PERSONNEL SERVICES BULLETINS (PSBs)

100-8

Subject: Residence Requirements

Supersedes: Personnel Services Bulletin No. 100-8 issued November 20, 2019

Source: Sections 12-119, 12-120 and 12-121 of the Administrative Code; New York State Public Officers Law, Section 3; Executive Order No.131 of 2010; List of Senior staff titles covered by Executive Order

Date: August 08, 2022

I. INTRODUCTION

The New York City residency law, codified at Sections 12-119 through 12-121 of the New York City Administrative Code, as amended, requires employees, other than those who entered City service on or before September 1, 1986, to establish city residence within 90 days of entering City service and thereafter maintain city residence as a condition of employment. Section 12-120(b) provides that employees who have completed two continuous years of City service while maintaining residency in the City will remain in compliance with the residency law if they establish and maintain residency in Nassau, Westchester, Suffolk, Orange, Rockland or Putnam counties.

Section 12-121 authorizes the Commissioner of Citywide Administrative Services to certify titles as "hard-to-recruit" and exempt them from the requirements of Section 12-120. In addition, the Commissioner may waive the residency requirements with respect to an individual position where recruitment has proved to be exceptionally difficult.

Section 12-120(b)(i) authorizes the Mayor to require agency heads and other senior staff who have completed two years of city service to continue to maintain residence in the City as a condition of employment.[1] Mayoral Executive Order No. 131 ("EO131"), issued pursuant to section 12-120(b)(i), requires agency heads and other senior staff to maintain City residence as a condition of employment. The Commissioner may waive the residency requirements of EO 131 for a prospective covered appointee upon a demonstration that they impose a substantial personal hardship on the prospective appointee. In addition, persons in positions covered by EO 131 who serve in a civil service title that has been designated as a "hard to recruit" title by DCAS are exempt from EO 131 requirements so long as they remain in the designated civil service title.

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[1] Section 12-120(b) also authorizes the Speaker of the City Council, the Comptroller, the Borough Presidents and the Public Advocate to require designated senior staff to maintain City residency as a condition of employment.

II. DEFINITIONS

A. "Residence" - the word residence means domicile (and the word resident means domiciliary).

B. "City Service" - the term City service means service as an employee of the City of New York or of any agency thereof other than service in a position that is excepted from municipal residence requirements pursuant to the Public Officers Law or any other state law.

C. "City Residency Requirements" - the term City residency requirements means the residency requirements set forth in Sections 12-119 through 12-121 of the New York City Administrative Code, as further implemented by Executive Order No. 131 dated February 24, 2010.

D. "The Six Designated New York State (NYS) Counties" – the term the six designated NYS counties means the following proximal New York State counties: Nassau, Westchester, Suffolk, Orange, Rockland and Putnam.

III. GENERAL RESIDENCY REQUIREMENTS FOR CITY EMPLOYEES

A. Pursuant to Section 12-120(a) of the Administrative Code, any person, not otherwise excepted from the City residency requirement by New York State law or by Section 12-121(b) (see Section IV below), who enters City service on or after September 1, 1986 (1) shall be a resident of the City of New York on the date that he/she enters City service or shall establish City residence within 90 calendar days of the date of appointment and (2) shall thereafter maintain City residence as a condition of employment.

B. Pursuant to Section 12-120(b) of the Administrative Code, employees who have completed two continuous years of City service shall be deemed in compliance with the City residency requirements if they are residents of Nassau, Westchester, Suffolk, Orange, Rockland or Putnam counties (the six designated NYS counties); provided, however, that the Mayor may require certain senior staff to maintain City residency as a condition of employment.[2]

IV. EXCEPTIONS TO THE GENERAL RESIDENCY REQUIREMENTS

A. Exceptions under New York State Law

1. Agencies: The City residency requirements are not applicable to employees of the New York City Transit Authority, New York City Housing Authority, Department of Education, City University of New York, New York City Health and Hospitals, Triborough Bridge and Tunnel Authority, New York City Department of Probation, or the District Attorneys' Offices of the five counties of the City of New York, as

[2]See Section V. Residency Requirements for the Executive Office of the Mayor and Mayoral Agencies for further details.

these agencies are established by state law and may have their own residency requirements.

2. Uniformed Forces: City residence requirements are not applicable to persons appointed to the following positions excepted from the City residence requirements pursuant to the Public Officers Law:

   a. Uniformed Forces of the Fire Department

   b. Uniformed Forces of the Department of Correction

   c. Officers and Inspectors of the Health Department

   d. Uniformed Forces of the Police Department

   e. Uniformed Forces of the Department of Sanitation.

3. Special Police Officers:

   a. Section 3-b(1) of the Public Officers Law requires that special peace officers be residents of the City of New York at the time of appointment and maintain residency for the first two years of continuous employment with the City.

   b. Section 3-b(2)-(4) provides that the City residency requirements are not applicable to a special peace officer in any of the following titles who has completed two years of employment with the City and resides in the City or one of the six designated NYS counties as:

      i. Section 3-b(2): Fire Protection Inspector; Associate Fire Protection Inspector; Supervising Fire Protection Inspector;

      ii. Section 3-b(3): Urban Park Ranger; Associate Urban Park Ranger; Traffic Enforcement Agent (Level IV);

      iii. Section 3-b(4): Special Officer, Senior Special Officer, Principal Special Officer and Supervising Special Officer as "special officer" is defined in subdivision forty of Section 2.10 of the criminal procedure law; Evidence and Property Control Specialist; Taxi and Limousine Inspector, Taxi and Limousine Inspector (motor vehicles), Senior Taxi and Limousine Inspector (motor vehicles), Associate Taxi and Limousine Inspector, Supervising Taxi and Limousine Inspector, Supervising Taxi and Limousine Inspector (motor vehicles); and School Guard (School Safety Agent).

B. Exceptions under New York City Law

   1. The following categories of employees in City service are not subject to the City residency requirements pursuant to Section 12-121(b) of the Administrative Code:

      a. Persons appointed to the position of Chaplain;

b. Employees whose regular worksites are outside of the city;

c. Employees who have been performing functions at regular worksites outside of the city where the positions are terminated and the City transfers, reassigns or appoints such employees to jobs within the city.

2. The City residency requirements are not applicable to employees who entered City service before September 1, 1986 who have maintained continuous City service.

   Note: if such an employee subsequently separates from City service, he/she will only remain excepted from the City residency requirements if he/she is:

   a. a permanent employee who returns within one year to permanent City service in a competitive class position either by appointment under the reinstatement rules of the DCAS Commissioner or by appointment from an open competitive list;

   b. a labor class employee who has successfully completed probation who returns within one year in a labor class position under the reinstatement rules of the DCAS Commissioner; or

   c. an employee appointed provisionally to a competitive class title or an employee in a noncompetitive or labor class title who returns to service within 31 calendar days from the date of separation.

V. WAIVERS OF THE CITY RESIDENCY REQUIREMENTS

A. Employees Serving in Hard-to-Recruit Titles

Pursuant to Section 12-121(a) of the Administrative Code, the Commissioner of the Department of Citywide Administrative Services (DCAS) may certify there is difficulty in the recruitment of personnel for a title and that to restrict recruitment for positions in such title to city residents and persons willing to establish city residence would not be in the public interest ("hard-to-recruit titles")[3]. Persons appointed to hard-to-recruit titles shall not be subject to the City residency requirements while in service in that title and need not establish or maintain residence in the city or in the six designated NYS counties. Certification of a title as hard-to-recruit is subject to such limitation and conditions as the Commissioner of DCAS deems appropriate.

B. Individual Waivers

In cases where recruitment for an individual position is exceptionally difficult, an agency head may request that the Commissioner of DCAS grant a waiver from the City residency requirements to an individual being considered for a position in a title that is subject to the City residency requirements. The DCAS Commissioner is the only agency head authorized to grant an individual exemption of the

[3] The Speaker of the City Council shall certify positions in the City Council as hard-to-recruit.

residency requirements. Requests for individual exemptions must include a detailed explanation of the reasons an individual should be granted an exemption from the City residency requirements, including evidence documenting the recruitment efforts for the position in question.

VI. POLICY ON CITY RESIDENCY REQUIREMENTS

A. Residency in the Six Designated Counties – Continuous Service

1. In order to meet the two-year City service requirement of the City residency requirements, an employee's City service must consist of two years of continuous City service. If there is a break-in City service the employee will be considered a "new hire" and must complete the full two-year City service requirement before the employee is permitted to reside in one of the six designated New York State counties.

2. Employees entering City service from an employer noted in Section IV(A)(1) are treated as "new hires" and must establish and maintain City residence for the first two-years of continuous City service before the employee may reside in one of the six designated New York State counties.

B. Proof and Verification of Residence

1. At the time of hire, or upon the employing agency's request, an employee shall submit proof of residence to the employing agency. Recommendations for acceptable documentation can be found in the chart below.

DOCUMENTATION FOR RESIDENCE VERIFICATION *Employee should provide either two primary documents, three secondary documents or a combination of documents acceptable to the employing agency,* **PRIMARY DOCUMENTS (Show 2)**	
ITEM	**DESCRIPTION**
Original Utility Bill*	Original *mailed* copy of a monthly gas, landline telephone, oil, electric, cable or other utility bill.
Original Charge Account Statement*	Original *mailed* copy of a monthly major credit card or store card bill.
Original Bank Account/Life Insurance Statement*	Original *mailed* copy of a monthly bank account statement or life insurance statement.
Mortgage Statement*	Original *mailed* copy of a monthly mortgage statement.
Rent receipt on letterhead	Original rent receipt printed on landlord's professional letterhead.
Homeowner's/Renter's insurance policy*	Original *mailed* copy of a homeowner's or renter's insurance policy.

NOTE: Printouts of electronic versions of such statements are considered to be secondary documents. All monthly statements (mailed or printed) should be dated within 60 days of submission to requesting agency representative and/or investigator.	
SECONDARY DOCUMENTS (Show 3)	
Electronic version of any statement above with asterisk (*)	Printed version of a monthly online statement, downloaded via Internet website of service provider and/or bank or creditor. May provide two different electronic statements and one *other* secondary document or a primary document.
W-2 statement, 1099 statement or payment of City tax	Original or printed version of an electronic copy of W-2 or 1099 statement or a NY State tax return showing payment of City tax.
Voter registration	Proof of voter registration with full name and address.
Motor vehicle insurance receipts or ID card	Receipts of payment for motor vehicle insurance and/or an original insurance identification card as provided by carrier.
NOTE: These documents are time-sensitive and therefore, subject to review and acceptance at agency/investigator's discretion.	

2. Failure to establish and maintain residence pursuant to the City residency requirements (absent a residency waiver, as discussed above), which is a condition of employment, shall result in a forfeiture of employment. Prior to dismissal, an employee shall be given notice of and the opportunity to contest the charge that his/her residence is not in compliance with the requirements.

    a. Any agency notification to an employee regarding failure to comply with the City residency requirements must be in writing, but should not be considered a disciplinary charge. An agency should not bring disciplinary charges against an employee based on non-compliance with the City residency requirements.

    b. Within ten (10) days from the date of notification of failure to comply with the City residency requirements, the employee may respond to the allegation of non-compliance by providing a written response and relevant documents in support of a claim of an appropriate residence or may be provided the opportunity to present his/her case in person to the agency.

C. Compliance with the City Residency Requirements

1. Agency Responsibilities:

    a. Notify candidates of the City residency requirements before appointment.

    b. Instruct all new and reappointed employees to review the Employee Residence Information Sheet (attached) and ensure that these

employees report their addresses and residence status when completing the Comprehensive Personnel Document (CPD).

c. Require that current employees maintain accurate residence information in Employee Self Service (ESS) by logging in and updating their addresses under Personal Information upon any changes of residence.

d. Verify residence of employees by obtaining acceptable documentation, such as that described under Section VI (B) (1), from new employees, reappointed employees and current employees who change residence.

i. To determine residence changes of current employees, agencies should run the NYCAPS Personal Data Changes – Address Report (NYCHR21D) monthly, to track address changes made by their employees in ESS.

ii. Notify each employee whose address has changed of their requirement to submit acceptable documentation of the new residence to the employing agency.

e. Investigate and verify responses to allegations against employees of failure to comply with the City residency requirements. The agency should designate a personnel or legal unit for such investigation and a different personnel or legal unit to review evidence supporting a determination.

2. Employee Responsibilities:

a. All new hires and applicants with breaks in service, as defined above, must report their addresses and residence status when completing the CPD. Such employees should review the Employee Residence Information Sheet before completing the CPD. Completion of this document is mandatory and refusal to complete the CPD or to sign the affirmation form shall prevent appointment or cause termination of services. Where available, employees should complete the CPD electronically using eHire.

b. Current employees and former permanent employees returning to permanent City service with breaks in service of less than one year must report their residence information upon changing residences, changing titles or upon being appointed to new positions with the City. An employee must enter in ESS any changes to residence as soon as possible. Upon updating his/her address in ESS, the employee must furnish acceptable documentation to his/her agency.

c. New hires, reappointed and/or current employees must submit proof of their residences to the employing agency. Refer to Section VI (B)(1) of this bulletin or the Employee Residence Information Sheet, or speak to the agency representative for additional information on acceptable documentation.

VII. EXECUTIVE ORDER NO. 131

As authorized by Section 12-120(b) of the Administrative Code, Executive Order No. 131 established residency requirements for individuals holding certain titles in the Executive Office of the Mayor or as senior staff in mayoral agencies as defined in section 385 of the City Charter. Under the Executive Order, any person serving in a covered position must establish city residence within 90 days of assuming such position and maintain city residence for the duration of his/her employment.

A. Policy

1. Section 1 of the Executive Order requires that persons serving in or appointed to any of the following civil service or office titles establish and maintain city residence for the duration of their employment:

    a. Executive Office of the Mayor
        i. First Deputy Mayor
        ii. Deputy Mayor
        iii. Communications Director
        iv. Counsel to the Mayor
        v. Senior Advisor to the Mayor
        vi. Press Secretary to the Mayor
        vii. Heads of Mayoral Offices

    b. Mayoral Agencies
        i. Commissioner
        ii. Director and Executive Director
        iii. First Deputy, Executive Deputy, Assistant Deputy and Deputy Commissioner
        iv. General Counsel
        v. Borough, Associate and Assistant Commissioner

2. Section 2 of the Executive Order provides that the First Deputy Mayor and the Commissioner of DCAS, in consultation with the Commissioner of each mayoral agency, will compile a list of titles subject to the residency requirement of the Executive Order. The list of senior staff titles subject to the Executive Order is available on the DCAS website. The list is to be updated at least every two years and kept current to the maximum extent possible.

3. The City residency requirements of the Executive Order do not apply to the following categories of employees in City Service:

    a. Employees who received individual residency waivers; even if they hold, or subsequently assume, a title that is subject to section 1 of the Executive Order.

b. Employees who entered City service prior to September 1, 1986 and serve permanently in a competitive class title provided they continue to serve in such permanently-held competitive class title.

c. Persons serving in titles that are represented by a public employee union. (These employees may be subject to the residency requirement of section 12-120 of the Administrative Code.)

d. Any City employee who is not subject to the provisions of sections 3,4 or 5 of the Executive Order, who is subject to section 1 of the Executive Order, and who was lawfully residing outside of the City on the effective date of the Executive Order (February 24, 2010).

e. Employees serving in titles that have been deemed hard-to-recruit pursuant to section 12-121 of the Administrative Code.

4. Pursuant to Section 8 of the Executive Order, an agency head may apply to the Commissioner of DCAS for an exemption from the residency requirement for an employee of the agency or a person the agency head is considering for appointment to a title subject to the residency requirements of the Executive Order. Such exemption may <u>not</u> waive the two-year residency requirement or the requirement that employees who satisfy the two-year City service requirement must live in either the City or any of the six designated NYS counties of section 12-120 of the Administrative Code.

   a. A request for an exemption must articulate the substantial personal hardship on the part of the employee/prospective employee if an exemption is not granted <u>and</u> explain how the qualifications of this particular person would substantially further the agency's mission.

   b. An employee who is granted an exemption shall not be subject to the residency requirement of the Executive Order so long as he/she continues to serve in the same title as an employee of the same agency or mayoral office.

   c. If an exemption request is denied by the Commissioner of DCAS, the agency will be informed that the employee must be terminated from his/her position if he/she changes residence to a location outside of the city or fails to establish city residence. If the person is not currently a City employee, then such person cannot be appointed.

B. Compliance

1. Agencies should review and update their senior staff titles subject to the Executive Order as requested every two years or as appropriate following changes to titles and/or agency restructuring.

2. When an exemption request is denied by the Commissioner of DCAS, it is the responsibility of the agency to terminate such employee. Such employee may not be considered for any other position subject to the residency requirements

of the Executive Order unless that person requests and is granted an exemption prior to appointment or that person becomes a city resident.

Attachment: Employee Residence Information Sheet

Hard-to-Recruit List

Dawn Pinnock
Commissioner

Inquiries: Contact Citywide Personnel Policy at cpp@dcas.nyc.gov