

Government Of The U.S. Virgin Islands

Personnel Rules And Regulations

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PERSONNEL RULES AND REGULATIONS

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DEFINITIONS

The following words and terms when used in these Personnel Rules and Regulations, shall have the following meanings unless the context clearly indicates otherwise:

“Agency head” means the Commissioner or Director at the head of any executive agency or department of the Government of the Virgin Islands.

“Allocations” means the assignment of a class to a division of the classified service or the unclassified service.

“Appointing authority” means a person or group of persons having power of appointment to, or removal from office, positions or employment.

“Appointment” means the offer and acceptance of a position on either a permanent or temporary basis.

“Assignment” or “reassignment” means the government of an employee from one position to another in the same class in the same organization unit. An assignment is either permanent or temporary, as follows:

1. “Permanent,” if made for an indeterminate period; or
2. “Temporary,” if made for a period not exceeding twelve months.

“Break in service” means any interruption in continuous service other than absence on an approved leave.

“Career service” means those positions in the Executive Branch not specifically exempt by law. The term classified service has the same meaning within the context of these rules.

“Casual Labor” means person employed on an irregular or occasional basis, who are compensated only for the time when actually employed or for services actually rendered, and who are employed for less than one year on projects of a temporary nature.

“Classification plan” means a schedule of class titles, arranged according to series of classes and occupational groupings or any other appropriate order, and a class specification for each class, which defines and describes representative duties and responsibilities and set forth the minimum requirements and qualifications essential to the performance of the work of the class, and such other information as may be necessary.

“Class title” means a descriptive name that identifies a position or class of positions.

“Commission” means the Government Employee Service Commission, within the Office of the Governor.

“Competitive position” means those positions for which it is practicable to determine merit and fitness of applicants by competitive procedures.

“Continuous service” means employment without interruption except for an absence on an approved leave.

“Days” means calendar days unless otherwise specified.

“Demotion or reduction” means a lowering in rank or scale of compensation.

“Eligible list” means a list of persons who are eligible for appointment or reemployment, and includes open competitive employment lists, promotional employment list, regular and special reemployment lists.

“Emergency appointment” means an appointment for the duration of an emergency not to exceed sixty workdays in any 12-month period.

“Employee” means a person holding a position in the service of the Government of the Virgin Islands.

“Employment list” means a list of names of persons who have passed an examination for a position assigned to a specific class. Employment lists are:

1. “Open competitive”, if resulting from an open competitive examination;
2. “Promotion”, if resulting from a promotion examination.

“Examination” means the process of determining the relative merit and fitness of applicants for positions.

“Exempt service” means those positions exempted from the career service by law. A listing of the types of positions which are in the exempt service appears in Chapter 1, Section 1-10 of these rules. Unclassified service means the same as exempt service within the context of these rules.

“Fine” means a disciplinary measure which requires the payment of money as restitution or the performance of service without pay.

“Immediate family” means father, mother, spouse, child, foster child, sister or brother of the employee. It shall also include relatives of the employee residing in the employee’s household.

“Layoff” means the separation of a permanent employee from his position for reasons other than delinquency or misconduct on his part.

“Noncompetitive positions” means those positions for which is not practicable to secure a sufficient number of eligibles by competitive examinations because of the character of the work, the relatively low rate of pay or the place or conditions of employment and for which it is more practicable to determine merit and fitness of applicants by noncompetitive examinations.

“Occupational groupings” means all groupings of classes within the same broad occupational category.

“Open competitive examination” means an examination open to members of the public who meet and comply with prescribed requirements for admission, to determine their relative merit and fitness for employment.

“Part-time employee” means an employee whose regular hours of duty are less than the regular and normal workweek for that class or agency.

“Performance rating” (or “Service rating”) means an appraisal or evaluation of an employee’s work performance. Whenever the terms efficiency rating performance evaluation or merit rating are used, such terms shall be deemed to mean performance rating.

“Permanent employee” means an employee who has acquired Civil Service permanent status in his position after the satisfactory completion of a working test period.

“Permanent status” means the attainment of tenure and rights resulting from regular appointment and successful completion of the working test period.

“Personnel Office” means the Central personnel office for the Government of the Virgin Islands within the Office of the Governor.

“Probationary period” See definition of working test period in this Section.

“Promotion” means an advancement in rank or scale of compensation.

“Promotion examination” means an examination open to permanent employee of a particular class or classes to determine their relative merit and fitness for positions in a higher class.

“Provisional appointment” means the appointment to a permanent position pending the regular appointment of an eligible person from a special reemployment, regular reemployment or employment list.

“Public hearing” means an opportunity given, after public notice of at least five business days, for a citizen or party in interest to appear and be heard on the matter involved.

“Public notice” means publication by posting in a prominent place and accessible to

the public during business hours or by advertising in any newspaper of general circulation in the U.S. Virgin Islands.

“Reallocation” means the change of a reclassified position to the appropriate grade and salary range.

“Regular appointment” means the appointment of an eligible to occupy a permanent position subject to a working test period.

“Regular reemployment list” means a list of names of persons who had been permanent employees and who resigned and are entitled to be certified for reemployment.

“Removal” means separation from employment for cause.

“Salary range” means a division of the salary schedule to which classes of positions are assigned, each range consisting of a series of steps with a minimum and maximum rate.

“Series of classes” means all classes involving the same kind of work but varying as to level of difficulty and responsibility.

“Sexual harassment” means deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature, which are unwelcome.

“Sick leave” means the absence of an employee because of illness, exposure to contagious disease, attendance upon a member of his immediate family who is seriously ill and requires the care or attendance of such employee, or death in his immediate family.

“Special reemployment list” means a list of names of persons who had been permanent employees but were laid off for reasons of economy or otherwise and not because of any misconduct or delinquency on their part; or whose office of position has been abolished and who are entitled to be certified for reemployment. These lists shall take precedence over promotion lists for the same organization unit, regular employment lists and open competitive employment lists.

“Suspension” means temporary separation from employment for cause, with loss of pay, for a period which cannot exceed six months.

“Temporary appointment” means employment during a period of emergency or in a temporary position.

“Trainee appointment” means an appointment made on an open-competitive basis only after it has been determined that no qualified candidates will apply for a given class.

“Transfer” means the change of an employee from one position to another in the same class in another organization unit. Transfers are:

1. Permanent, if made for an indeterminate period; or
2. Temporary, if made for a period not exceeding six months.

“Unclassified service” means offices and positions not subject to the provision of the Rules and Regulations.

“Transitional appointment” means employment on specified projects or federally-funded programs for more than six months but less than two years duration.

“Veteran” means a person who, before the announced closing date for closing date for filing application for a test for a position in the classified service or before appointment to a position in the classified service when the appointment is non-competitive presents evidence that he was: a soldier, sailor, marine, airman, nurse or army field clerk who served in the active United States military or naval service and has been discharged or released therefrom under conditions other than dishonorable.

“Veteran” also means the widow of a veteran, as herein defined, until she remarries.

“Veteran with a record of disability incurred in line of duty” or “Disabled veteran” means:

A veteran who before the announced closing date for filing application for a test For a position in the government of the Virgin Islands presents evidence that, Under the United States Veterans’ Administration qualifications, he is receiving Or is entitled to receive compensation for service-connected disability of ten per Cent or more arising out of military service.

“Working test period” or “Probationary period” means a part of the testing process which consist of a trial working period after regular appointment, during which time the work performance and conduct of the appointee is evaluated to determine if he/she shall merit permanent status.

CHAPTER ONE

GENERAL PROVISIONS

1-1. AUTHORITY

These Personnel Rules and Regulations are made by the Director of Personnel, Title 3 of the Virgin Islands Code, Chapter 25, Section 45(a) (6) and Chapter 35 Personnel Office, Office of the Governor, U.S. Virgin Islands as authorized by generally. These rules replace and take priority over any other personnel rules made by the Director or any other agency of the Virgin Islands Government.

1-2. PURPOSE

The purpose of these rules is to provide a uniform, comprehensive, and effective system of personnel administration for the Government of the U.S. Virgin Islands consistent with federal and local laws.

1-3. COVERAGE

These rules apply to all positions and employees of the Executive Branch except for the following positions and agencies:

- (a) Position of Governor
- (b) Position of Lieutenant Governor
- (c) College of the Virgin Islands
- (d) Community Action Agency

- (e) Magens Bay Beach Authority
- (f) Virgin Islands Council on the Arts
- (g) Virgin Islands Housing Authority
- (h) Virgin Islands Port Authority
- (i) Virgin Islands Public Television System
- (j) Virgin Islands Urban Renewal Board
- (k) Virgin Islands Water and Power Authority
- (l) Consultants to the Virgin Islands Government

The acceptance of an appointment to any position covered by these rules signifies acceptance of these rules by the employee as part of the employment agreement.

All collective bargaining agreements negotiated between the Virgin Islands Government and its employees after the effective date of these rules must comply with the provisions of these rules.

Personnel actions taken prior to the effective date of these rules are governed by the rules that were in effect on the date that such action were taken

1-4 INTERPRETATION

The Personnel Director is solely responsible for providing official interpretations of these rules (1) in case of apparent conflicts or inconsistencies within the rules, (2) when questions arise regarding the application of the rules to specific situations, (3) or when agencies request an official interpretation of the rules.

1-5. ENFORCEMENT

The Personnel Director is responsible for enforcing these rules in a uniform and fair manner throughout the Executive Branch.

1-6. PERSONNEL POLICIES

The Personnel Director may issue written policy statements relating to the interpretation of these rules. Agency Heads are responsible for publicizing these policy statements and ensuring compliance within their agency.

1-7. AGENCY PERSONNEL FUNCTION

Agency Heads are responsible for effective personnel management in accord with these rules within their agencies. Specific responsibilities of Agency Heads are to:

- (a) Provide sufficient staff, facilities and other resources for agency personnel Administration
- (b) Provide sufficient training to agency employees regarding these rules and other personnel matters
- (c) Issue statements of agency personnel policy consistent with these rules
- (d) Discipline agency employees who violate these rules through incompetence
- (e) Maintain up-to-date personnel files and records
- (f) Submit personnel reports and other information as required by the Personnel Director

1-8. EQUAL EMPLOYMENT OPPORTUNITY

The policy of the Virgin Islands Government is to provide equal employment Opportunity to all employees and applicants. Employment discrimination of any type on the basis of race, color, sex, national origin, citizenship, age, handicap, political affiliation, and other such categories as defined by applicable federal or local law is prohibited. (Equal Pay Act of 1963, 29U.S.C., SS206(d); Civil Rights Act of 1964 as amended, 29U.S.C., SS621, et seg.; Rehabilitation Act of 1973 as amended, 29U.S.C., SS792 et seg.).

All agencies, including the Personnel Office, are required to evaluate their personnel practices and take prompt corrective action as needed to eliminate discrimination. This corrective action includes both restoring victims of discrimination to their rightful place and changing existing practices to prevent future discrimination.

1-9. DUAL EMPLOYMENT

No employee may hold two or more positions or work for two or more employers without the written approval of the Personnel Director and all appointing authorities involved in the manner. Dual employment is not permitted when

- (a) There are conflicting or overlapping work hours
- (b) There is a possible conflict of interest
- (c) The capacity of the employee to perform his/her job acceptably is impaired by the dual employment

1-10 CAREER AND EXEMPT POSITIONS (3VIC CH 25 SS 451(a))

The Government Service includes the career service and the positions exempted From the career service. Exempt positions include:

- (a) Agency heads, assistant agency heads and deputy agency heads and members of boards, commissions, and other bodies appointed by the Governor.
- (b) Patients and inmates employed in Government institutions
- (c) Casual Labor
- (d) Part-time employees who work less than 20 hours per week
- (e) Persons employed for less than one year in a professional, scientific, or other capacity on temporary projects, inquiries, investigations, or examination.
- (f) Persons employed outside of the Virgin Islands
- (g) Volunteer workers who receive no compensation from the Virgin Islands Government
- (h) Positions requiring a confidential relationship to a policy-making official as designated by the Governor and approved by the Legislature

All positions and employees in the Executive Branch are in the career service Unless they are specifically exempted in the above listing.

The term “career service” and “classified service” have the same meaning and may be used interchangeably within the context of these rules. Similarly, the term “exempt service” and “unclassified service” have the same meaning and may be used interchangeably within the context of these rules.

1-11. SAVING CLAUSE

If any part of these rules is held to be invalid for any reason by an authorized legal authority, the remaining parts of the rules are not affected by the invalidity and continue to be in force.

CHAPTER TWO

EQUAL EMPLOYMENT OPPORTUNITY

2-1. GENERAL POLICY – (Civil Rights Act of 1964)

- (a) Employment discrimination is prohibited on the basis of race, color, sex, National origin, religion, handicap, age, political affiliation or any other non-merit factor.

- (b) This policy applies both to employees and to applicants in the Administration of all personnel practices including recruitment, Entry-level and promotional selection, transfer, classification, compensation, training, discipline, performance evaluation, working conditions, retention, labor relations and other personnel policies and procedures.

- (c) All agencies are required to take affirmation action to identify and remedy Discriminatory employment practices.

- (d) When discriminatory personnel practices are identified, the Personnel Director must be notified immediately and appropriate corrective action includes not only revising the discriminatory personnel practices but also restoring the victims of discrimination to the place they would have attained on their own merits, if the discrimination had not occurred.

2-2 AFFIRMATIVE ACTION PROGRAM

- (a) Affirmative Action Plan. The affirmative action program for the Government of the Virgin Islands shall include a written affirmative action plan covering all government employees subject to these rules and regulations. The plan will include qualitative and quantitative goals and specific timetables for accomplishing these goals.
- (b) Affirmative Action Policy Statement. The Governor shall issue a signed Affirmative action policy statement supporting equal employment opportunity and prohibiting discrimination on the basis of non-merit factors. Each newly elected Governor shall be responsible for the issuance Of such a statement.
- (c) Affirmative Action Officer. The Personnel Director shall appoint an Affirmative Action Officer from within the Personnel Office who will be responsible for overall coordination of the affirmative action program for the government service.

2-3 DEFINITION OF DISCRIMINATION

The term “discrimination” means both individual acts and ongoing systems which deny equal employment opportunity as the result of:

- (a) Intentional Discrimination. Open expressions of hatred, disrespect, or Inequality knowingly directed against the members of particular groups, regardless of the relative qualities or qualifications of individuals.
- (b) Unequal treatment. Use of different standards, procedures, methods, or

Facilities for similarly situated members of various groups, regardless of conscious intent to discriminate;

- (c) Unequal effect. Use of identical standards, procedures, methods or Facilities which place some groups at a disadvantage, regardless of conscious intent to discriminate, unless the action taken can be justified as legitimate business or operational necessity;
- (d) Continuation of past effects. Use of any standard, procedures, method or perpetuates the disadvantages suffered by particular groups as the result of discrimination which happened in the past, regardless of conscious intent to discriminate;
- (e) Retaliation against persons who oppose discrimination. Coercion, intimidation, or any other adverse action which is directed against any person because he/she has opposed ~~opposed~~ discriminatory practices, made charges, or participated in an investigation or hearing regarding alleged discriminatory practices;
- (f) Other forms of discrimination as provided by applicable law.

2-4 SEXUAL HARRASSMENT ()

- (a) Any action in which supervisors or employees use their official status Within the Government to coerce, or attempt to coerce, an employee or applicant into a new or continuing sexual relationship is prohibited as an act of employment discrimination within the meaning of this chapter.

(b) Similarly, any action in which supervisors or employees use their official status within the Government to retaliate against employees or applicants because they refuse to enter into, or continue, a sexual relationship is also prohibited as an act of employment discrimination within the meaning of this chapter.

2-5 REASONABLE ACCOMMODATION ()

All agencies are required to make reasonable accommodation to the special needs of employees and applicants on the basis of race, sex, religion, handicap, and other protected classifications to ensure equal employment opportunity within the meaning of this chapter.

2-6 BONA FIDE OCCUPATIONAL QUALIFICATION

In rare situation, race, sex, age, handicap, and other such protected classification May be used as a minimum qualification for a particular job. These qualifications are interpreted narrowly and generally may not be used unless:

- (a) No persons outside the designated group can perform the work at an Acceptable level.
- (b) Authority or genuineness must be maintained.
- (c) The right to privacy must be given reasonable accommodation

No bona fide occupational qualifications may be used without the prior approval of the Personnel Director.

2-7 DISCRIMINATION COMPLAINTS

- (a) Employees and applicants may submit complaints of possible discrimination directly to the Personnel Director. The Director is required to investigate these complaints and notify the complainant of the results of the investigation within sixty (60) calendar days of the receipt of the complaint.
- (b) All discrimination complaints must be submitted to the Personnel Director within Sixty (60) calendar days of the date that the alleged violation took place.

2-8 APPEALS OF ALLEGED DISCRIMINATION

- (a) Any applicant or employee may appeal an act of alleged discrimination on The basis of non-merit factors to the PERB within sixty (60) calendar days of the date that the alleged violation took place or within thirty (30) days of the receipt of the decision made by the Personnel Director through the informal process.
- (b) The PERB is required to investigate the alleged violation and to notify the appellant of its decision within sixty (60) calendar days of the receipt of the appeal.
- (c) If the commission finds that there was discrimination on the basis of non-Merit factors it shall order appropriate corrective action and its decision shall be binding on all parties.

2-9 BACK PAY REMEDIES

In the event that back pay must be awarded as part of the corrective action to

Eliminate discrimination, the total amount of back pay that may be awarded is limited to a maximum of two years worth of back pay.

CHAPTER THREE

RECRUITMENT

3-1. POLICY

The Personnel Director is responsible for the administration of a centralized Recruitment system. The recruitment program is to be based upon planning to meet current and projected work force needs of the Virgin Islands Government Recruitment is to be tailored to the number and type of positions to be filled and to labor market conditions.

Recruiting efforts shall be planned and carried out in a manner that assures open competition. Publicity is to be directed to appropriate sources of applicants in a geographical area as wide as is necessary to attract an adequate number of qualified candidates.

The Director may delegate responsibility for recruitment, on a cooperation basis, to the Department or Agency Head where, in the opinion of the Director, such delegation would increase the supply of qualified candidates for employment.

3-2. POSITION VACANCY ANNOUNCEMENTS

- (a) Official Vacancy Announcements will be prepared and released by the Personnel Office unless the Personnel Director has delegated the responsibility for recruitment for the vacant position to an individual Agency Head. Announcements will be made public a minimum of two

weeks prior to the last date for filing any application for the vacant position.

- (b) An Official Vacancy Announcement prepared and released by a Department or Agency Head shall conform to all rules and requirements which apply to announcements released by the Personnel Office. In addition, the following conditions apply:
- (1). The announcement will include a statement to the effect that all applications are to be forwarded to the Personnel Office.
 - (2). In those cases where a vacancy announcement is released without prior approval of the Director of Personnel as to form and content, the Department or Agency Head is wholly responsible for its content.
- (c) The Information Provided in Announcement shall conclude, but not be Limited to , the following: (sample in Appendix A)
- (1). The official class title of the position for which the vacancy exist;
 - (2). The salary range for the position;
 - (3). A description of the work performed in, and the duties and responsibilities of, the position;
 - (4). The minimum and special qualifications required for appointment to the position;
 - (5). A statement of the procedures to be followed in filing an application for the position;
 - (6). A statement of the process by which applicants are to be evaluated to assess their relative merit and fitness for the position;

- (7). The statement: The Government of the U.S. Virgin Islands is an equal opportunity employer;”
 - (8). The “Date of Issue” of the announcement and
 - (9). The “Last Date to File an Application” (announcements issued under a Continuous Recruitment Program will indicate the last date to file an application as “OPEN.”)
- (d). Distribution of Position Vacancy Announcements will be:
- (1) to all Department and Agency Heads who shall be responsible for ensuring that a sufficient number of each announcement is posted on the official department bulletin board and in such other places are known by, and accessible to, all employees of their departments; and
 - (2) to newspapers, radio and TV stations, and/or other interested individuals and organizations as deemed appropriate by the Director of Personnel or a Department Head to whom the Director has delegated recruitment responsibility.
- (d) It is the duty of each Department Head to call to the attention of every Employee who is eligible that a Position Vacancy Announcement has been posted for a position for which they may wish to apply, and to allow the employee reasonable opportunity to comply with all application requirements during the employee’s regular working hours.

3-3. AFFIRMATIVE ACTION RECRUITMENT

When, based upon sound analysis of the Virgin Islands Government work force

and the Virgin Islands Labor market, substantial disparities are found between the percentages of sex, race, or ethnic groups in individual job classification as compared to the percentage of those groups available in the qualified relevant job market, an affirmative action recruitment program shall be designed and implemented to attract qualified members of group(s) in question to the career service. For determining the type and scope of affirmative action to be undertaken, information such as, but not limited to, the following will be considered:

- (a) the Affirmative Action Plan developed by individual departments and agencies within the V.I. Government;
- (b) the sex, racial, and ethnic make-up of the (a) Government work force (b) applicants for Government service, and (c) total U.S. Virgin Islands work force by each of the following breakdowns:
 - (1) males and females
 - (2) Blacks (Negroes)
 - (3) American Indians
 - (4) Asians
 - (5) Hispanics (including persons of Mexican, Puerto Rican, Cuban, Central Americans, South American, or other Spanish origin/culture regardless of race) and
 - (6) Whites (Caucasians) other than Hispanics

3-4. RECRUITMENT FOR PROMOTIONAL POSITIONS ()

It is the policy of the Government to promote employees of the career service to

positions of increased authority and responsibility, rather than to select employees for such positions on an open-competitive basis, whenever career service employees qualified to fill such positions can be identified. To this end, special recruitment procedures are instituted for the identification of career service employees qualified for promotion to such positions.

Whenever a vacancy occurs in a class for which it is deemed reasonable, by the appropriate Department Head and by the Director of Personnel, that career service employees be promoted to fill the vacancy, the following recruitment sequence shall be adhered to :

- (a) Candidates for the position will be recruited from, and application limited to, qualified permanent employees within the department or agency in which the vacancy exist.
- (b) If there are no qualified eligibles among the permanent employees within The department or agency in which the vacancy exists, candidates will be recruited from, and applications limited to, qualified permanent employees within the career services.
- (c) If there are no qualified eligibles among the permanent employees within the career service, candidates will be recruited from, and applications limited to, any qualified employee within the Government.
- (d) If there are no qualified eligibles among employees of the career service, candidates will be recruited from, and applications accepted from outside Government service on an open-competitive

basis.

3-5. CONTINUOUS RECRUITMENT

Continuous recruitment for certain classes will be conducted when it is expected that there will be a considerable and recurring need for eligibles to fill vacancies in the classes. A continuous recruitment program for a class is established by the Director of Personnel, and allows for the acceptance of applications for the affected position class at any time and the administration of examinations whenever and whenever the Director deems appropriate.

3-6. EMPLOYMENT APPLICATION

Applications for employment or promotions shall be accepted only when there is an existing vacancy in the class for which application is being made, when a vacancy is anticipated in the near future, or when application is made for a position in a class for which a continuous recruitment program has been established.

To be considered for a vacancy, candidates for employment or promotion must file an official application form with the Personnel Office. This application:

- (a) must specify the correct title of the class in which vacancy is located,
- (b) must be properly signed by the applicant (certifying the truth of all statements contained in the application by such signature)
- (c) must be received in the Personnel Office by the close of business

on, or postmarked no later than, the “Last Date to File an Application” which is specified on the position vacancy announcement,

- (d) must be received in the Personnel Office no sooner than the “Date of Issue” which is specified on the position vacancy announcement. For application purposes, positions are not considered vacant until an official position vacancy announcement is issued.

CHAPTER FOUR

SELECTION PROCEDURES

4-1. POLICY

Selection procedures for entrance to and promotion in, the career service shall be job related, and shall not require disclosure of any information, by applicants, concerning:

- 0 political affiliations, preference, or options;
- 0 religious affiliations, preferences, or options;
- 0 fraternal affiliations, preferences, or options;
- 0 race;
- 0 sex;
- 0 ethnic origin; or
- 0 national origin.

However, data regarding race, sex, ethnic origin, and national origin may be Collected as part of an affirmative action program, provided that such information Is maintained in a manner which prevents its use for any purpose other than Statistical .

Selection procedures shall be designed in such a manner that the validity and objectivity of the selection process are maximized, and such that the adverse impact of the process upon identifiable, protected groups is minimized.

Selection procedures shall be considered job related when they assess important elements of work behavior which comprise, or are relevant to the job(s)

for which the candidates are being evaluated. Such procedures will document will reflect the critical and important knowledges, skills, abilities and other characteristics (KSAO'S) required for applicants to perform the job(s) at the time of appointment. Evidence of the job relatedness of selection procedures shall be based upon documented job analyses and professionally recognized validation methods, such as criterion related, content, or construct validation.

4-2. TYPES OF SELECTION PROCEDURES

The Personnel Office may use such forms and methods for selection as may be appropriated for a class. These methods may include, but are not limited to: written examinations, oral examinations, training and experience evaluations; performance or simulated work sample examinations; performance evaluation ratings; and assessment centers.

- (a) Entrance Examinations. Examinations for entrance into the career service shall be conducted on an open – competitive basis.
- (b) Competitive Promotional Examinations. Examination for competitive promotional positions within the career service shall be filled in the following order of preference:
 - (1) qualified permanent employees within the department or agency in which the vacancy exist;
 - (2) if there are no qualified applicants among the permanent employees within the department or agency in which the vacancy

exists, all qualified permanent employees within the career service;

(3) if there are no qualified applicants among the permanent employees within the career service, any qualified employee within the government service, and

(4) if there are no qualified applicants among any of the employees of the career service, the examination will be held on an open-competitive basis.

In addition, any permanent employee whose position has been reallocated shall be allowed to compete in any promotional examination which is held to fill the reallocated position.

(c) Non-Competitive Promotional Examinations. Successive career-ladder promotions may be made, with or without formal examination, if an employee:

(1) holds a permanent appointment in an appropriate career-ladder position, and

(2) received initial appointment to a class in the career-ladder series on an open-competitive basis.

4-3. ANNOUNCEMENT OF EXAMINATIONS

Public Notice of Announcement. Public notice of each entrance and promotion examination shall be given at least two weeks in advance of the date of its administration by means of an official published notice posted on the official bulletin board of the Personnel Office. Specification of the date, time, and place of a scheduled examination

administration of the official Position Vacancy Announcement shall constitute public notice and announcement of an examination.

(a) Distribution of Examination Announcements will be:

(1) to all Department and Agency Heads who shall be responsible for ensuring that a sufficient number of each announcement is posted on the official department bulletin board and in such other places as are known by, and accessible to, all employees of their departments; and

(2) to newspapers, radio and TV stations, and/or other interested individuals and organizations as deemed appropriate by the Director of Personnel.

(b) It is the duty of each Department Head to allow employees a reasonable opportunity to comply with all examination requirements during the employees regular working hours.

4-4. POSTPONEMENT OR CANCELLATION OF EXAMINATIONS

When, in the opinion of the Director, an insufficient number of qualified candidates has made application for an entrance or promotional position, the Director may postpone or cancel the administration of the examination for the position. In the event of postponement, written notification will be made of the revised date, time, and/or place of examination to all qualified candidates. In the event of cancellation or postponement, written notice thereof shall be posted upon the official bulletin board of

the Personnel Office, at the place of examination (if different from the Personnel Office), and in such other places and manner as the Director shall prescribe.

4-5. ADMISSION OF APPLICANTS TO EXAMINATIONS

To be eligible for admission to any examination for any position in the career service, candidates must have filed an official application with the Personnel Office for the position for which they wish to compete. The application must be made on forms prescribed by the Director.

Applications shall be accepted from all applicants who:

- (a) meet the minimum and special qualifications required for performance upon entry into the class of the position,
- (b) have filed their applications with the Personnel Office during the filing period specified on the official Position Vacancy Announcement,
- (c) are citizens or legal-alien residents of the United States of America, and
- (d) satisfy all other application requirements specified by these Rules and Regulations.

Each applicant whose application has been accepted for any examination will be notified of the date, time, and place of the examination, and such notice shall be authorization for the applicant to compete in the examination. No person shall be admitted to any examination unless such authorization (or satisfactory evidence of application acceptance) is presented for inspection to the Personnel Office representative at the time and place of examination.

4-6. DISQUALIFICATION OF APPLICANTS

The Director may refuse to examine or after the examination, may disqualify from competition any applicant who:

- (a) has failed to appear at the time and place appointed for examination,
- (b) has failed to submit his/her application correctly or within the prescribe time limit,
- (c) is found to lack any of the preliminary requirements established for admission to the examinations,
- (d) has made a false statement of material fact in his/her application
- (e) has directly or indirectly obtained information regarding the examination to which, as an applicant, he/she was not entitled, or
- (f) fails to present satisfactory evidence of eligibility to compete, at the time and place of examination.

Any person who is refused permission to compete in an examination or who is disqualified from competition will receive, upon written request of the Personnel Office, a written statement of the reason(s) for such refusal or disqualification .

4-7. RATING OF EXAMINATIONS

Appropriate techniques and procedures shall be used in rating the results of examinations and in determining the relative ranking of competitors. The final rating required to pass an examination shall be set by the Director. The Director may set minimum rating for each part of an examination and applicants may be required to obtain at least the minimum rating in each part of the examination. Minimum ratings shall be

set so as to be reasonable and consistent with normal expectations of acceptable proficiency within the work force.

Those parts of the examination process which determine (or will be combined with other parts to determine) the final examination scores, upon which is based the relative ranking of candidates for hire or promotion, shall measure those aspects of performance which differentiate among levels of job performance.

- (a) Written Examinations. All written examinations shall be rated according to a standardized scoring key.
- (b) Oral Examinations. All oral examinations shall be rated according to a standardized rating scale which is established and used to evaluate all candidates for a given position. In addition, when an oral examination forms a part of the total examination process for a position:
 - (1) the Director shall appoint one or more oral examination boards
 - (2) the oral examination board shall consist of no fewer than two members:
 - (a) one of whom shall be a representative of the Personnel Office, and
 - (b) one of whom shall be a subject-matter expert who is technically familiar with the nature, scope, and character of work in the position for which applicants are being examined;
 - (3) all candidates will, whenever practical, be rated by the same

oral examination board; and

(4) a member of an oral examination board shall disclose each instance in which an applicant is personally known by the board member, and shall refrain from rating such applicants if:

(a) the board members feels that personal knowledge of the applicant may interfere with the board member's objectivity, or

(b) the applicant objects to the board member's participation on the board, for any reason. When, as the result of objection by the interviewee, a board member refrains from participation in the oral examination, the oral examination of the interviewee may be rescheduled at the convenience of the Personnel Office.

(c) Non – written Examinations other than Oral Examinations.

All non-written examinations (such as, but not limited to, ratings of training and experience, performance evaluations, test of physical ability, and supplemental application questionnaires) shall be rated according to a standardized scale which is established and used to evaluate all candidates for a given position.

4-8. VETERANS' PREFERENCE CREDIT ON ENTRANCE EXAMINATIONS
()

Any applicant who is a veteran, the spouse of a veteran, or the widow(er) of a

veteran is entitled to have Veteran's Preference Credit points shall not be allowed on examinations for promotion within the career service.

Upon presentation of evidence satisfactory to the Director that an applicant was discharged or released from the United States armed forces under conditions other than dishonorable, an applicant who is a veteran, the spouse of a veteran, or the widow(er) of a veteran shall have ten (10) points added to his or her final examination score.

If the veteran in question:

(a) has a service – connected disability which is currently rated at 10% or more disabled by a Veterans' Administration disability board,

-AND-

(b) is physically and emotionally capable of performing the functions of the position sought.

-AND-

(c) presents evidence of such disability rating which is satisfactory to the Director,

the applicant shall receive (5) Veterans' Preference Credit points in addition to the standard (ten) 10 points of Veterans' Preference Credit.

4-9. MAINTENANCE OF EXAMINATION RECORDS

The Director shall be responsible for the maintenance of all records pertinent to examination programs. Applications and other necessary examination records shall be kept during the life of the eligible list which shall, in most cases, be the period of time necessary to fill the vacancy.

4-10. RE – EXAMINATION

An applicant may apply for re-examination for a position in the same class after a minimum waiting period of thirty 30 calendar days from the date of the examination, with the exception of performance test (such as, but not limited to, typing and stenography) for which the waiting period will be fourteen (14) calendar days. An applicant who retake all portions of the examination and the re-examination scores shall replace the previous scores.

4-11. SECURITY OF EXAMINATION MATERIALS

The Personnel Office shall take all necessary steps and precautions to safeguard the security agreements required for the use of examination materials obtain from other jurisdictions or organizations. Examination questions, answer keys, and related materials shall be accessible only to authorized persons. The Personnel Office shall, upon request, disclose the methods of determining scores and the content of rating of training and experience or other examinations where such disclosures would not affect the present or future validity, value, or competitiveness of the examination. Any such authorized disclosures shall not be denied to any other applicants of interest after having been made to any one applicant for a given examination.

4-12. NOTIFICATION OF EXAMINATION RESULTS

The rating of each examination shall be completed and resulting lists established, or names of eligibles added in the case of continuous examinations, not later than thirty (30) days after the date on which the examination process is completed by the

applicants(s), unless such time is extended by the Director of Personnel for reasons which shall be recorded in the official records of the Personnel Office. Each person competing in any examination shall be given written notice of his/her final earned rating and relative standing on the eligible list, or of failure to attain a place on the list, as soon as possible after the rating process has been completed and the eligible list established.

4-13. INSPECTION OR EXAMINATION BY EXAMINERS

Within fourteen (14) calendar days following written notice to examinees of their final rating, examinees shall be allowed an opportunity to review:

- (a) their own examination papers,
- (b) examination questions, the methods of determining scores, and content ratings of training and experience, or other examinations when, in the opinion of the Director such disclosure would not affect the present or future competitiveness, validity, value, or integrity of the examination process.

Such reviews will be permitted only (a) upon request of the examinee, (b) in the presence of authorized personnel (c) during normal business hours of the Personnel Office, and (d) at time specified by the Director.

Information obtained by the Director as the result of confidential inquiries shall remain confidential, and is not subject to review by applicants.

4-14. ERRORS IN RATING

A manifest error in the rating of an examination, if called to the attention of the

Director within thirty (30) calendar days after the establishment of the eligible list, shall be corrected by the Director. Any affected eligible shall then be placed on the eligible list with the corrected score. Previous certifications and appointments made from the same list shall not be invalidated.

CHAPTER FIVE

ELIGIBLE LISTS

5-1. TYPES OF LISTS

- (a) Re-employment Lists. Re-employment lists shall consist of the name of career service employees who were separated from the service for reasons other than resignation, fault, or delinquency on the part of the employee. Such list may be established on a government-wide or organizational unit basis.
- (b) Promotional/Transfer and Employment List. Promotional and employment lists shall consist of the names of persons who have received minimum qualifying scores on competitive examinations for the various classes of positions included in the career service. The Director may establish and maintain as many or as few such lists as he/she deems necessary or desirable to meet the needs of the service.

5-2. ORDER OF NAMES ON ELIGIBLE LIST

- (a) Re-employment Lists. Names shall be placed on re-employment list in the order of the ratings, based on quality and length of service, received by the persons whose names appear thereon.
- (b) Promotional/Transfer and Employment List. The names of applicants who have successfully completed all portions of the selection process for a position will be placed on an employment or promotion list in the order of their final earned rating. In the case of open-competitive examinations, The scores of

applicants will be modified by the appropriate amount of Veteran's Preference Credit to obtain a final rating.

5-3. DURATION OF ELIGIBLE LISTS ()

Listings of candidates eligible for hire or promotion will normally remain active for the duration of their usefulness not to exceed 3 years as determined by the Director. Any employment or promotional list (which was not established under a continuous recruitment program) will be deemed cancelled when:

(a) no names of eligibles remain on the list,

-OR-

(b) the list has been active for at least six months, and a new list is promulgated,

-OR-

(c) the list has been active for one (1) year.

Lists which are established as part of a continuous recruitment program, as well as re-employment lists, are of indefinite duration and will not be deemed cancelled until or unless so mandated by the Director. However, individual names appearing thereon shall be removed after they have been on such lists for a period of one (1) year.

Once an eligible list has been cancelled, it may not be reactivated, and certifications and appointments may not be made from it. If vacancies occur in the class for which a cancelled list was established, application and examination processes must be initiated from which a new list will be promulgated. Certifications subsequent to cancellation of the defunct list must be made from the new list.

5-4. REMOVAL OF NAME FROM ELIGIBLE LISTS ()

The Director may remove any name from an eligible list, permanently or temporarily, for any of the following reasons:

- (a) Appointment through certification from such list to fill a permanent position;
- (b) Failure to respond within five calendar days to a written inquiry of the appointing authority relative to availability for appointment;
- (c) Declination of appointment without good reason under conditions which the eligible previously indicated he/she would accept;
- (d) Failure to report for duty, without good reason, within the time specified by the appointing authority;
- (e) Submission of false statement of any material fact or the practice (or the attempted practice) of any fraud or deception in the application or examination or in attempting to secure appointment.
- (f) In the case of promotional lists, upon separation from the Government service or a department for which the list was established;
- (g) Upon finding by the Director that the applicant is not qualified to perform the necessary duties or is physically unfit to perform effectively the duties of the position in which appointment is sought;
- (h) Willful violation of any of the provisions of the Law or these Rules and Regulations.

Removal of the name from an eligible list for any reason other than those listed above shall be at the discretion of the Director. Any person whose name is removed from a list

shall be notified promptly and in writing by the Director indicating the reasons for such removal.

5-4. RESTORATION OF NAMES TO ELIGIBLE LISTS

- (a) Any person whose name has been removed from a list, for any reason Other than appointment, may request restoration of their name to the list, by writing to the Director. Such a request must set forth:
- (1) the reason(s) given to the person for the removal of his/her name;
 - (2) if the person finds the reason(s) to be erroneous, a specification of the error(s);
 - (3) the title(s) of the position(s) for which the person was eligible for certification prior to removal of his/her;
 - (4) any extenuating circumstances, or other information, which the person feels may mitigate the reason(s) given for removal of his/her name.

The Director, after full consideration, may grant or refuse the request. The person who is refused may, within ten(10) working days, appeal the Director's decision to the PERB.

- (b) Transferred Employees. Permanent employees, whose names have been removed from a promotional list because they have been transferred to a department of which the list on which their names appeared is not valid, may have their names placed on a promotional list in their new department, with the same score they had on the previous list, providing:
- (1) the list to which their names will be added is for the same job class as the list from which their names were removed,

- (2) they make written application, to the Personnel Office to have their names added to the list, during the active life of the list from which their names were removed, and
- (3) their application are approved by the Director of Personnel and the Head of the department or agency to which they had been transferred.
- (c) Employees who do not Pass Probation. If an employee is removed from his position during or at the end of his/her probational period and the director determines that he/she is suitable for appointment to another position in the same class, his/her name may be restored to the list from which it was certified.

CHAPTER SIX

CERTIFICATION

6-1. REQUEST FOR CERTIFICATION OF ELIGIBLES

Whenever an appointing authority wishes to fill a vacancy in the career service, the appropriate prescribed forms shall be forwarded to the Director and shall indicate.

- (a) the official class title of the vacant position(s),
- (b) the number of vacant positions to be filled, by class title, and
- (c) the duties and responsibilities of the position(s) for which certification is requested.

The appointing authority shall make certification requests far enough in advance of the date an employee is to begin work to allow sufficient time for the completion of necessary personnel and payroll transactions.

6-2. CERTIFICATION OF ELIGIBLES

The Director shall certify, in writing, the names of persons eligible for appointment to vacant positions, and submit the written certification of such names to the appointing authority. Certifications (and appointments shall be made in accordance with the “Rule-of-Three.”

- (a) The “Rule-of-Three”. When a single vacancy occurs in class for which an eligible list has been promulgated, the Director shall certify for appointment to such vacancy the names of the three top-ranked

eligibles on the list. For each additional vacancy in a class, the Director may certify one (1) additional name from the eligible list. Each such additional name must be the highest ranked name on the eligible list which is not included among the names of those eligibles already certified. (An appointment to a vacant position must be made from the top-three ranked candidates who are certified, or from among the top-three ranked candidates who remain after other appointments have made or declinations have been received.)

(b) Exceptions to the “Rule-of Three.” Under certain conditions and/or circumstances, the number of names certified may be at variance with the “Rule-of-Three.” The only such exception which are allowable are:

1. the certification of more names for classes which past experience has shown receive a higher than normal declination rate;
2. the certification of more names to insure that all persons of equal rank and eligibility have an equal opportunity to be selected for the available vacancies;
3. the certification of fewer names if the appropriate employment list(s) for the class do(es) not contain a sufficient number of eligible names. (When fewer than three names are certified, the appointing authority may decline to make an appointment from among the certified names, and may fill the vacancy in any other manner provided for in these Rules.)

These exceptions to the number of names which may be certified shall in no way alter, amend, or abridge the rule governing the appointments.

6-3. CERTIFICATION FROM RELATED ELIGIBLE LISTS

If the eligible list established from a specific class is exhausted, the Director may certify and submit names from an appropriate related list. Documentation showing the appropriateness and relatedness of the list used to the position being filled shall be kept in the Personnel Office.

6-4. SELECTIVE CERTIFICATION

The appointing authority may specify, in writing, requirements of particular knowledges, skills, or abilities when such requirements are deemed necessary for a position. If, after review of the duties and responsibilities of the position, the Director finds the particular knowledge, skill, or ability essential for successful performance in the position, the names of those persons who possess the specified qualifications shall be certified in the order of their ranks on the eligible list. Under a selective certification system the Personnel Director shall assure that any additional qualifications are job related, essential to effective work performance, and reflected in the work duties and responsibilities described in the official position description (class specification) for the job.

6-5. OBJECTION TO A CERTIFIED ELIGIBLE BY AN APPOINTING AUTHORITY.

An objection to an eligible by the appointing authority shall be allowable

under these Rules. However, the reasons for objection must be clearly spelled out, in writing, to the Personnel Director. Written documentation from the out, in writing, to the Personnel Director. Written documentation from the appointing authority must include specific reasons as to why the person is not acceptable and how that decision was made, e.g., based on an interview with the person. The Personnel Director shall review the reasons to determine their job relatedness. If the reasons for objection are determined to be job related, the Personnel Director shall allow the objection.

6-6. ACTIVE LIFE OF A CERTIFICATE

The length of time during which action may be taken to appoint an eligible from a certificate shall be ten (10) working days from the date the certificate is issued. Exceptions to the ten day limit may be made by the Director, in which cases the Director will specify the expiration date of the certificate on the certificate itself.

6.7. AVAILABILITY OF ELIGIBLES

(a) Responsibility of Appointing Authority. It is the responsibility of the appointing who requests certification of eligibles from a list to:

- (1) contact, in writing, each certified eligible regarding availability for appointment,
- (2) arrange, for conduct, and document the proceedings and results of any procedures used to select an appointee from among a group of certified eligibles, and
- (3) notify the Personnel Office, in writing (together with all supporting

documentation), if any decision regarding eligibles who have been certified for appointment.

(b) Responsibility of Eligibles. It is the responsibility of all eligibles

Whose names appear on any eligible list to:

- (1) notify the Personnel Office, in writing of any change which affects their availability for appointment,
- (2) submit a statement, in writing, to the Personnel Office, at any time during the active life of any eligible list upon which their names appear if there is any modification of the conditions under which employment will be accepted.

The names of eligibles, who have a written statement limiting the conditions under which they will accept employment on file in the Personnel Office, will be withheld from certification for all positions which do not meet those limitations.

6-8. ORDER OF CERTIFICATION

Whenever certification of eligibles is requested by an appointing authority, certifications shall be made from lists in the following order:

- (a) eligibles from the appropriate re-employment list will be certified first;
- (b) if no eligibles remain on the appropriate promotional/transfer list will be certified; and
- (c) if no eligibles remain on either the appropriate re-employment list or the appropriate promotional list, eligibles will be certified from the appropriate employment list.

6-9. LOST CERTIFICATION

When an eligible's name has been inadvertently omitted from a certificate, a review shall be conducted by the Personnel Office to determine the number of certificates issued during the time the eligible's name was lost and on which the eligible's name would have normally appeared. Based on that determination, the eligible's name will appear at the top of all subsequent, appropriate certificates until:

(a) the eligible is appointed,

-OR-

(b) the number of certificates upon which the eligible's name appears at the top is equal to the number of certificates from which the eligible's name was erroneously omitted. Once this condition is satisfied, the eligible's name will be placed upon certificates, or omitted therefrom, in the normal manner.

CHAPTER SEVEN

APPOINTMENT

7-1. POLICY

Any and all appointments to positions in the Government service shall be Made on the basis of merit, including the ability to carry out the duties and responsibilities of the position held. Appointments shall be made without regard to non-merit factors such as race, color, religion, sex, political affiliation, age or handicap. ()

To be considered for appointment to positions in the career service, all applicants, candidates, and eligibles must meet all minimum special requirements which have been established for the position. (Such minimum and special requirement shall have been established by procedures outlined under the “Classification” and “Examining” sections of these Rules and Regulations.)

7-2. TYPES OF APPOINTMENT

- (a) Permanent Appointment. All entry appointments to permanent positions in the career service shall be made on an open-competitive basis from among the highest ranked eligibles on the appropriate eligible list. Such appointments shall be automatic following, but contingent upon, satisfactory performance by appointee during the probationary periods established for the positions to which such appointments are made. An employee who

receives a permanent appointment to a position, following satisfactory performance during the specified probationary period, shall not be removed from such a position except for cause, shortage of work, shortage of funds, abolition of the positions, or other related reasons.

(1) Probationary Appointment. During the working test period established for a permanent position in the career service, any permanent appointment shall be probationary. An employee who has been selected for a permanent position in the career service, but who has not satisfactorily completed the working test period specified for the position, may be removed from Government service by the appointing authority without right of appeal.

(2) Objective of the Probationary Period. The probationary period shall be regarded as an integral part of the examination process, and is to be used:

- (a) closely observe the probational employee's performance on the job,
- (b) assist the probational employee in securing the most effective adjustment to the new position and
- (c) separate from the position any probational employee whose

performance remains unsatisfactory after reasonable efforts on the part of the appointing authority to elevate that performance to a satisfactory level.

(3) Duration of the Probationary Period

Minimum Duration. The minimum probationary period for appointments to the career service shall be:

- (a) not less than two(2) months in the case of appointments for a re-employment list, and
- (b) not less than three (3) months in the case of appointments from employment and promotional lists.

Maximum Duration. The maximum probationary period for appointments in the career service shall be:

- (a) not more than twelve (12) months, under normal circumstances,

-OR-

- (b) not more than twenty-four (24) months, when a Department or Agency Head requests an extension. Request for extensions of no more than twelve (12) months duration must be made, in writing, to the Director at least fifteen working days prior to the expiration of the normal probational period for the position, and may be approved only if the total, resulting probationary period will not

extend farther than twenty-four months from the original date of appointment.

The length of the probationary period for each class in the career Service shall be determined by the Director, after consultation with Interested Department or Agency Heads, and shall be within the Limits prescribed in these Rules and Regulations.

(4) Completion of the Probationary Period. Upon completion of the probationary period, the Department or Agency Head shall recommend the permanent appointment of a probationary employee, in writing, to the Director, with a statement that the employee's performance has been satisfactory.

A copy of the notice terminating the probationary period shall be given to The employee. No employee shall be paid for work after the expiration of the probationary period unless, prior to the performance of such work, the department head has notified the Director that the employee will be continued in the position.

(b) Provisional Appointment. The Personnel Director shall authorize the appointing authority to make a provisional appointment when there are fewer than three names on an eligible list when there is no appropriate existing list. The individual appointment must be certified by the Personnel Director as meeting the minimum qualifications for the class. Provisional appointments, which are non-competitive, shall be limited to a maximum of six months and shall not continue for more than thirty (30) days after an

appropriate eligible list is established. Provisional appointments may be extended with the approval of the Personnel Director for a period not to exceed six additional months when difficulty in recruiting a sufficient number of qualified applicant is encountered. The Personnel Director shall begin the recruitment and selection process for a position immediately upon granting a provisional appointment for a position. Individuals working in position on a provisional basis shall be considered for permanent appointment only after being placed on an eligible list established through open-competitive procedures and only if they are within reach for consideration. They shall be considered for permanent appointment in the same manner as other available candidates.

If a regular employee is promoted provisionally and, after competing for permanent appointment to the position is not selected for permanent appointment, the employee shall have the right to be reinstated to a position in the class and department where employed immediately prior to the provisional promotion. The position from which the employee was promoted shall not be filled on other than a temporary basis, until it is apparent that the employee will not return to that position.

A provisional employee who refuses to take an examination for permanent appointment to the position in which he/she is serving

shall not be given another provisional appointment to the same class of position.

A provisional employee shall have no seniority rights except that the time served as a promotional-provisional may be credited to an employee's seniority in his/her regular position. The time served by an employee whose initial appointment is provisional shall not be counted toward the employee's probationary period if and when he/she receives a permanent appointment.

- (c) Temporary Appointment. Temporary appointment may be made to fill positions that have been established for a specific period of time. Such appointment shall not exceed twelve (12) months duration, and must be filled by certification and appointment procedures which are the same as if the appointment has been permanent. However, such certification may be limited to the highest ranking eligible who will accept temporary employment. The acceptance or refusal of a temporary appointment by a person name is on an eligible list shall not affect his/her rights to Certification for permanent appointment, nor shall the temporary Appointment confer upon the appointee any right to permanent appointment.

When permanent positions are vacant temporarily, (due to the Incumbent being out on extended sick leave, military leave, study Leave, or any other reasons approved by the Personnel Director)

The positions may be filled by a temporary appointment pending
The return of the employee who is on leave.

(d) Casual Labor and other persons employed for less than one year on projects of a temporary nature are exempt from the provisions of these Rules and Regulations which affect the career service. The appointing authority, however, shall submit to the Director a monthly statement containing the name of each person so employed, the effective date of the employment, the duration of employment, a description of the temporary nature of the project, and such other information as the Director deems pertinent, no later than the tenth day of the month following a month in which such persons are employed.

(e) Emergency Appointment. When an emergency makes it impossible to fill a position in the Government service under any other provision of these Rules and Regulations, the appointing authority may appoint any qualified person to such positions in order to prevent (a) stoppage of public business (b) loss of essential services, or (c) serious inconvenience to the public. Such emergency appointment shall not exceed sixty (60) work days duration in any twelve-month period, and may be made without regard to eligible lists or minimum qualification requirements. A vacancy which results after a Department

Head has had a reasonable notice or from employment conditions of which he/she has (or might with due diligence have had) previous knowledge shall not be considered an emergency under this section. Application forms of persons given emergency appointments shall be forwarded to the Personnel Office as soon as practical.

(f) Transitional Appointment. A transitional appointment shall be made from the highest ranking eligibles on an appropriate register in accordance with the applicable sections of these Rules and Regulations, and may be used to provide staff for specified projects or federally-funded programs designed to be of more than six (6) months, but less than two years, duration. Individuals appointed to transitional positions are eligible for all the benefits of permanent employment, except that they do not acquire tenure beyond the life of the program itself.

(g) Trainee Appointment. A trainee appointment may be made Only after it has been determined that no qualified candidates will apply for a given class. Minimum qualifications, performance requirements, and duties shall be appropriately modified to permit the appointment and promotion of trainees to positions normally filled at the entry level. In addition, there shall be conducted on an open- competitive basis. The duration of trainee appointments shall

be no more than two (2) years, after which time the trainee may be converted, non-competitively, to a permanent appointment in the same class at the entry level.

7-3. TRANSFERS

A transfer shall be made only with the approval and consent of the appointing authority from and to whose unit the transfer is sought, and the approval of the Personnel Director. The consent of the employee involved shall be required to make a transfer except when there is a transfer to or combining of the positions or position functions of one unit with another, or when the transfer is temporary (not to exceed six months).

No employee shall be transferred to a position in a class with a higher salary rate, or for which there are substantially dissimilar requirements for appointment, unless he/she is appointed to such latter position after certification from a list in accordance with the promotional provisions of these Rules and Regulations. Any change of an employee from a position in one class to a position in a class of a lower rank shall be considered a demotion and shall be made only in accordance with the appropriate provisions of these Rules and Regulations.

7-4. REINSTATEMENT

Upon the request of an appointment authority, and with the approval of the Personnel Director, a permanent employee who has left after one (1) year of Government service and while in good standing may, within in year of the effective date of resignation, be reinstated on a permanent basis to a position

in the same class as, or a comparable class to, the position occupied at the time of resignation. Such reinstatements may be made without re-examinations.

7-5. RESTRICTIONS ON APPOINTMENTS

No person who has been convicted of a crime involving the abuse of any child shall hold any position in the government in which he may employ, instruct, counsel or supervise children (V.I.C., TITLE 19, CHAPTER 9).

Chapter Eight

Position Classification

The Personnel Director is required to establish and maintain an up-to-date classification plan, subject to the review and approval of the governor. This plan covers all positions in the Government Service except:

- (a) Positions paid on a daily basis when actually employed at a rate fixed by law.
- (b) Positions for which no compensation is paid
- (c) Other positions designated by the Governor and approved by the legislature (Vic., T3, Ch.25, S3 492; 1978 amend).

The classification plan consists of (1) a list of all classes currently used by the Virgin Islands Government, (2) a class specification for each class, and (3) rules for the administration of the classification plan.

The Personnel Director may initiate studies of individual positions or entire work units as needed to ensure that positions are classified accurately and that class specifications are accurate and complete. When these studies are conducted, agency heads are required to provide timely access to any employee or information in their agency and to permit employees reasonable work time to provide any information needed by the personnel director. Any attempt to impede this data collection activity or to falsify or withhold information related to these studies by any employee is grounds for disciplinary action.

CLASS SPECIFICATIONS

A class specification is a set of descriptive guidelines used to illustrate, define, and characterize a group of positions which are similar enough in their duties, responsibilities, and necessary qualification to be given the same job title and treated the same for purposes of personnel administration. Class specifications are not necessarily all-inclusive or restrictive but are intended to guide the classification of positions.

At a minimum, each class specification includes (1) an appropriate job title, (2) a definition of the class, (3) a list of major job duties; (4) important knowledge, skills, abilities, and other characteristics needed for successful work performance, (5) minimum qualifications needed for appointment to the class, and (6) any other information considered necessary by the Director.

The Personnel office and agencies are required to maintain a complete set of all class specifications and to provide employees and applicants with reasonable access to these materials. Personal copies of class specifications may be provided to employees and applicants for a reasonable fee to cover printing and labor expenses. Incumbents will be entitled to one copy of the class specification for their present position upon request without charge.

CLASS TITLES

Only official class titles may be used to designate to titles of positions or classes used in payrolls, budget documents, labor contracts, personnel transaction forms, and other official personnel records, reports, or other documents. Abbreviations approved by the director may be substituted for complete titles as appropriate.

Agencies may adopt unofficial working titles for the purposes of internal administration and operation, but these titles are not recognized by the personnel office for official business under these rules.

Class titles are required to be as brief and concise as possible, while being descriptive of the kind and level of work performed. Titles implying possible descriptions of the age or sex of the job incumbents are prohibited (e.g., fireman, policeman, Cleaning Woman, Bell Boy, Counter Girl, sweeper Boy, etc.)

CLASSIFICATION OF POSITIONS

The Personnel Director has the responsibility and sole authority, subject to the review and approval of the Governor, to assign positions to classes. Positions are assigned to classes according to the kind and level of work performed. Taking into account such factors as:

- (a) Duties and tasks assigned to the position
- (b) Work objectives of the position
- (c) Responsibility and authority assigned to the position
- (d) Supervision of other positions
- (e) Knowledge, skills, abilities, and other characteristics needed for successful job performance

Certain factors are not relevant to the assignment of positions of classes and may not be used as the basis for classification decision. These factors include:

- (a) Present job title and salary level
- (b) Classification or level of the position's supervisor
- (c) Volume of work performed by present job incumbents
- (d) Performance level of present job incumbents
- (e) Qualifications of present job incumbents
- (f) Personal characteristics of present job incumbents (e.g., race, sex, family responsibilities, age, popularity, etc.)

Sworn police officers are generally restricted to positions, which require police powers. These positions are those, which make arrests, supervise arrests, (directly or indirectly), or are in natural career track which makes arrests or supervises arrests. Sworn police officers may serve in non-sworn positions on a temporary basis for no more than two (2) years out of any four (4) year period, or else they lose their sworn status. Therefore, the need for police powers is always included as one factor in the assignment of positions to classes in any law enforcement agencies of the Virgin Islands Government.

8-5 NOTIFICATION OF CLASIFICATION

Upon completion of the position classification process, the Personnel Director is required to notify the Budget Director and affected Agency Heads within ten (10) working days of the date that the action was completed and to post such actions on a public bulletin board in the Personnel Office for a minimum of thirty (30) days.

Agency heads are required to notify employees regarding any classification changes to their positions within ten (10) working days of receipt of such notification from the Personnel Director.

REQUEST FOR CLASSIFICATION REVIEW

Both agencies and employees may request the Personnel Director to review the classification of an individual position and must be given a reasonable opportunity to present information relevant to the review. The Personnel Director may establish special forms for this purpose.

Employee requests must be made in writing to the agency head with a detailed explanation of the reasons form the request and any other relevant information considered important by the employee. Employee requests must be approved by the agency head before the Personnel Director will consider them. If the agency Head believes that a review is justified, the Agency head submits the employee's request along with an agency recommendation (including a draft or proposed class specification if possible) to the personnel Director. Agency head must respond to employee requests with ten (10) working days of receipt of the request.

Agency requests may result either form an employee (see above) or from a management determination. Agency requests resulting form a management determination must be made in writing from the Agency Head to the Personnel Director. Such Requests should include a detailed explanation of the reasons form the request, the agency's recommendations, and a copy of a draft or proposed class specification for the position in question.

Upon receipt of a proper and complete request for classification review, the Personnel Director is required to conduct the classification review and reach a decision with thirty (30) days.

The Director of the Budget and the Finance Committee shall have Sixty (60) Working days from the date of receipt of the Director of Personnel's recommendation regarding a position reallocation to disapprove of the recommendation.

8-7 RECLASSIFICATION AND/OR REALLOCATION OF A POSITION

Whenever, in the opinion of the Director, permanent and substantial changes to a position have occurred to the extent that the position has become significantly different in a nature than it was when last classified, the Director will effect reclassification of the position and recommend its allocation to the appropriate salary grade in a written communication to the Director of the Budget and the chairman of the Finance Committee.

If the reallocation is disapproved due to the budgetary limitations by either the Director of the Budget or the Finance Committee, the need of reallocation of the position will be noted and will be effected as soon as funding is available. If neither the Director of the Budget nor the Finance committee disapproves of the date on which the Director of personnel made his/ her recommendation. In either event, the Director of personnel will effect placement of the position to its proper place in the classification plan.

8-8 EFFECT OF RECLASSIFICATION ON JOB INCUMBENTS

- (a) When positions are reclassified, the old position is technically abolished and a new one is created. Job incumbents do not have an absolute right to the new position but are given the first chance to fill the new position on a non-competitive basis. If the job incumbent meets the minimum qualifications for the new position, he/she is appointed to the position as a probationary employee.
- (b) Within ten (10) days of the reclassification of a position, the personnel director is required to begin evaluation of the qualification of the job incumbent, if any, to determine whether that person is eligible to work in the reclassified position. The director may require the job incumbent to provide any information needed to accomplish this process, using forms specified by the director. Upon receipt of the necessary information from the incumbent the director is required to complete the evaluation within ten (10) days and notify the employee of the results.
- (c) If the job incumbent does not qualify for the reclassified position, he/she may transfer or accept a voluntary demotion to another position for which he/she is qualified. If no other positions are available for the employee, the employee has the choice of either layoff or resignation.
- (d) Personnel actions to be taken when incumbent is not qualified for the reclassified position:
 - (1) If the job incumbent is reappointed to a position at a higher grade, the action is treated as a promotion.
 - (2) If the job incumbent is reappointed to a position at the same grade, the action is treated as a transfer.
 - (3) If the job incumbent is reappointed to a position at a lower grade, the action is treated as a nondisciplinary demotion.
 - (4) If the incumbent is separated as the result of a reclassification the action is treated as a layoff unless the employee chooses to resign voluntarily.

8-9 TEMPORARY SUSPENSION OF CLASSIFICATION REVIEWS

The Personnel Director, with the review and approval of the Governor, may suspend all individual classification reviews on a temporary basis as needed to facilitate the conduct of a classification study on an agency wide or government wider basis. These temporary suspensions may not exceed six (6) months for an agency-wide study or twelve (12) months for a government-wide study.

All classification reviews are temporarily suspended during the last six (6) months of the Governor's regular term of office, and no reclassifications may be made during this period to prevent any possible manipulating of the classification plan for political purposes.

8-10 EFFECTIVE DATE OF RECLASSIFICATION

If the position is vacant, the reclassification becomes effective on the date that the Personnel Director notifies the Agency Head.

If the position is occupied, the reclassification becomes effective on the date that the Personnel Director notifies the employee that he/she is qualified for the new classification, the effective date of the reallocation is the date that the employee vacates the position as required by section 3-8© above.

No retroactive reclassifications are permitted under any circumstances.

8-11. CLASSIFICATION APPEALS

Employees who positions are reclassified may appeal the reclassification to the Personnel Director. All such appeals must be made in writing within thirty (30) calendar days of the effective date of the classification action. The Director is required to review the classification decision in light of the information and arguments presented by the

employee and notify the employee of the results of this review with thirty (30) days of receipt of the appeal.

Employees who are still dissatisfied after the appeal to the Personnel Director may submit a second appeal to the Governor within ten (10) calendar days of the decision of the Personnel Director. The Governor is required to refer these appeals to the Government Employees service commission, which must conduct a hearing about the appeal within thirty (30) calendar days of the filing date of the appeal with the Governor. The Commission is then required to submit its recommendations to the Governor within ten (10) calendar days of the date of the hearing. The Governor is required to make a final decision on the case within thirty (30) calendar days of receipt of the recommendations of the commission and notify the Personnel Director of the decision at that time.

CHAPTER NINE

EMPLOYEE COMPENSATION

9-1 COMPENSATION PLAN

The personnel Director is required to establish and maintain an up to date compensation plan, subject to the review and approval of the Government. This plan covers all positions in the Government Service except:

- (a) Positions whose salaries are fixed by law
- (b) Positions for which no compensation is paid
- (c) Other positions designated by the Governor and approved by the Legislature.

The compensation plan consists of (1) a list of all job classes with their designated salary or wage grades, (2) a list of the fringe benefits applicable to each job class, and (3) rules for the administration of the compensation plan.

All salary or wage schedules and all fringe benefits are established through the legislature by statute. The Personnel Director may initiate studies of internal or external compensation practices as needed to ensure that employees compensation is administered properly and to advise the Governor and Legislature of any changes needed to ensure good personnel practice, No agency may conduct Independent compensation surveys or studies of any kind without the approval of the Personnel Director.

9-2 GENERAL POLICY

It is the policy of the Virgin Islands Government to:

- (a) Ensure internal equity by providing equal pay for work of equal value
- (b) Ensure internal equity by compensating its employees on a general scale which is comparable to the median rate paid by other organizations for similar work in the Virgin Islands, Provided that Sufficient funds are available.
- (c) Make all pay comparisons in terms of total compensation (i.e., salary or wages plus fringe benefits).

9-3 ASSIGNMENT OF SALARY RANGES

The Personnel Director is required to assign salary or wage grades to job classes on the basis of their:

- (a) Relative experience and training requirements
- (b) Work complexity and responsibility
- (c) Elements of supply shortage, which can be clearly attributed to pay consideration.

All positions within the same class are required to be assigned to the same salary or wage grade by definition, regardless of agency, collective bargaining unit, or other factors.

Supervisory job classes are required to be assigned a salary or wage grade which is at least one grade higher than the assigned to any of the job classes they supervise. Nevertheless, it is possible for a supervisor to receive a smaller salary or wage than a subordinate, if the supervisor is at a low step within the grade while the subordinate is at a high step within a lower grade.

9-4 PAY DIFFERENTIALS

Certain positions within a job class may receive a pay differential in addition to the regular salary or wages assigned to that job class when it is not practicable to create a separate job class. These differentials are temporary in nature and apply only when specified conditions are in effect, such as night work or hazardous duty. All pay differentials are established by the Governor and the Legislature.

- (1) Night differential. Employees who are assigned to regular night duty (i.e., between the hours of 6 p.m. and 6 a.m.) are paid as follows:
 - (a) Ten percent (10%) differential for nightwork lasting from 5 to 8 hours in a regular 8-hour shift.
 - (b) Fifteen percent (15%) differential for nightwork lasting more than 8 hours in one shift, provided that the duration of the assignment is not determined solely by the employee.
- (2) Institutional differential. Counselors and housekeepers at institutions operated by the Department of Social Welfare receive a 15 Percent differential due to their long, unusual, and irregular work hours.
- (3) Hazard differential. All employees except physicians who work directly in the tuberculosis or neuropsychiatric units of government hospitals receive a 15 percent differential for any shift of 8 hours or more and for any period of annual or sick leave immediately preceded or followed by such assignments.

9-5 NEW APPOINTMENTS

New appointments are normally made at the first step of the appropriate salary grade for the job class plus any applicable pay differential. With the approval of the Personnel Director, agency heads may appoint persons to higher in-grade steps under either one of the following conditions;

- (a) The Personnel Director has been unable to certify at least three eligible candidates who are willing to accept the normal entrance salary after an open recruitment period of at least 30 days.
- (b) The person to be appointed has unusual qualifications considerably in excess of the minimum requirements for the job class.

Under no conditions may agencies make any salary offers about the first step without prior approval from the Personnel Director.

9-6. WITHIN-GRADE SALARY INCREASES

Subject to the availability of funds, agencies may grant a one-step salary increase to all employees who have completed 2080 hours of service since their last such salary increase, provided that their performance has been rated at least satisfactory during the entire period. These step increases may continue until employees reach the maximum step for their salary grade.

Within grade salary increases must be given to all eligible employees if they are given at all. Agencies may not give step increases only to part of its eligible employees due to limited fund or any other reason.

If an employee is demoted to a lower salary grade, the effective date of his/her within-grade salary increase is not changed unless the demotion was due to less than satisfactory performance.

If an agency plans to deny a within-grade salary increase due less than satisfactory performance, the agency head must notify the employee in writing at least ten (10) calendar days prior to the date on which the employee otherwise would have received the step increase. This notice must state the reasons why the employee's performance is considered less than satisfactory. If the employee is not properly notified within the time limit, he/she must be given the step increase.

The employee may appeal the agency's decision to the personnel Director within ten (10) calendar days after receipt of notification from the agency. This appeal must be submitted in writing, with a copy to the employee's agency head. The Director is required to reach a decision and respond to the parties concerned in writing within 30 days after the appeal was filed.

The employee may appeal the Personnel Director's decision to the Government Employees Service Commission within ten (10) calendar days after receipt of notification from the Director. This appeal must be submitted in writing, with a copy to the employee's agency head. The Commission is required to hold a prompt and expeditious hearing at which the employee and agency head may testify, be represented by counsel, and call and cross-examine witnesses. Nevertheless, the strict rules of evidence need not apply. The Commission is required to reach a decision and respond to the parties concerned within thirty (30) working days after the end of the hearing. The decision of the Commission is final.

9-7 EXCEPTIONAL MERIT AWARD

Agency heads, with the approval of the Governor, may grant a one-step salary increase or lump sum cash award of lesser annual value in addition to the regular within-grade step increase to employees who have demonstrated exceptional merit in performing their duties or suggesting ways to improve the efficiency and effectiveness of the Government. These awards may continue until employees reach the maximum step for their salary grade.

Exceptional merit awards are subject to the availability of funding may be given only to employees who are eligible for a regular within grade increase on the same date that those step increases are given. Exceptional merit awards may not be given in place of regular within grade increases and do not change the effective date of those step increases.

9-8 COMPUTATION OF RATES OF PAY

All salaries are established at an annual rate based upon 2080 work hour per year. Employees normally work 52 workweeks of 40 hours each; however alternate work schedules may be established with the approval of the Governor provided that they are based upon 2080 work hours per year.

When the annual rate of pay must be converted to other rates the following calculation are normally used:

- (a) Monthly rate is equal to the annual rate divided by 12
- (b) Biweekly rate is equal to the annual rate divided by 25
- (c) Weekly rate is equal to the annual rate divided by 52
- (d) hourly rate is equal to the annual rate divided by 2080

If the Commission finds that such dismissal, demotion, or suspension was order the Department Head arbitrarily, unjustly, and without reasonable cause, an employee was represented by counsel, it shall enter an order awarding a reason attorney fee to the employee. Such award shall be satisfied by legislature appropriation therefor.

If the employee does not appeal to the Government Employee such Commission with the time herein prescribed, the Department head shall forfeit his recommendation to the Governor for final action

9-9 OVERTIME, COMPENSATORY TIME, AND HOLIDAY PAY

Employees may work overtime, but no compensation may be paid for this work unless the overtime is approved in advance by the employee's supervisor or other authorized agency official.

Overtime work includes any work performed in excess of the standard workweek or work period. Holidays and leave with pay taken by the employee during the standard workweek or work periods are counted as part of the standard workweek or work period when overtime is computed.

Except where other wise provided by these rules and regulations, the standard workweek is five (5) days per calendar week and the standard work period is eight (8) hours per calendar day. Alternate work schedules may be established by the Personnel Director, in consultation with the Agency Head and with approval from the governor, provided that the employee subject to these schedules receive substantially the same amount of time off and annual leave as provided for other employees.

An employee whose position is paid under the craft and labor Schedule or whose position is in grades 6 through 27 of the General schedule receives one and one-half time his/her regular base rate for authorized overtime work performed, except as provided below

The maximum rate of overtime compensation for any employee may not exceed the overtime rate for step A of grade 25 of the General Schedule.

Employees in grade 25 or higher of the General schedule are not eligible for overtime payments but are given compensatory time off equal to the number of overtime

hours worked. All compensatory time off may be taken only with the approval of the Agency Head and at such times when the public business will not be unduly affected.

At the request of the employee, Agency Heads may grant compensatory time off equal to the number of overtime hours worked to employees whose overtime compensation is not fixed by federal law.

Agency heads may require employees whose base rate of pay is higher than step A of Grade 25 of the General Schedule to take compensatory time off equal to the number of hours worked, rather than give a cash payment.

Agency Head are encourage to give their employee a reasonable opportunity to use compensatory time as soon as possible after it is earned to avoid high accumulation.

Employees who live and sleep at their place of employment may not receive overtime compensation for periods in which they are not on active duty.

Employees who are furnished meals and living quarters without deduction form their pay, not including those who travel overnight on Government business, may not receive overtime compensation. Instead, these employees are paid a salary differential of at least fifteen percent due to the long, unusual and irregular hours of their work.

Employees who are required to work on a holiday receive their regular daily pay plus an amount equal to their regular base rate for all authorized work performed on the holiday, except as provided below.

Employees who work on Sunday as part of a regular or rotating shift may not receive holiday pay. These employees include those who work in public institutions such as hospitals or who are engaged in work relating to public safety, health, or fire prevention.

Temporary employees paid on a hourly basis receive eight (8) hours of pay for each regular Government holiday.

Emergency employees may not receive overtime pay compensatory time off, or holiday pay.

9-10 SALARY ADJUSTMENTS DUE TO RECLASSIFICATION

If an occupied position is reclassified to a higher level job class and the incumbent meets the qualification for the new job class, the incumbent is assigned to the lowest step in the new, higher salary grade that results in an actual salary increase.

If an occupied position is reclassified to a lower level job class, the incumbent is assigned to the step in the new, lower range which is closest to his/her present salary without going lower. If the incumbent's salary is higher than the maximum step in the new, lower salary range, the incumbent continue to receive the same salary as long as he/she remains in that class but may not receive further salary increases of any kind until the maximum step of the new range exceed his/her present salary.

9-11 SALARY ADJUSTMENTS DUE TO REALLOCATION

If a job class is reallocated to a new salary grade, the salaries of employees in that job class are adjusted according to the same procedures as those used for position reclassification (see section 9-10).

9-12 SALARY ADJUSTMENTS DUE TO PROMOTION

When an employee is promoted to a job class at a higher salary grade the employee is assigned to the step in the higher salary range that results in a pay increase at least equal to a one step increase in the employee's previous salary range.

9-13 SALARY ADJUSTMENTS DUE TO DEMOTION

When an employee is demoted to a job class at a lower salary grade part of a disciplinary action, the employee is assigned to the step in the lower salary range that results in a pay decrease at most equal to a one step decrease the employee's previous salary range.

9-14 SALARY ADJUSTMENTS DUE TO TRANSFER

When an employee is transferred from one position to another within the same job class, no salary adjustments may be given simply on the basis of the transfer.

9-15 SALARY ADJUSTMENTS DUE TO TEMPORARY ASSIGNMENTS

Employees are required to serve in acting roles or other temporary assignments outside of the regular job class for up to sixty (60) calendar days in any 12 months period before any salary adjustment may be made. After sixty (60) days if the employee is assigned to a higher salary range that results in a pay increase at least equal to a one step increase in the employee's previous salary range. If the employee is assigned to a lower level job class, there is no salary adjustment.

9-16 SALARY ADJUSTMENTS DUE TO MULTIPLE ASSIGNMENTS

Employees may not be assigned to two or more positions except on a temporary basis. When such multiple assignment are made, the employee is paid only one paycheck. For the first sixty- (60) days of a multiple assignment, the paycheck is based on the employee's original job class plus overtime, if any. After sixty (60) days, the paycheck is based on the highest-level job class plus overtime, if any.

9-17 SEQUENCE FOR MAKING SALARY ADJUSTMENTS

If two or more salary adjustments occur on the same effective date, such adjustments are required to be made in the following order.

- (a) General changes to the salary schedule
- (b) Adjustments from class reallocation
- (c) Within-grade salary increases and exceptional merit awards
- (d) Adjustments from promotions and positions reclassification
- (e) Adjustments from temporary assignments and multiple assignments

9-18 SALARY PAYMENT UPON SEPARATION

Employee who separate from Government service may not receive severance pay, but separated employees or the beneficiaries of deceased employee do receive back pay, compensatory time, and vacation leave which has accumulated as of the date of separation. Payments for the current balance of compensatory time and vacation leave are based on the employee's base rate pay, excluding overtime and shift differential. Separated employees may not receive payment for unused sick leave.

9-19 SALARY ADMINISTRATION

The commissioner of Finance is required to pay all salaries of Government employees on the basis of 2080 hours per year, divided into 25 pay period of 80 hours each. A lag time of up to 12 days is permitted between the end of the period and the distribution of paychecks for payroll processing.

Each agency head is required to certify that the payrolls vouchers, and accounts for personal services comply with the Virgin Islands Personnel Law V.I.C Chapter 25) and these Personnel Rules and Regulation. Nevertheless, the director of Personnel may require any agency to submit their payrolls, voucher and accounts for personnel services to him/her for independent review and certification. When such reviews are made, agencies may not approve or make a payment for personal services until the Personnel Director has certified that the payrolls, vouchers, or accounts under review are in compliance with the personnel law, rules, and regulation. The Personnel Director may not certify the pay of an officer, or employee who has been appointed in violation of the provisions.

Employees who are affected by the Personnel Director's refusal to certify any payroll, voucher or account may appeal to the Government Employees Service Commission.

9-20 ANNUAL LEAVE

All employees, who were appointed to a Government position prior to July 1, 1968, receive 26 days of annual leave, regardless of their tenure with the Government.

- (a) One-half day for each full biweekly pay period for an employee with less than 3 years of service.
- (b) Three-fourths day for each full biweekly pay period, except that the last full biweekly pay period in the year is one and one fourth days, for an employee with three (3) but less than fifteen (15) years of service.
- (c) One day for each full biweekly pay period for an employee with 15 or more years of service.

All employees accrue annual leave at the same rate, regardless of whether they work full-time or part-time.

Employees who return to the Government service after an absence of no more than five years shall accrue annual leave at the rate of their most recent separation from Government service unless such rate was less than that specified here.

Employees may not use annual leave without approval from their agency to ensure that efficient operation is maintained.

9-21 SICK LEAVE

All permanent employees accrue sick leave at the rate of one-half day for each full biweekly pay period. All temporary employees, except those engaged in construction work at hourly rates, accrue sick leave at the rate of one-fourth day for each week worked. Unused sick leave may accumulate for use in later years. Agency Head may advance up to 30 days of additional sick leave to employees who have serious disabilities or ailments.

Accrued sick leave may be used when an employee is incapacitated by sickness, maternity, or injury; when an employee requires medical, dental or optical examination or treatment; when an employee must attend to the incapacitation or death of the employee's or spouse's immediate family; or when that employee has been exposed to a contagious disease which might jeopardize that health of coworkers

Employees who are unable to work for any of the reasons stated above are required to notify their immediate supervisor as soon as possible regarding their absence or anticipated absence. If such notification is not given, agency heads are to change the employee's absence to annual leave or leave without pay and may consider appropriate disciplinary action.

Agency Heads are required to approve the use of all sick leaves and to certify that such leave was taken in accord with these rules and regulations. Agency Heads may require employees to submit appropriate evidence to substantiate the use of sick leave. Abuse of sick leave is just cause for disciplinary actions

9-22 DUTY-CONNECTED DISABILITY

Employees who are awarded disability compensation under the Virgin Islands worker's Compensation Law are also entitled to receive additional compensation from their agency for a period of up to ninety (90) days. The amount of the additional compensation is required to make up the difference between the disability compensation and the employee's base salary, not including overtimes or shifts differential.

Employees who are unable to work due to an injury which might be compensable under the Virgin Islands Worker's Compensation Law may continue to receive full salary for a period of time not exceeding their accumulated leave time. If disability compensation is later awarded, the agency is required to restore the employee's leave time equal to the period of disability compensation but not exceeding ninety (90) days. If disability compensation is not awarded, the leave time is charged in the normal matter.

The ninety (90) day limitation imposed above does not apply in any case where the compensable injury was caused by the reckless or willful conduct of another person or by an act of god, provided that the injured employee did not provoke the reckless or willful misconduct and was engaged in the direct course of his/her official duties at the time of the injury.

9-23 HOLIDAY LEAVE

Unless they are specifically scheduled to work, all employees are given paid

holiday leave from regularly scheduled work occurring on the following days:

- (a) New Year's day (January 1)
- (b) Three King's Day (January 6)
- (c) Martin Luther King's Birthday (January 15)
- (d) Lincoln's birthday (Second Monday in February)
- (e) Washington's Birthday (Third Monday in February)
- (f) Transfer Day (March 31)
- (g) Holy Thursday
- (h) Good Friday
- (i) Easter Monday
- (j) Traditional Market Fair (half-day Tuesday before Carnival)
- (k) Carnival/Children's Parade (third Friday after Easter)\
- (l) Carnival/Adults' Parade (Day following Children's Parade)
- (m) Memorial Day (last Monday in May)
- (n) Organic Act Day (Third Monday in June 28, 1999)
- (o) V.I. Emancipation Day (July 4)
- (p) Independence Day (July 4)
- (q) Hurricane Supplication Day (fourth Monday in July)
- (r) Labor Day (First Monday in September)
- (s) Columbus Day & Puerto Rico Friendship day (Second Monday October)
- (t) Local Thanksgiving Day (Third Monday in October)
- (u) Liberty Day (November 1)
- (v) Election Day (first Tuesday in November of an election year)
- (w) Veteran's Day (November 11)
- (x) Thanksgiving Day (fourth Thursday in November)
- (y) Christmas Day (December 25)
- (z) Christmas Second Day (December 26)

9-24 JURY LEAVE

Employees are required to be excused from their regular duties with no loss of pay or annual leave for the time required for jury service in the municipal court of the District Court of the Virgin Islands.

9-25. RESERVE MILITARY LEAVE

All employees are required to receive leave with pay for time spent in mandatory attendance at annual reserve summer training encampment and at other regular drills and training sessions conducted throughout the year. All such leave is provided in addition to the employee's regular accrue annual leave.

9-25 FUNERAL LEAVE FOR VETERANS.

Employees who are military veterans are required to be excused from their regular duties for up to four (4) hours in any one day to participate as an active pall bearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces of the United States whose remains are returned from outside the United States for final interment in the Virgin Islands. Such leave is provided without loss of pay or deduction from annual leave.

9-26 ADMINISTRATIVE LEAVE

Agency heads may give their employees administrative leave with pay to participate in meetings, seminars, hearing, examinations, or their work related activities. Such leave is provided without loss of pay or deduction from annual leave.

9-28 TRAVEL EXPENSES

Agency heads may pay moving and travel expenses for the relocation new employees recruited from outside the Virgin Islands to the Virgin Islands a for their return to their original residence at the completion of the Government service. Such expenses may also be paid to employees who are reassigned from duty station to another for the convenience of the Government.

Payment for moving and travel expenses may not be made until the employee agrees in writing to remain in the Government service for a minimum of 12 to 36 months,

as required by the agency, following his/her appointment unless separated for reasons which are beyond his/her control and are acceptable to agency. If the employee violates this agreement, he/she is required to pay back moving and travel expenses paid by the Government under the agreement.

Payment for return moving and travel expenses is permitted regardless of whether the separation is for the convenience of the Government or the employee. Nevertheless, such payment may not be made if the employee violated the original agreement to work for a minimum of 12 to 36 months in the Government unless separation is for reasons which are beyond the control of the employee and are acceptable to the agency.

Payments for moving and travel expenses may not exceed \$2,000 in an individual case unless approved by the Governor.

CHAPTER TEN

PERFORMANCE STANDARDS AND APPRAISAL

10-1 POLICY

The interests of the Governments, its employees, and the public are best served when members of the Government service successfully discharge the duties and responsibilities of the positions to which they are appointed. To protect those interests, the Director of the Personnel shall, in cooperation with Department Heads, establish and maintain standards of performance for employees in each class of positions in the career service, and shall periodically obtain service ratings, which are based upon such standards, for all career service employees.

10-2 FACTORS CONSIDERED IN ESTABLISHING STANDARDS OF PERFORMANCE

Standards of performance established under these Rules and Regulations will be based upon, but not limited to, the following:

- (a) the quality of the work performed
- (b) The quantity of the work performed
- (c) Such other job related characteristics as will objectively measure the value of employees to the Government Service.

10-3 USE OF SERVICE RATING BASED UPON PERFORMANCE

Rating assigned to employees, based upon their performance, may be considered:

- (a) In determining salary increases and/or decreases,
- (b) In selection and promotion procedures,
- (c) In determining the order of layoff when the number of employees must be reduced,
- (d) As a basis for the transfer, demotion, or dismissal of an employee, and

- (e) As a basis for the identification of training program contents and/or participants,
- (f) In recognizing or rewarding superior performance,
- (g) As a basis for identifying inadequate performance so that action may be taken to correct that performance and
- (h) As documented evidence of efforts at correction when an employee inadequate performance cannot be corrected and disciplinary action is deemed necessary by the supervisor.

10-4 PERFORMANCE APPRAISAL REPORTS

- (a) Form. Performance appraisal reports shall be made in writing such form as the Director, after consultation with Department heads, may prescribe.
- (b) Notice. Periodic appraisals of each employee's performance shall be made on a systematic and job-related basis. Each employee shall have the opportunity to discuss his/her performance appraisal rating with his/her supervisor prior to final notice of his/her rating. This discussion will be for such purposes as explaining to the employee how his/her work is evaluated and to enable him/her to correct weaknesses identified in the performance rating.
- (c) Availability of reports. Performance appraisal reports for an employee may be inspected by:
 - (1) the employee,
 - (2) the employee's Supervisor,
 - (3) the employee's Department Head
 - (4) at the discretion of the Director, another Department Head who is considering the employee for transfer to his department, and
 - (5) authorized members of the Personnel office. Such inspection shall be open to such authorized persons only during regular business hours and under reasonable conditions to be prescribed by the Director.

CHAPTER ELEVEN

SEPARATION, DEMOTION AND DISMISSAL

11-1 SEPARATION

- (a) Layoff. Permanent employees may be laid off only when such action is deemed necessary by reason of.
 - (1) Economy (e.g., shortage or lack of funds),
 - (2) Curtailment of work, or
 - (3) Abolishment of positions in which those employees are incumbents.
- (b) Discredit. Layoffs shall not be construed to reflect discredit unless the service of the employee.
- (c) Reassignment of duties. The duties performed by any employee is laid off may be reassigned to other employees already working an appropriate class.
- (d) Layoff vs. suspension or permanent separation. No suspension permanent separation of an employee from the career service a penalty shall be considered as a layoff.
- (e) Basis for Layoffs. Layoffs must be conducted on a systematic basis that is, in a uniform and equitable manner, taking into consideration
 - (1) type of appointment, (2) quality of service, and (3) length of service.
- (F) PREFERENCE IN RETENTION TO PERMANENT EMPLOYEES. Permanent employees must be given preference over temporary and provisional employees in retention during a layoff.
- (G) Consideration of performance and seniority during layoffs. Quality and length of service will be taken in account during layoffs in the following order.
 - (1) The employee with a lower current service rating shall be laid off before any

employee with a higher rating,
 - (2) When the service rating of employees are the same, the employee with a shorter length of continuous service in the job classification shall be laid off before any employee with a greater length of such continuous service;
 - (3) When the length of service, in the job class, of employees in the same, the employees with a shorter length of continuous service in the government service shall be laid off before any employee with a greater length of such continuous service.
- (h) Notice of Layoff. A Department head shall give written notice to the Director of Personnel and to the employee of any proposed layoff, and the reasons therefor, at least ten (10) working days before the effective date thereof. In the case of temporary, casual or other occasional employment of employees in the Government service, the Department head may notify such employees, and the Director, of the date of termination of employment at the time of appointment. Such notice shall be deemed to meet notification requirement.

- (i) Return of Layoff Names to Re-employment list. The names of permanent employees who are laid off or demoted in lieu of layoff shall be placed on the appropriate re-employment list for the class in which the layoff took place in reverse order of layoff, unless such employee indicated in writing to the Director that he/she is no longer interested in employment in the class. The name of any probational employee who is laid off shall be restored to the employment list from which certification was made.

11-2 SUSPENSION

A department or Agency Head may, for disciplinary purposes, suspend without-pay any employee in his/her department for such length of time as he/she considers appropriate not exceeding thirty (30) calendar days in any twelve-month period. The Director and the suspended employee shall be furnished with a written statement specifically setting forth the reasons for such suspension. With the approval of the Director an employee may be suspended for a longer period pending the investigation or trial of any charges against him/her.

11-3 DEMOTION

A Department or Agency Head may demote an employee for cause, or lieu of layoff. A written statement of the reasons for any such action shall be furnished to the employee and a copy filed with the Director at least five (5) working days prior to the effective date of the action. No demotion shall be made as a disciplinary action unless the employee to be demoted is eligible for employment in a lower class, and no case shall any demotion be made if any permanent employee in a lower class would be laid off by reason of this action.

11-4 RESIGNATION

To resign in good standing an employee must give his/her department or agency head at least fourteen (14) calendar days' prior notice, in writing, unless the head agrees to permit a shorter period of notice. The Director may make such investigation as he/she deems to be warranted for verifying the reason for the resignation.

- (a) Implied resignation. An employee who has, after an absence from his/her job of five (5) consecutive working days,
 - (1) Failed to provide his/her work supervisor with reasonable justification for the absence, or
 - (2) Failed to inform his/her resignation, effective as of the end of the fifth day of such absence.

An employee who resigns by absence may request a hearing before the Government Employees service Commission within ten (10) working days of the effective date of the

implied resignation. The request must set forth, in writing, sufficient facts to substantiate an allegation that the implied resignation was obtained through fraud, duress, or undue influence, or that his or her absence was for reasons beyond his/her control. The employee requesting such a hearing shall have the burden of providing the facts substantiating his/her allegations.

11-5 DISMISSAL

A Department or Agency Head may dismiss an employee:

- (a) At any time during the employee's probationary period, if the employee:
 - (1) is unwilling or unable to satisfactorily perform the duties of the position, after reasonable efforts have been made to correct inadequate performance and documented by the Department Agency Head, or
 - (2) was appointed as a result of fraud or error
- (b) For cause (such as, but not limited to: assault; carelessness; damaging Government property; dishonesty; excessive or habitual absenteeism; insubordination; refusal of work; theft; unsatisfactory work performance).
- (c) Who has willingly violated any proscription of the Government Employee Code of conduct which are a part of these Rules and Regulation.

11-6 SUSPENSION, DEMOTION AND DISMISSAL PROCEDURES

When an Agency or Department Head decides to suspend, demote, dismiss an employee, the employee shall be furnished with a written statement the reasons for, and effective date of the suspension, demotion, or dismissal

A copy of the written statement which contains the reasons for an effective date of the suspension, demotion, or dismissal shall also be filed with the Director of Personnel

11-7 APPEAL RIGHTS

The employee shall have ten (10) calendar days following the date of receipt of said statement to appeal the proposed action to the Government Employees service commission. Such appeal shall be in writing and a copy shall be furnished to the Department head.

The Government Employees Service Commission shall meet within thirty (30) calendar days after the filing of the appeal and afford the Department head and the employee an opportunity to be heard. The Department Head and the employee shall be entitled to call witnesses and be represented by counsel. The hearing, including

continuances thereof, shall in on event extend beyond sixty (60) calendar days. The Commission shall render its decision within fourteen (14) Calendar days after termination of the hearing.

The Commission may sustain or reverse the decision of the Department head or may reduce the penalty recommended by the Department head from dismissal or demotion to suspension if the Commission finds such action to be warranted and in the public interest.

The Department head, upon receiving the decision of the Government Employees service Commission, shall forward all pertinent papers to the Director of Personnel for preparation of personnel documents in accordance with the decision of the commission.

If the Commission orders restoration to duty and pay, and if it does not order suspension, the employee shall receive full compensation for any period for which he did not receive compensation pending hearing of the appeal. In addition

11-8 AUTOMATIC SEPARATION

Any employee other than a police officer, firefighter, or prison shall be automatically and honorably separated from the government service reason of age, after he/she attains the age of seventy (70) years.

Every police officer, firefighter or prison guard shall be automatic and honorably separated from the government, by reason of age, after attains the age of fifty-five (55) years. Any such employee may be continue government service beyond such mandatory requirement age if he/she applied and obtains an annual certification by the commissioner of Health that he/she physically and mentally able to continue in the position, but not such employee be continued in the government service for more than five (5) years after attain the applicable mandatory retirement age.

All rates are computed to the nearest cent, counting one-half cent and over as a whole cent.

Part-time employees are paid in proportion to the amount of time that they work.