

PERSONNEL SERVICES BULLETINS (PSBs)

NOTE: Personnel Services Bulletin 100-8 has been superseded by Local Law 48 of 2009, which changed the residence requirements for most City employees. In addition, Mayoral Executive Order 131 of 2010 set forth residency requirements for the Executive Office of the Mayor and senior staff at mayoral agencies. For updated information on residence requirements, please consult the documents linked below. A new Personnel Services Bulletin on residence requirements will be posted on www.nyc.gov/dcas when it is issued.

- [Text of Administrative Code Sections 12-119, 12-120 and 12-121 on residence requirements \(as amended by Local Law 48 of 2009\)](#)
- [Text of Executive Order 131 of 2010](#)
- [List of senior staff titles covered by the Executive Order](#)

100-8

Subject: Residence Requirements

Source: Local Law Int. No. 625, dated June 26, 1986, which amends Sections 12-119, 12-120 and 12-121 of the Administrative Code; New York Public Officers Law, Section 3; Mayoral Directive 78-13, as amended July 26, 1978.

Supersedes: Personnel Policy and Procedure No. 540-86

Date: June 30, 1997

Policy

I. City Residence Requirements

A. Pursuant to Section 12-119 et seq. of the Administrative Code, any person who enters City service on or after September 1, 1986, shall be (1) a resident of The City of New York on the date that he or she enters City service or shall establish City residence within ninety days after such date and (2) shall thereafter maintain City residence as a condition of employment.

B. Pursuant to Mayoral Directive 78-13, residence within The City of New York shall be required as a condition of employment for persons who entered City service prior to September 1, 1986 and who are currently serving in or being appointed to provisional, non-competitive, exempt, seasonal, labor class, temporary or part-time positions, regardless of prior civil service status.

C. Persons who entered City service prior to September 1, 1986 through permanent appointment to competitive class positions which are now covered by the Residence Law, and who are currently serving in those positions in covered agencies, are not subject to the residence requirement. Upon promotion or appointment without a break in service to a new competitive class position such persons are also not subject to the residence requirement. They are, however, subject to the residence requirements of Mayoral Directive 78-13 upon receiving a provisional appointment or an appointment to a non-competitive, exempt or labor class position.

D. Persons who entered City service prior to September 1, 1986 through provisional appointment or appointment to non-competitive, exempt or labor class positions, who are subsequently appointed permanently to competitive class positions without a break in service, and who are currently serving in those positions in covered agencies, are not subject to the residence requirement upon such permanent appointment.

E. This policy does not alter or affect any provision of the New York Public Officers Law concerning residence.

II. Exceptions to City Residence Requirements under the Residence Law *

A. The Commissioner of Citywide Administrative Services, on his or her own initiative or upon

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application of the head of an agency, may certify that there is difficulty in the recruitment of personnel for a title and that to restrict recruitment for positions in such titles to City residents and persons who would be willing to establish City residence would not be in the public interest. Such persons shall not be required to establish or maintain City residence as a condition of employment while in service in positions in that title. City residents serving in such titles may move out of the City.

B. City residence shall not be required as a condition of employment for persons appointed to the position of Chaplain or for employees whose regular worksite is outside the City.

C. City residence shall not be required as a condition of employment for persons appointed to positions in the following agencies: N.Y.C. Transit Authority, N.Y.C. Housing Authority, Board of Education, City University of New York, Health and Hospitals Corporation, the Department of Probation, the Triborough Bridge and Tunnel Authority and the District Attorneys' Offices.

D. City residence shall not be required as a condition of employment for persons appointed to positions excepted from the City residence requirements, pursuant to the Public Officers Law. Such positions are:

1. Uniformed Forces of the Fire Department
2. Uniformed Forces of the Department of Correction
3. Officers and Inspectors of the Department of Health
4. Uniformed Forces of the Police Department
5. Uniformed Forces of the Department of Sanitation

E. A person on an eligible list who has declined appointment to an agency or position required to meet the residence requirements may request restoration to such eligible list for possible appointment to an agency excepted from residence requirements, subject to a limit of three (3) restorations to the list.

* These exceptions apply only under the Residence Law. Other provisions of law which may be applicable may require some form of residence. Examples are the Public Officers Law, Section 3 and the Executive Law, Section 255. In addition, agencies which are not covered by the Residence Law may have their own residence requirements.

III. Exceptions to City Residence Requirements under the Mayoral Directive on Residence

A. Persons in positions specifically excepted by the Public Officers Law.

B. Persons whose regular worksite is outside the City of New York or who are appointed to the position of Chaplain.

C. Provisional employees who were appointed prior to January 13, 1978 and who have not changed titles since that date.

D. Persons employed in non-Mayoral agencies.

E. Persons employed in titles that have been certified by the Commissioner of Citywide Administrative Services as hard-to-recruit.

IV. Definitions

As used herein:

A. The word "residence" means domicile. The following are indicators of City residence. All relevant circumstances in each case will be considered before determination of residence is made.

- employee, spouse and minor children reside at City address;
- employee and spouse are registered to vote at City address;
- any motor vehicle registered to employee or spouse is registered at City address;
- employee and spouse file tax returns from City address;
- children who attend public school attend the public schools of the City of New York.

NOTE: Verification of the above indicators include: rent receipts on letterhead stationery, mortgage payments notice, motor vehicle registration and license, motor vehicle insurance receipts, bank statement, credit card statement, utility bill (including telephone bill), withholding tax statement, registration to vote and the payment of City income tax.

B. 1. Under the Residence Law, the term "City service" means service as an employee of the City or of any agency thereof other than service in a position of an agency which is excepted from municipal residence requirements pursuant to the Public Officers Law or any other state law and those listed in Item II.C.

Employees who move from positions in the excepted agencies enumerated in Item II.C or from any other position excepted by the Public Officers Law or other state law to positions in agencies that are not excepted from such coverage shall be treated as new employees for purposes of City residence requirements.

2. Under the Mayoral Directive, the term "City service" means service as an employee of the City or of an agency thereof.

V. Time Limitations

A. Under the Residence Law, each person entering City service on or after September 1, 1986, who is a non-City resident at the time of appointment to a position which is subject to the residence requirements must become a City resident within 90 calendar days of the date of appointment.

B. Competitive class employees who entered City service prior to September 1, 1986 who are appointed to positions for which City residence is required pursuant to the Mayoral Directive must become residents within one year of the date of appointment.

C. Non-competitive, provisional and exempt class employees who entered City service prior to September 1, 1986 who are appointed to positions for which City residence is required pursuant to the Mayoral Directive must become residents within 90 calendar days of the date of appointment.

VI. Penalty Under the Residence Law

Failure to establish or maintain City residence as required by Section 12-119 et seq. of the Administrative Code shall result in a forfeiture of employment. However, prior to dismissal for failure to establish or maintain City residence, an employee shall be given notice of and the opportunity to contest the charge that his or her residence is outside the City. The notice should be in writing, but should not resemble a disciplinary charge. An employee may respond to the allegation of non-residence by providing a written response and relevant documents in support of a claim of residence. The Agency Advocate or disciplinary unit is responsible for investigating and verifying evidence of residence, but a different unit, e.g., the personnel or legal unit, should review both the advocate's and the employee's evidence to determine whether City residence has been established. If the employee fails to show City residence, then, by operation of law, that employee forfeits City employment. Under no circumstances should an employee be subject to disciplinary charges when the sole allegation is one of non-residence.

Procedures for Complying with the Residence Law and the Mayoral Directive on Residence

I. It is the responsibility of the employing agency to notify eligibles and applicants, in advance of appointment, of the residence requirements set forth above, to verify claims of residence by obtaining the type of verification described in the **Note** under Section IV.A. above of this policy, to comply with the following procedures to ensure that all residence information on current employees is accurate, and to verify claims of City residence by their employees.

II. Employees are required to report their residence status in the Travelling Personnel Folder by answering the appropriate questions and signing the affirmation in either the Comprehensive Personnel Document or the Update Personnel Document.

A. All new hires or applicants with breaks in service of one year or more must report their residence status by completing the Comprehensive Personnel Document. Agency personnel

officers must inform all new hires that Section I. B (pages 3-7) of the Applicant Guidelines of the Comprehensive Personnel Document must be read prior to completion of the Comprehensive Personnel Document. This will ensure that they are aware of the City's residence requirements and any ramifications of failure to comply with them.

B. All current City employees or former City employees with breaks in service of less than one year must report their residence status by completing the Update Personnel Document. Agency personnel officers must inform these individuals that Section I. A (pages 1-5) of the Applicant Guidelines of the Update Personnel Document must be read prior to completion of the Update Personnel Document. This will ensure that they are aware of the City's residence requirements and any ramifications of failure to comply with them.

C. Completion of the appropriate document by each employee, at the time of appointment or upon establishing residence, is mandatory. Refusal to complete such document shall prevent appointment or cause termination of services.

D. When the Personnel Officer questions the sufficiency or the authenticity of the evidence presented, it is the responsibility of the Agency Advocate or disciplinary unit to verify such evidence presented by all persons appointed to positions requiring City residence. Such verification must occur within thirty (30) days after the completion of the person's grace period. When such verification shows that an employee appointed to City service prior to September 1, 1986 has failed to comply with the provisions of the Mayoral Directive on Residence, guidance concerning how to proceed should be obtained from the Office of the General Counsel of the Department of Citywide Administrative Services.

III. A. Permanent employees who entered City service prior to September 1, 1986 and who subsequently separate from City service shall not be subject to a residence requirement if they return to service in the same permanent civil service title within one year from the date of separation.

B. Provisional employees who entered City service prior to September 1, 1986 and who subsequently separate from City service shall not be subject to the Residence Law if they return to service in the same title within 30 calendar days from the date of separation.

IV. Requests for Exemptions under the Residence Law and the Mayoral Directive on Residence

A. Each agency shall designate an Agency Residence Coordinator and forward his or her name and telephone number to the Commissioner of Citywide Administrative Services.

B. Agencies may request the Commissioner of Citywide Administrative Services to grant exemptions from the residence requirements to individual employees. Agencies are not authorized to grant or deny exemption requests. All requests for exemption must be sent to the Commissioner of Citywide Administrative Services.

C. If an exemption is granted, it is the responsibility of the agency to verify, on a yearly basis, that the condition for which the exemption was granted still exists. Current exemptions which are still valid will continue in effect, provided such annual verification is submitted. If such condition should no longer exist, the employee will be required to become a resident within the applicable period of time. The Department of Citywide Administrative Services may audit all such agency follow-up activities. Each exemption granted under Category 2(d) (e) (f) and (g) and Category 3 under Section IV E of this policy bulletin, must be renewed by the employee annually and submitted to the Commissioner of Citywide Administrative Services for review.

D. If an exemption request is denied by the Commissioner of Citywide Administrative Services, the agency will be informed as to the date that employee must be terminated from his/her position, or if not yet appointed, that such person cannot be appointed. If the exemption request was made prior to an anticipated move outside New York City, the employee is subject to immediate termination from his/her position if residence is changed.

E. It is the responsibility of the agency to terminate an employee who has not complied with the requirements of the Residence Law or the Mayoral Directive or who has remained a non-resident when an exemption request has been denied by the Commissioner of Citywide Administrative Services, or who has remained a non-resident when an exemption condition no longer exists.

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F. If the exemption request is denied, and the employee remains a non-City resident, and the employee is terminated from his/her position, then he/she may not be considered for any other position which is subject to the residence requirements unless;

1. that person requests and is granted an exemption prior to appointment, or
2. that person has become a City resident.

V. Processing of Exemption Requests under the Residence Law and the Mayoral Directive on Residence

A. All exemption requests must be made to the Commissioner of Citywide Administrative Services at least one month prior to the planned date of promotion or appointment.

B. Persons for whom exemption has been requested may not be appointed unless exemption has been granted. Exemption requests on behalf of such persons will not be considered after appointment.

C. Agencies may appoint, promote or reassign non-residents to titles which have been certified as hard-to-recruit by the Commissioner of Citywide Administrative Services without submitting specific exemption requests. The Commissioner of Citywide Administrative Services shall periodically forward to Personnel Officers listings of titles so certified which have been excepted from the residence requirements.

D. Exemptions will be granted in the following categories only:

1. Under the Residence Law

For persons entering City service on or after September 1, 1986 (persons who do not have continuous "City Service" prior to September 1, 1986):

a. The person will be appointed to a title or position for which recruitment is very difficult. The Agency Head must submit evidence that the recruitment effort failed to produce any equally or better qualified candidates who are City residents.

Persons required by the Residence Law to remain in City residence may not move out of the City.

2. Under the Mayoral Directive on Residence

For employees who entered City service prior to September 1, 1986, who are appointed or promoted to provisional, non-competitive, exempt, seasonal, labor class, temporary or part-time positions:

a. The person is indispensable/key to the operations of an agency. The Agency Head must submit a detailed description of the justification for the determination of indispensability. It must include evidence that the person has knowledge and abilities that are not likely to be possessed by any other candidate who is a City resident for the position.

b. The person will be appointed or promoted to a title or position for which recruitment is very difficult. The Agency Head must submit evidence that the recruitment effort failed to produce any equally or better qualified candidates who are City residents.

c. In competitive promotional titles filled provisionally, the Agency Head must demonstrate that among the eligible current employees there were no equally or better qualified candidates who are City residents.

d. the person, his/her spouse, or his/her child, has a physical condition which requires continued residence in a particular dwelling with special features; or the person's spouse, child or other immediate family member residing in the person's household requires continued care by medical personnel having offices near the location where the person resides outside of the City; or the child involved must attend a special school located outside of the City and the school is not sufficiently close to allow the employee to become a City resident.

e. The person maintains his/her residence in a particular neighborhood because of its proximity to the residence of members of his/her immediate family, who, because of advanced age or physical disability, require daily care and services from the person or his/her spouse and such

care and services could not be provided if the person were required to reside in the City.

f. The person's spouse is employed and contributes at least 25 percent of the family's income; the spouse's employment is located near the location where the person resides outside of the City; the spouse's employment existed before the person was offered the position in City service; the spouse cannot readily transfer to employment in the City; and child care or other circumstances would make commutation by the spouse not feasible.

g. The person has a special personal problem, such as being involved in a divorce action or a custody proceeding, and moving from the jurisdiction in which the person resides would have an adverse effect upon such personal situation.

3. Employees who entered City service prior to September 1, 1986, who are in positions covered by the Mayoral Directive and who are City residents, may request exemptions in order to move out of the City prior to such move under certain limited and special changed circumstances. Such requests will be subject to the strictest scrutiny by the Commissioner of Citywide Administrative Services and will be granted only upon a showing of serious hardship. The following are examples of circumstances which might give rise to an exemption from the requirements of the Mayoral Directive:

a. The employee's or his/her spouse's parent(s), because of advancing age or physical disability, require daily care and services from the employee or his/her spouse and such care and services could not be provided if the employee were required to reside in the City, nor is it feasible to move the parent(s) into the City.

b. the employee's child must attend a special school outside the City and the employee must live close to the school's location. The employee must establish that no alternative appropriate school program was available within the City or sufficiently close to allow the employee to remain a City resident.

Change in residence without prior exemption will result in immediate termination.

Each request for a personal hardship exemption must be submitted by the Agency Head or designee who is responsible for ensuring that the request is complete. Exemptions based upon the hard-to-recruit or indispensability categories must be supported in writing by the Agency Head.

Each agency is responsible for ensuring that any request includes: (1) City and agency start date(s); (2) current address; (3) title requiring exemption (whether it is competitive, non-competitive, exempt or provisional) and official date of appointment to the title; (4) new hire or current employee; (5) current permanent civil service title, if any; (6) managerial assignment level, if appropriate; (7) details of the hardship and appropriate documentation, e.g., if there is a medical problem, medical documentation; (8) details of the recruitment efforts for the position and the results of the efforts, including the details of the applications received, and a comparative analysis of the qualifications of the applicants; and (9) recommendation by the Agency Head or designee.

In each case, the appointment or promotion may not take effect until the exemption is granted.

William J. Diamond
Commissioner

Inquiries: Office of Special Programs (212) 386-0552

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