

PERSONNEL SERVICES BULLETINS (PSBs)

100-1

Subject: Non-Competitive Program for Persons with Physical or Mental disabilities

Supersedes: Personnel Service Bulletin 100-1 issued March 21, 1997

Source: Civil Service Law – Section 55-a, as amended and Rule 3.2.10 of the Personnel Rules and Regulations

Date: October 3, 2018

I. Background

Rule 3.2.10 of the Personnel Rules and Regulations of the City of New York (“PRR”) states:

- A. The Commissioner of the Department of Citywide Administrative Services (“DCAS”) may determine a prescribed number of positions, not to exceed 700 positions as set by Section 55-a of the New York Civil Service Law (“Section 55-a”), which can be performed by persons with physical or mental disabilities who are found qualified in the manner prescribed by law to perform such duties.
- B. Upon such a determination, such positions shall be classified in the non-competitive class, and shall be filled by persons who shall have been certified by the New York State Department of Education, Adult Career and Continuing Education Services – Vocational Rehabilitation (“ACCES-VR”) or the New York State Commission for the Blind (“NYSCB”) as having a physical or mental disability and 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 having a physical disability. If no qualified persons with a physical disability have applied for such positions, the Commissioner may determine to fill those positions with qualified persons with a mental disability.
- C. The Commissioner shall issue procedures for approval of appointments of persons with physical or mental disabilities to such non-competitive positions as are established pursuant to this rule.

II. Policy

- A. The City of New York encourages employment of and promotional opportunities for qualified persons with disabilities. In compliance with PRR Rule 3.2.10, agencies shall make every effort to increase the number of employment opportunities for persons with disabilities by designating competitive class titles to be filled by persons with severe physical or mental

disabilities, which significantly and adversely impact their ability to work, and who are qualified to perform the duties of the position, with or without a reasonable accommodation. A person with “severe physical or mental disabilities” is a person who:

1. is legally blind (central visual acuity of 20/200 or less in the better eye with corrective lenses or visual field restriction to 20 degrees diameter or less in the better eye);
 2. is deaf (has a profound hearing loss and relies on visual communication such as sign language, writing, lip reading and gestures) or has a severe hearing impairment (best corrected average loss of > 70 db in the better ear at 500, 1000 and 2000 Hz);
 3. has a musculoskeletal condition (e.g., amputation) or neuromuscular condition (e.g., Multiple Sclerosis) which severely limits ambulation;
 4. has a cardiovascular condition (e.g., Class IV CHF) or pulmonary condition (e.g. COPD) which severely limits ambulation and/or requires constant oxygen administration;
 5. has a developmental disability attributable to Cerebral Palsy, Epilepsy, Neurological Impairment, Familial Dysautonomia, Autism or any other condition closely related in terms of severe impairment of intellectual functioning, adaptive behavior or requiring similar treatment and services;
 6. has a mental illness, disease, or condition manifested by a disorder or disturbance in behavior, feeling, thinking or judgment which severely disrupts daily functioning and his or her ability to relate to others;
 7. has other physical or mental conditions which significantly and adversely impact the individual's ability to work, shown by, for example, an employment history documenting the individual's inability to secure employment or inability to maintain employment.
- B. An Appointing Agency¹, DCAS or a person with a disability, whether or not already appointed to a position in the classified service, may request non-competitive 55-a appointment to a specified position in the competitive class. Such an appointment should not be used to by-pass the civil service examination process in the ordinary case. Accordingly, the Commissioner of DCAS may approve such appointments for persons with disabilities who are unable, due to a disability, and with or without a reasonable accommodation, to pass a civil service exam or who have a demonstrated history of being unable to secure or maintain employment because of a severe disability, and who are found qualified by the appropriate State agency to perform the duties of the specified position.

¹ Unless otherwise stated, an “Appointing Agency” is a City agency that, in its discretion, determines whether to designate a competitive class position within that agency as eligible for conversion to the non-competitive class under the 55-a Program.

- C. A qualified person with a disability who is appointed to the 55-a Program:
1. Is not required to take a competitive civil service examination.
 2. Will be evaluated for a position based on a non-competitive examination, which will include an evaluation of the person's education and experience, as well as an interview.
 3. Must meet the skills, education and/or experience qualifications for the position.
 4. Must be certified by ACCES-VR or the NYSCB as having a physical or mental disability and qualified to perform the essential duties of the position, with or without a reasonable accommodation.
- D. Appointments pursuant to the 55-a Program can be made to positions where there is an active eligible list from an open competitive or promotional examination.
- E. Promotional examinations are open to employees who were appointed to an eligible title pursuant to Section 55-a, and who meet all other eligibility requirements for the specified promotional title.
- F. An appointment under 55-a is deemed an appointment to a non-competitive position, therefore persons appointed under 55-a are subject to a six-month probationary period.

III. Procedure

Appointments to non-competitive status under CPD Rule 3.2.10 are to be processed as follows:

A. Designation and Approval of Appointment

1. The Agency Personnel Officer ("APO") may identify positions which may be filled by a qualified person with a mental or physical disability. A request to the APO to identify such a position may be initiated by an employee or a job applicant seeking to fill that position by applying to the posting for that position or by DCAS. The APO has the discretion to determine which specific positions should be converted to non-competitive status under Rule 3.2.10, with the Commissioner of DCAS ultimately approving all requests for title conversions under Rule 3.2.10.
2. After the position has been identified, the APO must complete and submit form DP-2023 (Position Questionnaire for Non-Competitive Positions Subject to Rule 3.2.10) to the DCAS Office of Citywide Equity and Inclusion ("CEI"). Form DP-2023 must be submitted together with a letter of request recommending conversion of the position to the non-competitive class in accordance with Rule 3.2.10, pursuant to Section 55-a. The Tasks and Standards or job description of duties, with percentages totaling to 100%, for the position must be attached.

3. The Commissioner of DCAS has the final authority to approve all position conversion requests for the 55-a Program. When a candidate for a position converted or to be converted has been identified, CEI will submit Form DP-2024 (Certification of Disability and Fitness for Non-Competitive Position) together with the position's Tasks and Standards or job description of duties, with percentages totaling to 100%, to one of the following state agencies for certification, depending on the nature of the disability involved: ACCES-VR or NYSCB.

4. After the appropriate State agency evaluates the candidate, it will return Form DP-2024 to CEI certifying the candidate as physically or mentally disabled and able to perform satisfactorily the duties of the position, with or without accommodations.

5. Upon receipt of Form DP-2024 from the State agency, CEI will submit an Approval Request memorandum, requesting that the position be converted to non-competitive status and, that the candidate with a mental or physical disability be found qualified to fill the position. The 55-a panel will be presented with the candidate's name, department or agency, position title and position number, and a statement of the applicable City Personnel Rule and pertinent section of the State Civil Service Law. The 55-a panel will assure that the proper documentation has been submitted and forwarded for the DCAS Commissioner's, or their designee's, approval.

B. Appointment to Position

1. CEI will inform the City agency of the approval or declination. If certification is approved, the agency must then list the position on its Planned Action Report ("PAR").

2. When the PAR is approved, the agency will appoint the individual and submit notification to CEI and to DCAS's Civil Service Transactions Unit via Form DP-2025. (Report of Non-competitive Appointments Subject to Rule 3.2.10).

3. Upon termination for any reason of an enrollee from the 55-a Program appointed pursuant to these provisions, the agency must submit Form DP-2026 (Report on Termination of Employment in a Non-competitive Position Subject to Rule 3.2.10) to CEI and to DCAS's Civil Service Transactions Unit.

Note: The New York City Housing Authority (NYCHA), the Triborough Bridge & Tunnel Authority (TBTA) and the New York City Transit Authority (NYCTA) are subject to DCAS jurisdiction as New York City's Municipal Civil Service Commission and are therefore covered by Section 55-a.

Lisette Camilo
Commissioner

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