

RULE REVIEW

DEPARTMENT OF CIVIL SERVICE

Five Year Review of Existing Regulations

Pursuant to section 207 of the State Administrative Procedure Act (SAPA), notice is hereby provided of rules adopted by the New York State Civil Service Commission and the President of the New York State Civil Service Commission during calendar year 1999.

Contained herein is a brief description of each rule, including the statutory authority therefor; an assessment of public comment; and a statement setting forth the justification for the ongoing need for each rule and its continuation without further modification.

Amendments to Chapter II of Title 4 of NYCRR (Attendance Rules for Employees in New York State Departments and Institutions)

Statutory Authority: Civil Service Law section 6

Description of the Regulations:

The resolutions added new sections and amended existing sections of the Attendance Rules for non-managerial/confidential (Part 21 of 4 NYCRR) and managerial/confidential (Part 28 of 4 NYCRR) employees in New York State Departments and Institutions.

Sections 21.16 and 28-1.18 of the Attendance Rules were adopted to permit appointing authorities to grant overtime ineligible employees who have exhausted military leave with pay provided pursuant to the New York State Military Law, further leave with pay without charge to accruals for any period[s] of less than a workweek during which such employees are ordered to temporary military duty.

Sections 21.9 and 28-1.9 of the Attendance Rules were amended to permit agencies to grant overtime ineligible employees leave with pay without charge to accruals for any absence[s] of less than a workweek during which such employees are required to appear as a witness pursuant to a subpoena or other order of court, regardless of whether an employee is a party to the action.

These rules ensure that the Attendance Rules will be applied to employees serving in overtime ineligible positions in accordance with relevant provisions of the federal Fair Labor Standards Act (FLSA).

Assessment of Public Comment: No public comments have been received regarding these rules.

Action: The rules have functioned consistent with the purposes underlying their adoption and shall be continued without modification.

Amendments to Chapter V of 4 NYCRR (Regulations of the Department of Civil Service [President's Regulations])

Statutory Authority: Chapter 534 of the Laws of 1998, amending section 167(2) of the Civil Service Law.

Description of the Regulations:

Chapter 534 of the Laws of 1998 amended section 167(2) of the Civil Service Law to provide that unpaid board members of public authorities shall be eligible to participate in the New York State Employee Health Insurance Program (NYSHIP) after six months of service.

The regulation added a new subparagraph (iv) to section 73.1(c)(1) and a new paragraph (5) to section 73.1(e) of the President's Regulations

providing that unpaid board members of public authorities may participate in NYSHIP after six months of service and may also continue their NYSHIP enrollment upon leaving public service with 20 years or more of service in such positions.

Assessment of Public Comment: No public comments have been received regarding these rules.

Action: The rules have functioned consistent with the purposes underlying their adoption and shall be continued without modification.

Amendment to Chapter V of 4 NYCRR (Regulations of the Department of Civil Service [President's Regulations])

Statutory Authority: Civil Service Law, Article XI

Description of the Regulation:

Section 73.3(b)(1) of the President's Regulations was amended to enable participating agencies (PAs) and participating employers (PEs) in the New York State Health Insurance Program (NYSHIP) to contribute towards health insurance premiums on behalf of employees on leave without pay, provided such benefit is accorded to all employees within a class or category. The amendment provides that upon (60) days prior notice to the Department of Civil Service, PAs and PEs may provide such benefit to an eligible employee for a period of two years. This authorization may be extended for one additional two year period by the State Civil Service Commission for good cause shown and where the interests of government would be served. The amendment further provides that where contributions have been made on behalf of an employee on leave without pay for a two year period, or a four year period where authorized by the State Civil Service Commission, no further extensions may be granted unless the employee returns to his or her position and serves continuously therein for the six month period immediately preceding a subsequent leave of absence.

This regulation extends an additional potential benefit to eligible employees and forms a part of the overall "benefit package" that employers may consider when electing to adopt NYSHIP as a health insurance offering.

Assessment of Public Comment: No public comments have been received regarding this rule.

Action: The rule has functioned consistent with the purposes underlying its adoption and shall be continued without modification.

Various amendments to the Appendices to the Rules for the Classified Service

Appendix 1 (Exempt Class)

Appendix 2 (Non-competitive Class)

Statutory Authority:

Appendix 1: Civil Service Law, sections 6 and 41; 4 NYCRR 2.1

Appendix 2: Civil Service Law, sections 6 and 42; 4 NYCRR 2.2

Description of the Regulations:

Civil Service Commission rules relating to the jurisdictional classification of positions were specifically exempted from compliance with Executive Order No. 20 review requirements by the Governor's Office of Regulatory Reform (GORR), upon a finding by GORR that such review lacked substantial benefit. Based upon this determination by GORR, and pursuant to subdivision (5) of section 207 of the State

Administrative Procedure Act (SAPA), a full recitation of amendments to Appendices 1 and 2 to Title 4 of NYCRR adopted by the Civil Service Commission during calendar year 1999 is hereby omitted.

Requests for information and public comments may be directed to: Daniel E. Wall, Executive Deputy Commissioner, Department of Civil Service, State Campus, Albany, NY 12239, (518) 457-6212, e-mail address: dew@cs.state.ny.us. All submissions should be forwarded within forty-five (45) days of the publication of this notice.