PERSONNEL SERVICES BULLETINS (PSBs)

**200-6**

**Subject:** Probationary Period

**Supersedes:** Personnel Services Bulletin No. 200-6R issued April 17, 2000

**Source:** Personnel Rules and Regulations of the City of New York 5.2, 6.1.6, 6.2.2 and 6.6.3; General Examination Regulation E.20; New York Civil Service Law Sections 63 and 81.4; New York Military Law Section 243.9; and Citywide Agreement

**Date:** December 3, 2021

---

## I. Background

For employees appointed from competitive Civil Service lists, the probationary period is the final phase of the selection process. Candidates must be notified in writing of the applicable probationary period before commencing employment. During this time, the agency should carefully evaluate the probationer's performance on factors not measured by the examination as well as the probationer's ability to apply previously tested knowledge.

Labor class, non-competitive class, and exempt class employees also serve probationary periods.

The probationary period should be used to evaluate whether the probationer can and does perform the job satisfactorily. It should not be taken for granted but should be used as a tool to identify those who do not perform competently. After the satisfactory completion of the probationary period, employees may gain certain statutory or contractual rights, which make it much more difficult to terminate an employee's services. Every agency has a responsibility to use the probationary period to ensure that the quality of New York City's work force remains high.

Employees appointed on a provisional or temporary basis do not serve probationary periods. Under a provision of section 65(5) of the Civil Service Law, which is scheduled to terminate on December 31, 2023, provisional employees covered by the Citywide Agreement gain disciplinary rights after two years of service if there is no civil service list for the title but are not considered to be permanent employees.

## II. Policy and Procedure

All employees should be informed in writing of the applicable probationary period prior to the start of the probationary period. Agencies should also notify employees in writing during orientation or at the time of appointment from a list of the requirement that the probationary period will be extended by the number of days the probationer is absent or does not perform the duties of the position.

For NYCAPS agencies, internal extension of the probationary period must be entered in the NYCAPS Probationary Information module by the agency. Non-NYCAPS agencies should track the internal extension of the probationary period.

## A. Length of the Probationary Period

### 1. Appointments from Open Competitive Lists

Unless otherwise provided in the Terms and Conditions of the certification for appointment, pursuant to the Personnel Rules and Regulations of the City of New York ("PRR"), all employees appointed from open competitive lists must serve a one-year probationary period (PRR Rule 5.2.1). The probationary period begins on the date the employee reports for work in the title after appointment from the list. Exceptions to this one-year probationary term are generally set forth in the Notice of Examination ("NOE") announcing the exam that the employee took. The appointee shall be informed of the applicable probationary period. The probationary period on appointment from an open competitive list cannot be waived. However, credit for prior provisional service may be granted in accordance with PSB No. 200-11.

### 2. Appointments from Promotion Lists

a. Unless otherwise provided in the Terms and Conditions of the certification for appointment, the probationary period for employees appointed from promotion lists is one year (PRR Rule 5.2.1(a)). The probationary period begins on the date the employee reports for work in the title after appointment from the list. Exceptions to this one-year probationary term are generally noted in the Notice of Examination ("NOE"). The appointee shall be informed of the applicable probationary period. However, the promotion probationary period may be waived by the agency at the time of promotion, or the balance may be waived at any time during the probationary period (PRR Rule 5.2.4).

b. Upon promotion, a probationary period is not required if the following conditions exist (PRR Rule 5.2.2(a)):

(i) promotee served on a provisional or temporary basis in the same promotion title for a continuous period equal to or greater than the probationary period for the title; and

(ii) such service was immediately prior to permanent promotion to that title; and

(iii) promotion is to the same title and job assignment or, as determined by the Department of Citywide Administrative Services ("DCAS") Deputy Commissioner for Human Capital, to a similar title and job assignment, in the same agency.

c. Partial credit for prior provisional service will be granted in accordance with PSB No. 200-11.

### 3. Appointments from Qualified Incumbent Exam (QIE) Lists

Unless otherwise provided in the Terms and Conditions of the certification for appointment, pursuant to the Personnel Rules and Regulations of the City of New York ("PRR"), all employees appointed from lists must serve a one-year probationary period (PRR Rule 5.2.1). Exceptions to this one-year probationary term are generally noted in the NOE. The appointee shall be informed of the applicable probationary period. The probationary period on appointment from a QIE list cannot be waived. However, credit for nine months of provisional service will be granted in accordance with state civil service law section 65(5)(c-2)(vi).

### 4. Non-Competitive Appointments

a. Unless otherwise set forth in the terms and conditions for appointment, the probationary period for non-competitive appointments is six months. The appointee shall be informed of the applicable probationary period. The applicable probationary period cannot be waived. Completion of the probationary period does not grant the non-competitive employee permanent tenure.
b. Some non-competitive positions are covered by collective bargaining agreements which provide disciplinary rights after completion of the probationary period.
c. Non-competitive employees not serving in policy making and/or confidential capacities gain Civil Service Law ("CSL") § 75 disciplinary rights after a period of five years of continuous service in the non-competitive class (CSL § 75(1)(c)). Non-competitive titles covered by § 75 are classified as Part II titles in the noncompetitive class of the City's Classification. Non-competitive class titles that have been classified as policy-making and/or confidential are classified as Part I titles in the non-competitive class and are excluded from CSL § 75 protection.
d. Employees appointed non-competitively to serve in a position classified as a competitive class title pursuant to Section 55-a of the NYS Civil Service Law will serve a probationary period of the same length as the probationary period for the competitive title of the position.

### 5. Labor Class Appointments

The probationary period for employees appointed to the labor class is one year (PRR Rule 5.2.1(a)). The appointee shall be informed of the applicable probationary period. This probationary period cannot be waived. Labor class appointees gain CSL § 75 disciplinary rights after a period of five years of continuous service in the labor class (CSL § 75(1)(c)).

### 6. Exempt Class Appointments

a. The probationary period for exempt class appointments is six months. The appointee shall be informed of the applicable probationary period. This probationary period cannot be waived. Completion of the probationary period does not grant the exempt employee permanent tenure (PRR Rule 5.2.1(b)).
b. Exempt class employees are not covered by CSL § 75.

## B. Waiver of the Probationary Period

### 1. Open Competitive Lists

The probationary period cannot be waived.

### 2. Promotion Lists

a. Prior to the Start of the Probationary Period:

Agencies may **waive** the probationary period of employees appointed from promotion lists by so noting on the disposition of the certification. In addition, NYCAPS agencies who choose to waive probation must also waive the probationary period in NYCAPS when payrolling the appointment.

b. During the Probationary Period:

Agencies wishing to waive the balance of the probationary period of an employee appointed from a promotion list:

- NYCAPS agencies may waive the balance of the probationary period in the NYCAPS Probationary Information module.
- Non-NYCAPS agencies must send an email to the DCAS Civil Service Transactions Unit at askcst@dcas.nyc.gov.

### 3. Qualified Incumbent Exam (QIE) Lists

The probationary period cannot be waived.

### 4. Reinstatements

When agencies submit Form DP-71, they should check the appropriate box to waive or not waive the probationary period.

### 5. Transfers and Changes of Title (PRR Rule 6.1.9 and PSB 100-5R3)

To request a waiver of the probationary period for a change in title, the agency must submit a letter requesting such a waiver with Form DP-72. If the DCAS Deputy Commissioner for Human Capital approves this waiver, the agency must notify the employee in writing. Regardless of whether a waiver is granted, the employee is considered to have resigned from the original title, by accepting the change in title (Form DP-72), and the appropriate agency must payroll the transfer and/or change of title. However, employees covered under PSB No. 200-10 who have not been granted a waiver will be granted a leave of absence for the duration of their probationary period in accordance with the procedures contained in that PSB.

## C. Extension of the Probationary Period

### 1. Extensions for Performance Reasons

a. At the written request of the agency specifying the reasons for the extension, and with the written consent of the probationer, the DCAS Deputy Commissioner for Human Capital may authorize the extension of the probationary period for one or more additional periods totaling no more than six months (PRR Rule 5.2.8(a)).
b. For extensions of probation pursuant to PRR Rule 5.2.8(a), at least one month prior to the completion of the original probationary period, the agency must notify the employee in writing that the employee's probationary period will be extended. Where the probationary period is extended pursuant to Rule 5.2.8(b), the extension is automatic and does not require notification to the employee.
c. The notice should include a specific fixed period of extension. The probationary period may be extended one or more times for a period totaling not more than six months plus the number of days the probationer has been absent and/or has not performed the duties of the position, during both the original probationary period and the extended probationary period.
d. The employee must give unconditional written consent for that portion of the extension pursuant to PRR Rule 5.2.8(a) based on evaluation of performance.

Following this notice and consent, but no less than two weeks before the extension begins, the agency must submit a request for the extension stating the reasons therefor to the DCAS Civil Service Transactions Unit ("CST") by sending a ticket to NYCAPS Central. A copy of the employee's consent must be attached. CST will review the request and notify the agency of the decision via e-mail.

### 2. Extension for Absence or Non-performance of duties during Probation

a. The probationary period shall be extended by the number of days the probationer is absent or does not perform the duties of the position during both the original probationary period and the extended probationary period, if any (PRR Rule 5.2.8(b)). Examples of periods that the employee does not perform the duties include, but are not limited to, limited duty status, annual leave, sick leave, leave without pay, or use of compensatory time earned in a different job title. Agencies should provide notification to employees that probation will be extended by the number of days the probationer is absent or does not perform the duties of the position during orientation or upon appointment from a list. No additional notice to extend probation for absence or non-performance of duties during probation is required.
b. In cases where the employee has been on leave of absence for all

or part of the probationary period to serve in another City position, and the agency does **not** want to count the leave as satisfactory probationary service, the agency must send a request to the DCAS Civil Service Transactions Unit. Such request may be submitted at the time the probationer is placed on a leave of absence to serve in the other position but must be sent no later than one month before the one-year anniversary of the appointment to the leave title to indicate that the service in the other title should not be credited toward the completion of the probationary period. A copy of this notice should be given to the affected employee.

## SUMMARY CHART BY APPOINTMENT TYPE

The following summary chart sets forth by appointment type the length of probation and whether probation can be waived or credited.

| APPOINTMENT TYPE | LENGTH OF PROBATION | CREDIT FOR PROVISIONAL SERVICE? | WAIVER OF PROBATIONARY PERIOD? |
|---|---|---|---|
| Permanent-Competitive | One year unless otherwise noted in the Notice of Examination (NOE) (PRR (5.2.1) | Up to nine months credit for provisional service (PSB 200-11) | No |
| Permanent Promotion | One year unless otherwise noted in the Notice of Examination (NOE) (PRR (5.2.1 (a)) | Yes, if provisional service is at least as long as probationary period.<br><br>Otherwise, up to nine months credit for provisional service (PSB 200-11) | Yes, agency may waive at any time (PRR 5.2.4) |
| QIE | One year unless otherwise noted in the Notice of Examination (NOE) (PRR (5.2.1) | Up to nine months credit for provisional service | No |
| Non-Competitive | Six months, unless otherwise set forth in terms and conditions for appointment | N/A | No |
| Labor Class | One year (PRR 5.2.1(a)) | N/A | No |
| Exempt Class | Six months | N/A | No |

## D. Military Service

1. After appointment, time spent on military duty is credited toward satisfactory completion of the probationary period.
2. If an employee's probationary period is interrupted by an educational leave to attend a service school of the organized militia of the state or of the armed forces of the United States, the time on military educational leave shall **not** count as satisfactory probationary service. Therefore, the probationary period must be completed upon return to City service (PRR Rule 6.6.3).

## E. Effects of Changes in Status on Probationary Period

### 1. Maturation of Competitive Trainees

The Notice of Examination defines the probationary period for service in trainee positions and upon maturation to the permanent title.

### 2. Transfers or Changes of Title

a. Voluntary transfer - Same Title, Different Agency

(i) If the probationary period was completed in the original agency, the employee does not serve a probationary period in the new agency.

(ii) If the probationary period was not completed in the original agency, the employee must serve the entire probationary period in the new agency.

b. Voluntary Transfer - Different Title (PRR Rule 6.1.9), Same or Different Agency

Although the employee must have completed the probationary period in the former title to be eligible for a change of title under PRR Rule 6.1.9, the employee must serve the full probationary period in the new title unless the employee is covered by PSB No. 200-11. (See PSB No. 200-11 for credit for prior provisional service.) This new probationary period may be waived upon written request of the agency and approval by the Deputy Commissioner for Human Capital.

If the employee is "covered" as defined in PSB No. 200-10, and the probationary period in the new title is not waived, the employee will be given a Conditional Resignation and a Leave of Absence for the duration of the employee's probationary period. If the employee is not "covered" as defined in PSB No. 200-10 or if the probationary period in the new title is waived, the employee is considered to have resigned from the former title held before a 6.1.9 change of title is effectuated, and there is no guarantee that he/she can return to the former title. Even if the employee does return to the former title, there is no guarantee that the employee will return to his/her previous job assignment.

| | Probationary period waived upon 6.1.9 title change | Probationary period not waived upon 6.1.9 title change |
|---|---|---|
| **Employee covered under PSB No. 200-10** | Employee resigns from former title | Employee granted LOA pursuant to PSB No. 200-10 |
| **Employee not covered under PSB No. 200-10** | Employee resigns from former title | Employee resigns from former title |

c. Involuntary Transfer - Functional Transfer or Transfer to Avoid Layoff

No new probationary period is required. However, a probationary employee is credited only for the period of time already served on probation and must complete the balance.

**3. Employees Receiving Demotions/Reassignments**

An employee who is demoted or reassigned to a formerly held title in which he/she has completed the probationary period does not serve a new probationary period in that title.

**4. Reinstated Employees**

a. Preferred List/Recall List

(i) Probationary Period Completed

Employees who completed their probationary period for a title and are reinstated/appointed from a preferred/recall list, do not serve a new probationary period.

(ii) Probationary Period Not Completed

Employees who did not complete their probationary periods and who are reinstated/reappointed from preferred/recall lists, must complete the remaining portion of their probationary periods.

b. Resignees and Retirees Who Have Completed their Probationary Periods in Positions in the Competitive or Labor Class

The decision whether resignees or retirees who are reinstated should serve an additional probationary period is made by the hiring agency. If the hiring agency wants a probationary period upon reinstatement, the agency must request that the DCAS Deputy Commissioner for Human Capital authorize the probationary period.

**5. Probationers Restored to Eligible Lists After Voluntary Separation (PRR Rule 5.2.6)**

a. Rehired by Same Agency

Probationers who voluntarily separate from City service, and are restored to the eligible list, and are selected from that list by the same agency for which they were previously employed, shall have the probationary time already served deducted from the length of their probationary periods.

b. Selected by Different Agency

If selected from that list by a different agency, such probationers will be required to serve a full probationary term, unless the agency wishes to credit the previous service.

### 6. Probationary Employees Restored to Eligible Lists after Involuntary Separation

At the discretion of the DCAS Deputy Commissioner for Human Capital, the names of probationers whose services were terminated may be restored to their eligible lists if such lists are still in existence (PRR Rule 5.2.9). If such a probationer is hired by the same or different agency, the probationer must serve a new probationary period.

## F. Probationary Period for Employees Appointed from Open Competitive Lists on Leaves of Absence to Serve in Another Title

When a probationer who has not completed the probationary term is granted a leave of absence to serve in another position in City service, the period of service in such other position(s) may, in the agency's discretion, be counted as satisfactory service toward completion of the probationary term. DCAS will consider all such service while on leave of absence as satisfactory probationary service in the leave of absence position unless the agency sends written notice to the DCAS Civil Service Transactions Unit. Such notice must be sent before the one-year anniversary of the probationary appointment (i.e., the date of reporting to work in the probationary title after appointment from the list) to indicate that the agency does not want the service in the other title to be credited toward the completion of the probationary period. A copy of this notice should be given to the affected employee.

## G. Termination

1. Employees may be terminated by the agency at any time during their probationary periods. The agency should not give such employees a reason for dismissal other than unsatisfactory probationary period.
2. If termination is desired prior to the minimum probationary period (two months for every appointment from an open competitive list or to a position in the labor class, four months for every promotion to a position in the competitive class), it must be shown to the satisfaction of DCAS that the services of the probationer are unsatisfactory and the DCAS Deputy Commissioner for Human Capital must approve such termination. There is no minimum probationary period for non-competitive and exempt class employees.
3. Notwithstanding the provisions above, when a probationer is required to complete a prescribed formal course of study or training which was

approved by the DCAS Deputy Commissioner for Human Capital, the agency may terminate such probationer if he/she fails to complete such course of study or training successfully (PRR Rule 5.2.7(b)).

4. Employees in trainee or aide positions may be terminated at the end of the trainee service or at any time within such period if the trainee's conduct, capacity, or fitness is not satisfactory, or if the trainee fails to continue such formal course as may be required. This information must be set forth in the Notice of Examination for the trainee title (PRR Rule 5.8.1(d)).

**Termination Procedure**

At the end or at any time after the minimum probationary period (two-month minimum for appointments from open competitive lists and labor class appointments; four-month minimum for appointments from promotion lists), the agency may terminate the employment of any unsatisfactory probationer by giving written notice of the termination to the employee and the DCAS Deputy Commissioner for Human Capital. No reason for the termination other than unsatisfactory probation should be provided.

1. **Termination of Open Competitive and Labor Class Appointments Prior to the End of the Probationary Period**

   Agencies wishing to terminate the services of such probationers prior to the two- month minimum must send a request to the DCAS Civil Service Transactions Unit requesting permission to terminate and specifying the reasons for the request. The Deputy Commissioner for Human Capital will review the request and then CST will notify the agency of the determination. If approved, the action should be payrolled.

   Employees granted prior credit for provisional service pursuant to PSB No. 200-11 will have that time counted toward the two-month minimum.

2. **Termination of Employees Appointed from Promotion Lists**

   Agencies wishing to terminate the services of such probationers prior to the four-month minimum must send a request to the DCAS Civil Service Transactions Unit requesting the termination and specifying the reasons for the request. The DCAS Deputy Commissioner for Human Capital will review the request and then CST will notify the agency of the determination. When a promotee fails to successfully complete the probationary period, the promotee must be restored to a position in the promotee's former title. These actions should be payrolled.

   Employees granted prior credit for provisional service pursuant to PSB No. 200-11 will have that time counted toward the four-month minimum.

## H. Retention of Probationary Employees Pending Appeal of Disqualification

Probationers who are disqualified for appointment to their title by the DCAS Deputy Commissioner for Human Capital and who file an appeal of their disqualification to the City Civil Service Commission may continue employment in that title until the appeal has been concluded if such continued service is requested by the agency and approved by the DCAS

Deputy Commissioner for Human Capital. The period of employment between the notice of disqualification and the resolution of the appeal is not credited toward the completion of the probationary period (PRR Rule 5.2.10).

## I. Performance Evaluation

1. It is advisable for the agency to evaluate each probationary employee once every three months. These interim evaluations should be discussed with the probationer. Each evaluation prior to the final evaluation should contain a statement recommending the retention or termination of the probationer or the extension of the probationary term. The final probationary evaluation report should include only a recommendation to retain or terminate the probationer.

   NYCAPS agencies with the ePerformance module must enter the performance evaluations in the module. Agencies without ePerformance must track their performance evaluations outside of NYCAPS.

2. Probationary employees do not have the right to appeal their performance evaluations.

## III. Disclaimer

Nothing contained herein is intended to confer additional rights to employees or to modify provisions of the law, the Personnel Rules and Regulations, or any collective bargaining agreement.

Dawn M. Pinnock
Acting Commissioner

---

**Inquiries:** Civil Service Transactions (212) 386-0560; askcst@dcas.nyc.gov