation with regard to grievances shall not apply to an employee of the CUNY classified service covered by grievance agreements collectively negotiated with a recognized employee organization under Article 14 of the State Civil Service Law.

(c) Employees not covered by paragraphs (a) and (b) above shall be subject to procedures of Sections VI and VII of this Regulation.

8.1.2. Matters For Review by the Vice Chancellor

Any personnel matter covered in these Regulations, other than matters specifically excluded by Commission Rules, may be submitted by an employee having standing or that employee’s representative to the Vice Chancellor or to a designee for review and decision, subject to procedures set forth below or in subsequent guidance of the Vice Chancellor.

8.1.3. Matters That May be Appealed to the CUNY Civil Service Commission

Those personnel matters specifically enumerated in the Law, in Resolutions of the Board of Trustees, and in Section II of the CUNY Civil Service Commission Rules, including all determinations of the Vice Chancellor except as excluded by Commission Rules, Board Resolutions or these Regulations, may be appealed to the Commission by an employee having standing or by that employee’s representative.

8.1.4. Public Hearings By The Vice Chancellor

When required by these Regulations, public hearings called by the Vice Chancellor shall be held following no fewer than 30 days public notice.
SECTION II: Appeals and/or Protests Regarding Examinations

8.2.1. Administration of Examinations

The University Personnel Director shall establish administrative procedures for reviewing and determining the appropriateness of actions or decisions listed below in response to allegations made by persons having standing or those persons' representatives prior to a request by those persons for administrative review by the Vice Chancellor:

a) the scheduling of the examination

b) the terms of the notice of examination

c) the conduct of the examination

d) provisions for make-up examinations

e) procedural disqualifications from taking examinations

f) the deadlines for acceptance of applications for examinations

The University Personnel Director may render a decision which may be appealed to the Vice Chancellor, or review the claims and make recommendations to the Vice Chancellor without a formal appeal to the Vice Chancellor being lodged. A decision by the Vice Chancellor is final.

8.2.2. Procedures for Requesting a Review by the Vice Chancellor

Allegations of error under 3.1.2(c) and requests for the Vice Chancellor's administrative review of a decision of the Director under 8.2.1 shall be made to the Vice Chancellor in writing and contain such information as may be required in guidelines to be issued by the Vice Chancellor. The Vice Chancellor shall provide for procedures, including time limits, whereby a candidate may protest questions, inspect answer sheets, and raise other objections prior to the creation of a list. No review by the Vice Chancellor will be made.
under this section once a list is established by the Vice Chancellor; pending requests to the Vice Chancellor shall be resolved prior to the issuance of a list. Further appeals, when permitted, to the CUNY Civil Service Commission shall not preclude the Vice Chancellor from establishing a list unless the Commission specifically stays the Vice Chancellor's action.

8.2.3. Corrections Following Establishment of a List

The Vice Chancellor, upon direction from the Commission, will correct any person's record resulting from a successful appeal but such correction shall not prejudice the status of any person previously appointed as a result of such examination. When an appeal to the Commission results in a change in the order of the list, the appellant's name may be placed in the proper order and the appellant notified of the same. Unless the Vice Chancellor determines that the reordering of the list is substantial, other persons on the list need not be notified.
SECTION III: Appeals Regarding Investigations

8.3.1. Procedures

Any person disqualified by reasons enumerated in Section §50.4 of the Civil Service Laws may request that such disqualification be reconsidered by submitting a written statement, supported by available documentary evidence, to the Vice Chancellor. An appeal of the Vice Chancellor's determination may be filed with the Commission following procedures of the Commission. Any appointee who has been so disqualified may be continued in service, until ten days after the date of the notice of disqualification or, upon notice from the employee within ten days of the notice of disqualification that an appeal has been made to the Commission, until a determination of the appeal is made by the Commission. Any appointee who has been so disqualified may be placed on leave, subject to 8.3.2, pending a final determination.

8.3.2. Leave Pending Appeal

The College Appointing Officer may place an employee on unpaid leave for a period not to exceed 30 days, or may require an employee to be on paid annual leave for a period of time equal to the employee's accumulated annual leave, or may place an employee on advanced paid leave, or may require any combination of the above, following the initial determination of disqualification under Section §50.4. The College Appointing Officer shall place a probationary employee who is disqualified in 8.3.1 above on unpaid leave and extend the probation period if continued-service could result in permanent status. If an employee is fully restored, the employee shall be given full pay for the period of the unpaid suspension. Eligible pay for the period of suspension shall be reduced by any unemployment benefits or other legal offsets collected during the unpaid portion of the leave, as attested in sworn affidavit of the employee.
SECTION IV: Appeals Regarding Performance Evaluations Established Under Regulation X Of These Regulations

8.4.1. Rating Authority

The College President or his or her designee is the final rating official of all performance evaluation appeals.

8.4.2. Appeals to the College President

A written appeal to the College President or designee shall follow guidelines established by the College or provided by the Director in the case of a University-wide Performance Appraisal and Rating Plan (Regulation X), except that a President may delay considering any appeal until the employee and a second-level supervisor, when there is one, have attempted to resolve the disagreement about the performance rating. The provision of an appeal process does not preclude an informal or negotiated settlement between the employee and a designated final rating official.
SECTION V: Review Procedures Regarding Classification and Pay

8.5.1. Classification and Reclassification of Positions

(a) Any permanent employee in the classified service may apply to the University Personnel Director, on a prescribed form, for a review of the classification and for the reclassification of his/her position. If the College Appointing Officer has delegated responsibility for classification of positions in the classified service, the application by the employee must first be made to the Officer, whose decision that the classification is proper may be submitted by the employee to the Director for review. An employee shall be afforded a reasonable opportunity to present facts in support of or in relation to such application at a time and in such manner as specified by the Director.

(b) Any College Appointing Officer, with respect to any such position or positions in his or her college for which there is no delegated authority to classify or reclassify positions, may apply to the University Personnel Director, on a prescribed form, for a review of the classification and for the reclassification of positions within the classified service.

(c) The Director shall examine and review any such application made and may make such changes in the classification as may be just and equitable. The Director or designee may conduct a hearing with relation to any application for such classification review or reclassification and prepare a report.

(d) Any employee or appointing officer unsatisfied by a determination of the Director may request a review of such determination by the Vice Chancellor. A request must be made within sixty days after receipt of written notice of the determination from the Director. An employee, Appointing
Officer, or an employee's representative shall be afforded an opportunity to present facts and arguments in support of or in relation to such review at a time and place and in such manner as may be prescribed by the Vice Chancellor (See 8.1.2). The Vice Chancellor shall examine and review documents and make such changes in classifications as may be just and equitable. Determinations of the Vice Chancellor shall be transmitted to the director of the appropriate City or State budget entity, those dealing with classification and compensation matters in CUNY, and the employees and department heads affected.

(e) An employee wishing to appeal the classification of a position may do so directly to the Commission at any time.

(f) Reclassification actions taken as a result of a determination made by the Director or the Vice Chancellor, as a result of a review by a hearing officer in an employee grievance shall be subject to provisions for grievances of out-of-title work of the appropriate negotiated agreement when the employee is represented by a recognized bargaining agent.

8.5.2. Out-of-Title Work

Except as provided in Section 5.2.1, an employee who believes that duties assigned in his or her job are not properly in the title for which he or she is being paid may, in lieu of a grievance as may be provided in collectively bargained employee agreements, request the College Appointing Officer to review the duties. If a finding is made that certain duties are being performed out-of-title, the College Appointing Officer shall direct the supervisor to correct or remove the duties or shall, when delegated such authority and when the position merits it, reclassify the position. Effective date and pay for reclassification actions shall be determined based on policies of the Vice Chancellor. The decision of the Officer that the duties are within the existing title may be appealed within ten days of notice to the Director. The
employee is eligible to elect the grievance procedure at any time; however, the decision to file a grievance shall terminate the appeal made under this section.
SECTION VI: Grievances By Unrepresented Employees

8.6.1. Definition

A grievance results from the dissatisfaction that occurs when an employee not covered by a negotiated contract believes that a regulation is in violation either of the law or a Rule, is inequitably applied, or is not enforced.

Suspensions, involuntary reductions in pay, involuntary reassignments, fines, layoffs, demotions, and dismissals shall not be subject to the grievance procedure, such actions being handled in accordance with the provisions of this chapter governing disciplinary actions (8.7.1).

8.6.2. Procedures

Procedures for appeals of decisions regarding employee grievances made by unrepresented employees shall be issued by the Vice Chancellor.
SECTION VII: Disciplinary Actions Against Un-represented Employees

8.7.1. Scope

The provisions of this section apply to employees not covered by negotiated contracts. Employees covered by such contracts shall exercise their rights under their collectively bargained agreements. No employees as defined in Article 5, Section 75 of the State Civil Service Law shall be disciplined except for incompetency or misconduct. The College Appointing Officer shall have discretion to determine if a situation involving incompetency or misconduct threatens personnel or property. If so, the employee, other than one serving in a title in the CUNY Managerial Service in compliance with FLSA rules for exempt employees, may be suspended without pay pending disciplinary decisions for a period not to exceed 30 days.

8.7.2. Procedures

(a) An employee who is subject to Section 75 of the State Civil Service Law and against whom charges are being brought by the President, must be notified by the College in writing of the official charges and the date and location at the College when a disciplinary hearing will be held and of the employee's right to representation. Such notification shall be witnessed, by personal delivery, by signed receipt, or by certified mail at the address of record. The hearing will be held with thirty (30) days of the date of notification. The President may designate a hearing officer. The hearing officer designated by the College President shall report to the President about any negotiated settlement of the charges or shall issue a recommendation within ten (10) work days after the hearing to the President, recommending what disciplinary penalty shall be given, if any. The College President may accept, modify or reject the hearing officer's report on recommendation. The
employee shall be notified directly of a decision not to discipline or a decision to accept the negotiated settlement.

(b) A President's decision to counsel, reassign at the same college with no change in pay or status, train, closely supervise, remove lead worker duties, alter work shifts, or revise duties within the scope of the title are not disciplinary actions under Section §75 of the Civil Service Law and shall not be subject to further appeal. The President shall notify the employee directly of such a decision.

(c) A recommendation by the President to reprimand, fine, reduce pay or status, suspend without pay, reassign to another college, demote, or terminate a permanent employee must be referred for consultation to the Vice Chancellor within ten (10) days of receiving the recommendation of the hearing officer. After consultation with the Vice Chancellor, the President shall notify the employee of the President's final decision. In accordance with Section §76 of the State Civil Service Law, the employee may appeal to The City University of New York Civil Service Commission, under procedures of 8.7.3, or to the courts. An employee who is reinstated by the President or the Commission after an unpaid leave shall receive the salary or compensation to which he or she would have been entitled by law for the period of removal including any prior period of suspension without pay, less the amount of compensation earned from any unemployment insurance benefits or other legal offsets received during such period.

8.7.3. Appeals to the Commission

An employee who elects to appeal the President's decision to the Commission shall submit an appeal in writing to the Secretary of the Commission as provided in the Rules. The college shall furnish the Secretary a record of the disciplinary proceedings. The employee may also request a conference with the Commission under Rules established by the Commission. The employee may be represented at such a conference under Rules of the Commission.
REGULATION IX: The City University of New York Management Service

SECTION I: Classification of Positions

9.1.1. Definition

The Management Service of The City University of New York shall be comprised of positions which have been determined to be managerial pursuant to Section §201.7 of the Civil Service Law. Such positions are judged to be primarily and essentially managerial in nature, closely tied to the creation and oversight of university administrative policy, or are related closely to collective bargaining or personnel administration.

9.1.2. Procedure

For inclusion in the Management Service, a position must be approved by the Vice Chancellor as suitable to an existing title within the Management Service. A College Appointing Officer or the University Personnel Director may request that positions be placed in the Management Service by providing to the Vice Chancellor, in such manner and form as the Vice Chancellor may require, position descriptions, assessments of the scope of managerial responsibility in the areas identified in 9.3.5 below, and an organizational chart which indicates all CUNY and contractual employees and their titles who are directly and indirectly supervised by the proposed position. All such positions must have been approved prior to submission of a candidate’s papers for approval of appointment. When proposed managerial position would require creating a new title in the Management Service, such proposals shall be made in accordance with guidelines to be issued by the Vice Chancellor.
9.1.3. Designation of Assignment Levels

Based on classification factors and standards established by the University Personnel Director, the Director shall recommend for approval by the Vice Chancellor the appropriate managerial title and, within the title, an assignment level commensurate with the duties and responsibilities of the position.
SECTION II: Vacancy Announcements

9.2.1. Posting

Other than for a position reassignment in the same title at the same college (See 9.9.2) or for an emergency appointment, all managerial vacancy announcements must be submitted to the Director and posted for at least four weeks.
SECTION III: Eligibility Determination

9.3.1. Requirements of Candidates

Each candidate must pass both an examination of technical qualifications, which shall be either a competitive or non-competitive examination depending on the classification of the position, and a non-competitive managerial qualifying examination in order to be considered for appointment to the Management Service.

9.3.2. Managerial Qualifying Examination

Each applicant for a managerial position must pass a non-competitive managerial qualifying examination, which shall be administered by the University Personnel Director. The examination will measure minimum managerial qualifications in CUNY Managerial competency areas identified by the Director. Persons satisfactorily completing a CUNY Candidate Development Program which may be offered centrally or at a college, as provided in Section V below, shall be deemed to have passed the managerial qualifying examination.

9.3.3. Examination for Technical Qualifications

A technical examination established by the college and approved by the Director shall be held separately for each managerial position, unless the Director determines that multiple managerial positions at different college have the same technical requirements and can be filled from the same examination, to be established by the Director. For competitive positions, each applicant will be rated and ranked on the technical examination by the College Appointing Officer, subject to review and approval of the Director. For the purpose of reassignment of a manager between competitive positions which are
in the same managerial title at the same college, such manager shall be eligible for a non-competitive technical examination. For non-competitive managerial positions, each applicant will be evaluated by the College Appointing Officer based on minimum technical qualification requirements, subject to review of the Director.

9.3.4. Procedures

The Director shall specify at the time an examination notice is posted if the technical examination shall be administered first. In that case, the College Appointing Officer shall submit the technical ratings of all applications for review and approval by the Director, who shall then administer the non-competitive managerial examination to applicants who passed the technical examination, which, in the case of a competitive technical exam, may be administered in the order of their technical examination rankings such that the Director shall provide the College Appointing Officer a list containing at least three persons. In cases where technical scores are tied, the Director shall administer the managerial examination to all persons have the same score if the examination is administered to any one person with that score. In the event that all applicants who pass the technical examination are given the managerial examination and an insufficient number of applications pass the managerial examination to provide the Officer a list containing at least three names, the Officer may appoint in a management trainee title a person who passed the technical examination but who failed the managerial examination if the Officer, subject to approval of the Director, establishes an individualized management training program for the trainee. All service in the trainee title will be probationary.
The Director shall specify at the time an examination notice is posted if the managerial examination shall be administered first. In that case, the Director shall establish a list of names of those passing the qualifying examination and certify the list of the colleges to administer technical examinations for those managerial positions in which there is a vacancy and for which the applicant has applied.

9.3.5. Prior Assessment of Managerial Qualifications

Candidates satisfactorily completing a CUNY Candidate Development Program (9.5.1) approved by the Vice Chancellor and meeting criteria established by the Director shall be deemed to have pass the examination for managerial qualifications. Such candidates may be selected for any managerial position for which they qualify or for any competitive managerial position for which they apply and are within reach on a promotion list of those candidates who have passed a competitive examination of technical qualifications.
SECTION IV: Recruitment and Selection

9.4.1. Reimbursement for Interview Costs

Persons appointed to positions in the Management Service may be reimbursed at the discretion of the President for travel expenses incurred for interviews up to an amount authorized by State or University policy.
SECTION V: Candidate Development Program

9.5.1. Establishment

One or more Presidents or the University Personnel Director may submit to the Vice Chancellor a plan consistent with criteria established by the Director for a Candidate Development Program for the Management Service. The plan will address how the proposed program will identify and develop competent candidates for positions in the Management Service from among employees of the college or the University and from external candidates. The plan shall specify how the number of persons trained will relate to the number of anticipated vacancies at the college or in the University.

9.5.2. Recruitment and Selection

Eligibility for the Management Service Candidate Development Program shall be by non-competitive examination administered when delegated, by one or more colleges and based on criteria developed by the Director. Appointments to the Candidate Development Program may be accompanied by an appointment to a managerial trainee title designated for this purpose and all time in that title will be probationary.

9.5.3. Program Certification

College plans shall be subject to review by the Director and approval of the Vice Chancellor and, if necessary, revised periodically by the President using guidelines prescribed by the Director.
SECTION VI: Development of Incumbents

9.6.1. Inter-College Programs

The Director shall encourage multi-college-based programs and may establish and administer a centrally sponsored professional development program for CUNY managers in both the classified and unclassified service.

9.6.2. Self-Development

Each College President may provide members of the Management Service incentives for self-development.
SECTION VII: Time and Leave

9.7.1. Covered Hours

Members of the Management Service may not be considered as meeting their minimum hours of work by counting “on call” hours away from their worksites unless they are actually called. They will receive neither pay for overtime nor differential compensation for holiday hours worked.

9.7.2. Compensatory Time

Compensatory time may not be credited to managers. Compensatory time that was earned at the City University before an employee entered the managerial service shall be credited to a compensatory time bank and may be used upon approval of the President or his/her designee. Upon termination, banked time will be compensated.

9.7.3. Terminal Leave

Employees who retire with at least 10 years of University service, who resign University employment, who are terminated from University service not-for-cause, who died while serving in a position in the managerial service shall be eligible for terminal leave payments under policies to be issued by the Vice Chancellor.

9.7.4. Annual and Sick Leave Accrual Rate

Upon first appointment to a full-time managerial position, members of the Management Service with no prior CUNY service shall be credited in advance with 20 days of annual leave and 12 days of sick leave. Additional hours shall be accrued at the rate of 1 2/3 days annual leave per month and 1 day of sick leave.

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per month, beginning the 13th month of full-time employment. Additional accrual rates may be provided by the Vice Chancellor based on length of service. No accrual shall be credited while on leave without pay, except as provided by the Vice Chancellor in policy.

9.7.5. Use of Sick Leave

Sick leave shall be for personal illness only. Time on scheduled annual leave that is spent hospitalized or incapacitated by a documented illness may be converted to sick leave by the College Appointing Officer.

9.7.6. Work Schedule

Managers shall keep a record of time worked and authorized leave used during each pay period.

9.7.7. Other Leave Provisions

Except as provided here, such other leave provisions as provided for other employees in Regulations VI of these Rules and regulations shall also apply to managers.
SECTION VIII: Benefits

9.8.1. Annual Reports

The Director and the University Benefits Director shall report to the Vice Chancellor by May 30th of each year beginning in 1990 about the adequacy of benefit programs for the Management Service and make recommendations for the same.

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SECTION IX: Managerial Pay

9.9.1. Starting Salary

The College shall pay an initial salary for a position in the Managerial Service within the range for the designated managerial level of the job, but not in excess of 12% above the salary of the previous qualifying position, unless a justification by the college for such amount shall have the concurrence of the Vice Chancellor or the University Personnel Director. If the intended salary exceeds the mid-point of range, prior approval of the University Personnel Director is necessary.

9.9.2. Pay on Reassignment to a Different Managerial Level

Any person in the Management Service may be reassigned by the President, without further examination, to a different position at the same college within the same managerial title and for which the manager is ruled qualified by the College Appointing Officer, subject to approval of the qualifications by the Director. A full-time manager may not be reassigned to a part-time position without his or her consent. On reassignment, the previous pay rate shall not be reduced except as a result of a disciplinary proceeding. If the maximum for the level of the new position is less than the previous salary, the President shall deny further increments, including across the board increases, until the range encompasses the manager’s salary.

9.9.3. Pay on Transfer to a Different College

A manager with two or more years of continuous permanent service in the managerial service of CUNY at one college may transfer to a managerial position at a different college without further examination if the position is at the same level, if the position can be filled by the same examination for technical qualifications, and if the President of both institutions agree to

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the transfer. Upon transfer, pay in the new position shall be the same as in the previous position.
SECTION X: Special Provisions

9.10.1. Part-Time Employment

Upon request of a College President, the Vice Chancellor may designate a managerial position currently filled on a full-time basis to be filled on a part-time basis. Such an encumbered position may not be converted to part-time without the concurrence of the incumbent. Procedures for such positions will conform to Section 5.7.1.

9.10.2. Awards for Outstanding Performance

In addition to any recognition or monetary award established by the Vice Chancellor for use in recognizing outstanding performance by managers, managers with at least three years of service in the managerial service shall be eligible for such additional benefits as may be established in guidance of the Vice Chancellor and provided for in the President’s Plan (Regulation X).

9.10.3. Layoff

A permanent manager in a competitive class position in the Management Service is eligible to displace within the same managerial title within a layoff unit persons with less seniority in any positions for which the manager can be ruled technically qualified by the College Appointing Officer. Regulations governing the order of displacement and regulations governing displacement positions in other managerial titles and to non-managerial positions are the same as provided to other employees in Regulation VII. In the event of layoff, permanent part-time employees shall be concerted back to full-time for the purpose of determining layoff order and seniority, unless the permanent

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part-time employee elects to remain in a separate pool, in which case the layoff order will be among other permanent part-time managers. Such managers cannot displace full-time managers, regardless of length of service.
REGULATION X: Performance Appraisals and Annual Performance Ratings

SECTION I: University-Wide Plan

10.1.1. Coverage and Purpose

Except as provided in 10.2.1 below, all CUNY colleges will participate in the University-wide performance appraisal system, which shall be established through policy issuances of the Vice Chancellor.
SECTION II: College Plans

10.2.1. Choice of Plans

Any College President wishing to exclude units of the college or wishing to exclude an entire institution from the University-wide performance appraisal system for the purpose of experimenting with its own college program shall submit to the Vice Chancellor for approval a proposed college Performance Appraisal and Rating Plan. At a minimum a college plan shall provide for all full-time and part-time permanent and probationary classified employees with at least six months of service in the units covered by the plan to be subject to annual performance appraisals. Additional requirements may be specified by the Vice Chancellor regarding evaluations of probationary employees. The college plan will address how employees and supervisors will be trained in the appraisal and rating process and how the program will be evaluated. The plan may be modified from time to time based on experience. Employees serving in managerial titles are not eligible for exclusion from the University-wide appraisal system.

10.2.2. Periodic Performance Appraisal Conference

Each college that elects to devise its own plan shall provide employees at least an annual performance appraisal conference with their supervisors, based on performance expectations established sufficiently prior to the appraisal conference to make an appraisal meaningful. The appraisal conference may be a formal or informal session.

10.2.3. Annual Written Performance Ratings

An annual performance rating will be reported on a format designed by the college and filed with the College Appointing Officer. The rating format must include at least three performance levels for each area of responsibility:

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1. Does not meet expectations, or Needs Improvement

2. Meets expectations, or Good, or Satisfactory

3. Exceeds expectations, or Outstanding

The plan may include similar or additional levels.

These forms will be signed and dated by a person or persons who supervised the work of the employee.

10.2.4. Administration of College Plans

The College President shall designate someone to be responsible for administering the performance review system and for reporting on the plan to the Director.

10.2.5. Other Requirements and Options for College Plans

An employee shall be permitted to review and comment in writing on the annual rating.

Only employees rated above satisfactory may be eligible for performance awards.

See Section 2.3.3, paragraphs 18 and 19.

10.2.6. Finality of Ratings in College Plans

Except when an appeal beyond the College President is specifically provided in these Regulations, the judgement of the College President will be final in all matters of performance evaluation.

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REGULATION XI: Training and Development

SECTION I: Overview

11.1.1. College Training Plans

Beginning June 30, 1990 and each year thereafter, each college President will forward to the Vice Chancellor an annual training plan, within guidelines of the Director, identifying for the coming year the training needs of the classified service and how these needs will be addressed using resources from both within and outside the University.

11.1.2. Annual Training Report

Beginning September 30, 1990, the University Director of Personnel will submit an annual report to the Vice Chancellor about the status of training in the University. Colleges shall comply with such reasonable requests for information as the Director may make in order to complete the report.

11.1.3. Training Coordinators

Each College President will designate a Training Coordinator to serve as a liaison and communications link with the University Personnel Office and to provide continuity and accountability for the College training program. This may be a collateral duty.

11.1.4. Evaluation

The University Personnel Director will conduct periodic evaluations of centrally sponsored and administered training programs and may prescribe forms and procedures for collecting systematic information about the outcomes of individual College training programs.

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SECTION II: Special Provisions

11.2.1. Linkage to Performance

As part of its training plan, each college will develop a form and procedure for recording for each employee and Individual Development Plan (IDP) to be completed in association with an annual performance review session.

11.2.2. Linkage to Transitional Opportunities

In accordance with the University’s policies on Equal Employment Opportunity, the Director and the Appointing Officer at the college shall cooperate in identifying suitable titles for which formal training programs may serve as a means to open access to take examinations for higher and lateral titles that have been single sex or race dominated. The Vice Chancellor may establish transfer rosters between related or collateral titles which involve substantially equivalent tests or qualifications.

11.2.3. Provision of Training Discretionary to the College

All training and development activities proposed by a supervisor on an IDP will be subject to the provisions of the College Training Plan concerning approval, selection, funding, etc. And IDP neither constitutes an obligation by the institution to provide what has been identified in the plan, nor does failure to permit or require employees to avail themselves of such training opportunities as may be identified in any way relieve employees of their responsibility to perform satisfactorily within the duties of the position.

11.2.4. Centrally Sponsored Programs

The University Personnel Director may recommend to the Vice Chancellor centrally sponsored or other cooperative training programs when the training
Proposed IDP activities provided through the auspices of the Vice Chancellor shall be subject to selection and other procedures established by the Vice Chancellor.

11.2.5. Contracted Training Services

Prior to issuing personal service contracts in excess of $5,000 for training services to be rendered to classified service employees, including joint training services with non-teaching unclassified employees, colleges shall permit the Vice Chancellor to comment on their plans.

11.2.6. Training Clearinghouse Activities

The University Personnel Director shall provide information about options for training and development activities to College Training Coordinators and shall facilitate sharing of evaluative information on programs used by the colleges.

11.2.7. Leaves of Absence for Training

See Section 6.1.2. Unpaid leaves of absence for training may be granted by the College Appointing Officer subject to limitations in 6.2.3.
REGULATION XII: Planning and Experimental Programs

SECTION I: Experimental Programs

12.1.1. Pilot Projects and Experimental Programs

A College President, subject to approval by the Vice Chancellor, may propose to the Vice Chancellor pilot and experimental projects designed to improve the effectiveness of University personnel management. The projects may request revisions of some Rules and Regulations, subject to Regulation XIII.
REGULATION XIII: Procedures for Amending Regulations

Reserved
REGULATION XIV: Systems of Personnel Records and Audits

Reserved
REGULATION XV: Payrolls

SECTION I: Reports of Appointing Officers and Payroll Officers

15.1.1. Appointing of Officers

For the purpose of certification of payrolls and to enable the Vice Chancellor, his or her designee, or The New York City Department of Personnel under contract, to keep an official roster of the classified service as required by law, each College Appointing Officer, from time to time, and upon the date of the official action in each case, shall report, subject to policies of the Vice Chancellor, to the same as follows:

(a) Every appointment or employment whether probationary, temporary or otherwise, in the classified service, with the date of commencement of service and the title and compensation of the position.

(b) Every failure to accept an appointment under the Officer by a person eligible therefore, with copies of the offer or notice of appointment and the reply thereto, if any.

(c) Every discharge during or at the end of probationary term with the date thereof.

(d) Every vacancy in a position, for whatever reason with the date thereof.

(e) Every position abolished, with the date of such abolition.

(f) Every change of compensation in a position, with the date thereof.

(g) Every promotion, giving positions from which and to which made, with the salaries and date thereof.

(h) Every reclassification giving the titles from which and to which made, with the salaries and date thereof.
(i) Every transfer, giving the positions from which and to which made, with the date and salaries thereof.

(j) Every reinstatement in a position, with the date and salary thereof.

(k) Every leave of absence, with the date and duration thereof.

(l) Every new position, giving a complete description of the duties thereof.

15.1.2. Payroll Officers

For the purpose of the certification of payrolls and to enable the Vice Chancellor, his or her designee, or The New York City Department of Personnel under contract, to verify hiring rates, pay adjustments and pay titles as consistent with reports of Appointing Officer, each College Payroll Officer from time to time and upon the date of official actions to be named in guidance by the Vice Chancellor, shall report to the same such information as the Vice Chancellor may require and on such forms as may be required.
SECTION II: Certification of Payrolls

15.2.1. Extended Certifications

The Vice Chancellor, his or her designee, or The City of New York Department of Personnel under contract, subject to Rules of the CUNY Commission, may certify the employment of a person for a limited or extended period. No further certification shall be necessary for the payment of salary or compensation to such person, so long as his title and salary range remain unchanged and during such stated period, except as to the first payment for services in each fiscal year and, if required by the Commission, the first payment for services in the second half of each fiscal year. Nothing herein shall be construed to prevent or preclude the Vice Chancellor, subject to the Rules of the Commission, from terminating or rescinding a certification at any time by giving notice thereof to the appropriate fiscal or disbursing officer.

15.2.2. Temporary Certifications

When the name of any person is first submitted for certification following his/her appointment, reinstatement, promotion, transfer, reclassification or other change in status, and the Vice Chancellor, his or her designee, or The City of New York Department of Personnel under contract, requires further information or time to enable it to make a final determination thereon, the certifier, subject to Rules of the CUNY Civil Service Commission, may certify such person temporarily, pending such final determination. In such event the certifier shall immediately request the necessary additional information from the appointing authority, who shall furnish it forthwith. If such information is not furnished promptly, or if the Vice Chancellor finds, following receipt of such information, that the employment of such person is not in accordance
with the law and Regulations, the Vice Chancellor, subject to Rules of the Commission, shall immediately terminate such certification by notice to the appropriate fiscal or disbursing officer and to the Commission.

15.2.3. Refusal or Termination of Certification

Upon satisfactory evidence of intention to evade the provisions of the law and of these Regulations in assigning any employee to perform duties other than those for which he/she was examined and certified or under any title not appropriate to the duties to be performed, or at a salary rate not authorized by the pay plan, the Vice Chancellor or his or her designee shall refuse certification or terminate a certification previously made and then in force.

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REGULATION XVI: Miscellaneous (TBA)