

# RULE REVIEW

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## Department of Civil Service

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 for the calendar years 1997, 2002 and 2007.

1997

Amendments to the Rules for the Classified Service (Chapter 1 of Title 4 NYCRR)

Statutory Authority: Civil Service Law, sections 6, 63 and 79

Description of the regulations:

4 NYCRR 4.5(b)(2) was amended so as to provide State agencies with the authority to waive probationary terms for non-competitive class employees who have successfully served probationary terms in their current title and are appointed to different non-competitive class positions in the same or different titles, at the same or a lower salary grade. Further, section 4.5(b)(2) was amended to broaden the definition of “promotion,” for purposes of the section, to include appointment of an individual serving in the non-competitive class to a higher-graded position in the competitive class, consistent with Civil Service Law section 52(11) and departmental policy.

4 NYCRR 4.5(b)(2)(ii) was amended to remove the probationary term of one year for the position of Vocational Instructor IV (now, Vocational Instructor 4) for incumbents who have completed three years’ probation in the Vocational Instructor title series in the same appointing authority.

A new section 4 NYCRR 5.10 was added regarding the creation of redeployment lists for classified service employees serving in positions designated managerial or confidential. Section 79 of the Civil Service Law provides, that to the extent authorized by an agreement between the State and an employee union, the Department of Civil Service shall create a redeployment list upon notice that one or more employees in State service are to be suspended or demoted by reason of the State’s exercise of its right to contract out for goods or services. This amendment extends the benefits of such agreement to employees excluded from collective negotiating units.

These rules have functioned consistent with the purposes underlying their adoption and are recommended for continuation without modification.

2002

Amendments to the Rules for the Classified Service (Chapter I of Title 4 NYCRR)

Statutory Authority: Civil Service Law sections 6, 63

Description of the regulations:

4 NYCRR 4.5(b)(2)(v) was amended to provide that positions of Highway Maintenance Supervisor 1 be subject to a probationary term of not less than 26 weeks nor more than 52 weeks.

4 NYCRR 4.5(b)(3) was amended to provide that every appointment and training advancement for positions in the non-competitive class designated to be in the Professional, Scientific and Technical

Services negotiating unit in the job titles of Assistant Research Scientist (all specialties), Research Physician 1-3 (all specialties), Psychiatrist 1-2, and Research Scientist 1-8 (all specialties) shall have probationary terms of 3 years.

These amendments have functioned consistent with the purposes underlying their adoption and are recommended for continuation without modification.

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

Statutory Authority: Civil Service Law section 6; also Memoranda of Understanding executed with the employee unions pursuant to Civil Service Law Art. 14

Description of the regulation:

4 NYCRR Section 21.15 (for non-Managerial/Confidential Employees) and Section 28-1.17 (for Managerial/Confidential Employees) were amended following the events of September 11, 2001 to provide for a supplemental grant of military leave with pay and make available military leave at reduced pay and training leave at reduced pay for NYS employees ordered to perform military duty in the service of the United States or New York State.

In addition to the military leave benefits referenced above, further amendments adopted in 2002 provided for the accrual and use of emergency vacation leave for employees who were deprived of the opportunity to utilize certain annual leave accruals due to such military service.

These amendments have been superseded by subsequent amendments providing for the continued availability and use of supplemental military leave, military leave at reduced pay and training leave at reduced pay. Provisions relating to the accrual and use of emergency vacation leave expired and were not renewed.

Amendments to Part 72 of the Regulations of the Department of Civil Service (President’s Regulations; Chapter V of Title 4 NYCRR)

Statutory Authority: Civil Service Law, sections 80 and 80-a

Description of the regulations:

These regulations defined separate units for suspension, demotion or displacement (“layoff units”) within the Division of Alcoholic Beverage Control and within the Office of Children and Family Services.

Separate layoff units were established within these State-wide agencies to provide for the equitable and efficient administration of any reductions in force, in compliance with the Civil Service Law, Rules and Regulations.

The rules have functioned consistent with the purposes underlying their adoption and are recommended for continuation without modification.

2007

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

Statutory Authority: Civil Service Law, section 6, Article 14

Description of the regulation:

4 NYCRR Section 21.15 (for non-Managerial/Confidential Employees) and Section 28-1.17 (for Managerial/Confidential Employees) were amended to continue availability of the military leave benefits referenced above. These amendments have been superseded by subsequent amendments to renew the subject military leave benefits.

All Years

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 review under Executive Order 20 by the former Governor's Office for Regulatory Reform (GORR), upon a finding by GORR that review of such rules lacked substantial benefit. Based upon this determination and pursuant to SAPA section 207, subdivision 5, a complete recitation of all amendments to the Appendices to Title 4 of NYCRR for the calendar years 1997, 2002 and 2007 is hereby omitted.

*Requests for information and public comments regarding the foregoing may be directed to:* Mark F. Worden, Acting Counsel, Department of Civil Service, 80 S. Swan St., Rm. 833, Albany, NY 12239, (518) 473-1841, e-mail: mark.worden@cs.state.ny.us