



Regulation of the Chancellor

Category: PEDAGOGICAL PERSONNEL

Number: **C-205**

Subject: GENERAL LICENSE PROVISIONS AND REQUIREMENTS

Issued: 09/05/00

SUMMARY OF CHANGES

This regulation supersedes and replaces C-205 – dated 10/13/92.

It sets forth the general requirements for licensure and provisions relative to the termination and restoration of licenses.

There are no changes in this regulation.



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SUMMARY OF THE REGULATION

This regulation is directed to applicants, appointees and administrative staff. It sets forth the general requirements for licensure and provisions relative to the termination and restoration of licenses.

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1. Licenses Granted by the Chancellor

- a. Conditional licenses and certificates shall be granted by the Chancellor upon certification that those recommended:
 - 1) have presented satisfactory evidence of their completion of the minimum academic and professional preparation requirements specified for the position by the Commissioner of Education and/or the Chancellor; and
 - 2) have been tested and selected; and
 - 3) have satisfied the requirements with respect to review of record, citizenship and verification of employment eligibility, as well as any other similar requirements that may be imposed by law or regulation.
- b. Permanent licenses shall be granted by the Chancellor upon Certification that those recommended have presented satisfactory evidence of completion of the full academic and professional preparation requirements specified for the position by the Commissioner of Education and /or the Chancellor.

2. Physical and Medical Fitness Required for School Service

A medical examination will be required by the Medical Bureau of the Board of Education, as a condition to an offer of employment, for each entering pedagogical employee. The medical will be required solely for the purpose of determining whether the individual can perform the duties of the position offered. If it is determined that the individual would be unable to perform required duties, even with reasonable accommodation, or the individual would pose a significant risk to the health of others in the school that could not be eliminated by reasonable accommodation, then the offer of employment will be withdrawn and the individual will be provided with a statement of the reasons for this action. The statement will be based upon criteria that are job-related.

An appeal to the Director of the Medical Bureau from this determination shall be available. The appellant must present appropriate, current medical documentation that refutes the original determination.

The records of a medical examination will be confidentially maintained and only the individual examined, or a physician designated by the individual, will be provided with a copy of the examination results and/or a statement of reasons for the withdrawal of the offer of employment.

Individuals currently employed in the New York City public schools are not required to be medically examined when commencing employment under a different license. However, individuals returning from a leave of absence must, before they return to school service, receive medical clearance.

3. Fingerprint Clearance Required for school service - No applicant shall be granted any license or certificate except on certification by the Director of Personnel Investigation that



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the person has been fingerprinted and that the appropriate records do not reflect conduct unbecoming to an employee of the school system.

4. Citizenship Required for School Service - As required by the Education Law, and in accordance with Commissioner's Regulation 80.2 (i), no one shall be licensed who is not a citizen of the United States of America.

- a. However, as further provided by the Education Law, an alien who possesses skills or competencies not readily available among teachers holding citizenship may be licensed and appointed if the alien shall have made due application to become a citizen and thereafter, within the time prescribed by law, shall become a citizen. Upon the failure of an alien to become a citizen within the limits provided by Federal Law, any license or certificate held by the alien shall terminate. If the alien is performing school service at the time, the license shall terminate on August 31, following determination by the licensing office that the alien has violated the citizenship requirement of the State Education Law.
- b. A certificate for substitute service may be issued to an alien who has not declared intention of becoming a citizen and who possesses skills or competencies not readily available among teachers holding citizenship; or one who is unable to declare intention of becoming a citizen for valid statutory reasons.
- c. As further provided by law and the regulations of the Commissioner of Education, an alien may serve the school system as an "exchange teacher" when granted the appropriate temporary license by the commissioner.

5. Employment Eligibility Verification Required by Federal Law

The Immigration Reform and Control Act of 1986 prohibits the employment of aliens who are not eligible for such employment. In advance of employment, eligibility must be verified and there must be completed and maintained a "Form I – 9" establishing that the alien's credentials have been reviewed and that employment of the alien is in compliance with the Immigration Law.

- a. The required verification of eligibility for employment must be completed without exception for every person, regardless of position, who has been or will be hired after November 6, 1986 and continuing in such service after that date are considered to have been found eligible for employment regardless of whether or not they would actually have qualified under regulations.
- b. Eligibility must be verified in the prescribed manner for all persons with a break in service of three years or more regardless of whether or not their eligibility was previously verified.
- c. Covered applicants must submit certain prescribed documentation and execute Part 1 of Immigration and Naturalization Service Form I-9. After reviewing Part 1 and the



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documentation submitted in substantiation of the information entered by the applicant on that part, the reviewing officer must then complete Part 2 of the same form. The reviewing officer must retain completed Forms I-9 and be prepared to submit them for inspection by representatives of the Immigration and Naturalization Service within three days of demand. Persons found ineligible may not be employed. To preclude discrimination against non-citizens who are eligible to work under federal rules, the verification procedure must be applied to citizens and non-citizens alike regardless of whether citizenship is apparent or was previously established in some other regard.

- d. No waivers or exemptions of any sort are authorized and the Immigration Law provides substantial financial penalties for violation of its terms.
- 6. License Required for Appointment** - No one shall be appointed to a position for which a license has been established by the Board of Education, upon recommendation of the Chancellor, who does not possess that license or an appropriate higher license and no one shall have a claim to salary in any position for which a license is established who does not possess that license or an appropriate higher license and has not been appointed under such a license. (See Section 2573.10 (a) of the Education Law.) However, this prohibition shall not preclude service or payment for service performed under an appropriate certificate issued by the Chancellor.
- 7. Teaching Position Defined** - For the purpose of assignment, appointment and service, a teaching position consists of one which requires teaching in an established license area for fifteen or more class teaching periods in a week of twenty-five such periods or the equivalent proportion of teaching time in units organized on a different basis and a vacancy exists in such a position which is not filled by the holder of a license appropriate for the position.
- 8. Non-Teaching Position Defined** - For the purpose of assignment, appointment and service, a non-teaching position consists of one where the assignment of an individual who possesses a license or certificate is not predominantly related to classroom teaching.
- 9. Licensed Defined** - For the purposes of assignment, appointment and service, a license is a New York City license for which a title was established by the Board of Education, upon recommendation of the Chancellor, and for which the Chancellor has prescribed requirements as provided by the Education Law (see Section 259j2). For each license for which there exists a comparable state certificate, the Education Law specifies that the academic and professional preparation required for the city license shall be satisfied by possession of the corresponding state certification. (See Sections 2569 and 2590J). In addition, applicants must also have completed within two years of the date of appointment the following requirements.



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- Six semester hours of collegiate study of approaches to the teaching of special education children, including the characteristics and problems of these children and the ways of meeting their special needs. In lieu of three semester hours of the specified six semester hours in special education, an applicant may offer in-service course work in special education designated for this purpose by the Executive Director of the Division of Human Resources. Such in-service course work must supplement or be in addition to the preparation for state certification.
 - Two semester hours of collegiate study in human relations courses specifically approved for this purpose by the Executive Director of Human Resources, or two semester hours of in-service course work specifically approved for this purpose by the Executive Director of Human Resources. Such in-service course work must supplement or be in addition to the preparation for state certification.
- 10. Change of License Title** - Should the Board of Education, upon recommendation of the Chancellor, change the title of a license, service under the former title shall be considered the constructive equivalent of service under the new title for all purposes, including excessing and layoff because of a contraction in staff for budgetary reasons.
- 11. Abolition of License Title** - Should the Board of Education, upon recommendation of the Chancellor, abolish the title of any license, licenses in that title and the requirements for those licenses shall remain in force and effect for all those holding the licenses at the time the title was abolished.
- 12. Change in License Requirements** – Should the Chancellor change the requirements for any license, the change shall not affect the validity of licenses issued previously or the range of employability under those licenses.
- 13. Date for Satisfaction of Minimum Requirements** – Unless otherwise specified by the Director of ORPAL (hereinafter Director), applicants must have satisfied the minimum requirements established for a conditional license by the close of the application period for the license, that is, by the last day on which applications for the license are to be accepted. When the date specified for satisfaction of minimum requirements is other than the close of the application period, the phrases “close of the application period” or “close of applications” as used in the regulations relating to licensure and certification shall mean the particular alternative date specified by the Director even though the date on which the applications closed was actually a different day.
- a. Certification of Qualification. A certificate of qualification shall be accepted pending submission of the corresponding provisional certification when required for the license. Upon failure by an applicant to submit the provisional certificate within a reasonable time, the conditional license shall not be issued but withheld from the applicant but, if the license has already been issued, then it shall terminate. If the



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license holder is already employed on a full time basis, the license shall terminate no later than the following August 31.

- b. Substitution of Full Requirements for Minimum Requirements. Should, by the date for satisfying minimum requirements, an applicant present satisfactory evidence of having met the full requirements for a license, the applicant shall be issued a permanent license which bears a notation indicating the earliest date on which the applicant may acquire tenure.

14. Dates for Satisfaction of Full Requirements - Applicants must meet the requirement of the corresponding Permanent Certificate no later than the date by which their New York State Provisional Certificate expires. In addition, within two years of the date of appointment, applicants must have completed the six semester hours and the two semester hours set forth in Paragraph 9 of this regulation. Upon the failure of an applicant to do so, the license shall terminate. If the holder of such a license is employed under the license on a full-time basis, the license shall terminate no later than the following August 31.

- a. Application for time extensions for examinations announced prior to January 1, 1991 shall be considered under Section 238.6 of the previous Regulations of the Chancellor. Applications for time extensions for examinations announced after January 1, 1991 shall be considered under paragraphs 17 and 18 set forth below. Notwithstanding the provisions of these sections for time extensions, a teacher who has been laid off due to contraction in staff for budgetary reasons prior to the date for meeting the requirements in full for the license and who is appointed to another license area as a result of a recertification examination, and who is recalled and returns to service under the previous appointment, may apply for a time extension to meet the requirements under the first license. The time extension shall be for a period of no more than two years, which shall include any period(s) of layoff without service in the city school system and any service as a "recertified" teacher or under a former license to which the teacher reverted upon layoff.

15. Applicants Required to Hold a License to Practice Medicine – Applicants required to hold a currently valid license to practice medicine in New York State may satisfy that requirement within one year of the close of the application period but shall not be eligible for appointment until the applicant has satisfied the requirement.

16. Applicants for Licenses for Summer Service – An applicant shall meet the requirements for licensure no later than June 15 preceding the season for which application for license is made.



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- 17. Time Extensions for City Licenses Comparable to State Certificates to Compensate for Military Service, Illness, Child Care, Layoff, Extreme Hardship or Other Circumstances Beyond the Control of the Applicant, and Inability to Secure Appointment Under the License** – The time extensions permitted by this subdivision apply to examinations announced after January 1, 1991. Applications under this subdivision for extensions of the time validity of New York State Certificates which are comparable to city licenses must be submitted to the State Education Department for determination in accordance with Commissioner’s Regulation 80.2 (f). Upon submission by the applicant of satisfactory evidence of such an extension of time validity, the Director shall grant the corresponding time extension with respect to the comparable city license.
- 18. Time Extensions for City Licenses for which No Comparable State Certificate Exists to Compensate for Military Service, Illness, Child Care, Layoff, Extreme Hardship or Other Circumstances Beyond the Control of the Applicant, and Inability to Secure Appointment Under the License** – The time extensions permitted by this subdivision apply to examinations announced after January 1, 1991. Applications under this subdivision for extensions of time to satisfy requirements for city licenses for which no comparable State Certificates exist must be submitted to the Director for determination in accordance with this subdivision and the subdivisions which immediately follow. Except for those qualifying for time extensions by virtue of involuntary active military service in time of war, the maximum additional extension of time shall be two years and the qualifying condition or conditions must have occurred subsequent to the close of the application period and prior to the date any other time extension expires.
- a. Extension for Active Military Duty in Time of War. To qualify under this subdivision, an applicant must have performed active military duty in the armed forces of the United States during time of war or performed certain other services which the Military Law defines as equivalent to such active military duty. For voluntary service, the time extension shall be equal to the period of service but shall not exceed two years. For involuntary service ordered by Selective Service or other comparable legal mandate, the time extension shall be equal to the period of involuntary service even if this exceeds the normal two-year limit. Voluntary extension of military service even when such service commenced on an involuntary basis shall not be grounds for extension of the time beyond the obligation originally imposed by legal mandate. To substantiate any claim under this subdivision, an applicant must present copies of military orders which reflect the date for reporting to military duty (including travel time if specified in the military orders) and the date of honorable discharge or other certification signifying termination of active military service.
- b. Extension for Active Military Duty other than in Time of War. To qualify under this subdivision, an applicant must have performed active military duty in the armed forces of the United States for a period of at least six months. The time extension



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shall be equal to the period of service but shall not exceed two years. To substantiate any claim under this subdivision, an applicant must present copies of military orders which reflect the date for reporting to military duty (including travel time if specified in the military orders) and the date of honorable discharge or other certification signifying termination of active military service.

- c. Incapacity Due to Illness Including Maternity. To qualify for time extension on account of illness including maternity, an applicant must have been incapacitated for employment by an illness or by pregnancy or a combination of the two for at least one month. The time extension shall be equal to the period or periods of illness including pregnancy or pregnancies but shall not exceed a total of two years in the aggregate. To substantiate any claim under this subdivision, an applicant must present appropriate medical evidence. If the applicant was an employee of the city school system during the qualifying period, evidence of sick leave, leave of absence for personal illness, and/or maternity must be submitted. No applicant may be granted a time extension for illness including maternity who has been employed or performed actual service during the period for which a time extension is sought.
- d. Child Care. To qualify for time extension on account of the need to care for a young child, an applicant must have been unable to work for at least one month because of the need to care for a natural or adopted young child. For the purposes of this subdivision, a “young child” means one less than four years of age. Only one parent may be considered for time extension on account of child care for any given period. The time extension shall be equal to the period or periods of child care but shall not exceed a total of two years. To substantiate any claim under this subdivision, an applicant must present evidence of the birth or adoption of the child cared for. If the applicant was an employee of the city school system during the qualifying period, evidence of excuse of absence or leave of absence for child care shall be submitted. No applicant may be granted a time extension for child care who has been employed or performed actual service during the period for which a time extension is sought.
- e. Time Extension for Service with Peace Corps or Comparable Agency. To qualify for time extension on account of service with the Peace Corps or other comparable agency, an applicant must submit a statement or copies of orders from a responsible official of the agency attesting to such service and the inclusive dates of such service (including travel time, if specified). For the purpose of this subdivision, a “comparable agency” means one approved by the Commissioner of Education for extension of the time validity of provisional certificates. (See Commissioner’s Regulation 80.2 (f).) The time extension shall be equal to the period or periods of service but shall not exceed a total of two years.
- f. Periods of Layoff Due to Contraction in Staff for Budgetary Reasons. To qualify for extension of time under this subdivision, an applicant must have been dismissed due



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to a contraction in staff for budgetary reasons from regularly appointed service in the manner provided by the Education Law. To substantiate any claim under this subdivision, an applicant shall present a notarized statement listing, in chronological order, periods of layoff and any intervening pedagogical service with the city school system. The time extension shall be equal to the period or periods of layoff but shall not exceed a total of two years.

- g. Time Extension Because of Extreme Hardship or Other Circumstances Beyond the Control of the Applicant. To qualify for a time extension on account of extreme hardship or other circumstances beyond the control of the applicant, such applicant must substantiate any claim under this subdivision by submitting acceptable documentation. These circumstances shall not include normal family commitments or inconvenience. The time extension shall be equal to the period of extreme hardship or other circumstances beyond the control of the applicant but shall not exceed a total of two years.
- h. Inability to Secure Appointment Under the License. To qualify for a time extension on account of an inability to secure an appointment under the license, the applicant must substantiate a claim that he has not been offered an appointment under the license. The time extension shall be equal to the period of time that no appointment was offered to the applicant but shall not exceed a total of two years.
- 19. Status Prior to Appointment of Non-Supervisory Personnel** – A regular teaching or other non-supervisory license shall be valid for substitute service prior to appointment from the appropriate eligible list or list of prospective appointees.
- 20. Status After Expiration of List or Seven-Year Limitation** – This subdivision applies to an applicant for a teaching or other non-supervisory position who is not appointed before the expiration of a rank order list or before the seven year qualifying eligible list limit forces removal from the related list of prospective appointees. Such an applicant may continue to perform substitute service without the issuance of a certificate through the following August 31. Substitute service thereafter is contingent on the issuance of an appropriate certificate valid for substitute service so long as service is satisfactory and the holder indicates continuing availability for service.
- 21. Declination of Appointment or Failure to Serve** – This subdivision applies to an applicant for a teaching or non-supervisory position who is offered an appointment from a rank order list, from a list of prospective appointees or from a local selection list and who either declines to accept such an appointment or fails to report for service in the position to which appointed without permission of the Executive Director of the Division of Human Resources.
- a. An applicant who wishes to decline an appointment or who is unable to report for service in the position must request such permission in writing from the Executive



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Director of the Division of Human Resources explaining the reasons for the request. The reasons given must be of a substantial but temporary nature.

- b. In cases of failure to request such permission or where permission is requested but denied, an applicant who declines appointment or fails to serve shall forfeit the right to any subsequent appointment from the same eligible list or list of prospective appointees.
- c. Such an applicant may continue to perform substitute service without the issuance of a substitute certificate through the following August 31. Substitute service thereafter is contingent on the issuance of an appropriate substitute certificate valid so long as service is satisfactory and the holder indicates continuing availability for service.

22. Failure of an Applicant to Satisfy License Requirements – This subdivision applies to applicants who have met the minimum requirements for a conditional license but have failed to satisfy the full requirements for the permanent license within the period specified inclusive of any extensions of time authorized by the regulations of the Chancellor and/or of the Commissioner of Education.

- a. Upon failure of an applicant to present satisfactory evidence of completion of the full requirements for a license by the date prescribed, the license shall terminate.
- b. If the applicant has not commenced appointed service, the license shall terminate immediately and the applicant shall be removed from any related eligible list or list of prospective appointees. Substitute service thereafter is contingent on the issuance of an appropriate certificate valid for substitute service so long as service is satisfactory and the holder indicates continuing availability for service.
- c. If the applicant is appointed under the license and is serving at the time of failure to complete requirements, the license shall terminate on the following August 31. Substitute service thereafter is contingent on the issuance of an appropriate substitute certificate valid so long as service is satisfactory and the holder indicates continuing availability for service.
- d. An applicant who served satisfactorily in an appointment under another teaching or non-supervisory license may, upon written request to the Executive Director of the Division of Human Resources, be reassigned to the first available appropriate vacancy. Any period of non-service between termination of license and reassignment shall be considered equivalent to a leave of absence without pay.

23. Restoration of License Terminated for Failure to Meet Requirements – At the discretion of the Director and for good cause shown, a license other than a supervisory license which was terminated after August 31, 1974 for failure to satisfy full requirements may be restored when the applicant has satisfied the full requirements prescribed for the



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license, and has performed one school year or two school terms of satisfactory regular substitute or appointed service in the field of the license.

- a. If the holder of a license other than a supervisory license which has been restored in accordance with this subdivision had not been appointed thereunder but had been placed on the list for the title, he or she shall be restored to such list. However, such a restored license holder may not be placed or remain on the list beyond the seven-year limit imposed at the time the individual was originally placed on the list. Time "lost" by reason of the period of lapsed validity, if any, shall not serve to extend the normal seven year limit prescribed by law.
- b. If the employment of such a person under appointment in the license was not actually interrupted, the holder of the restored license may continue in service without interruption. In that event, continuous service under appointment in the license shall be reckoned to include actual service in the field of the license during the period between termination and restoration of the license.
- c. If the employment of such a person under appointment in the license was, in fact, interrupted by the termination of the license, the license is considered to have lapsed between the date of its termination and the date on which appointed service under the restored license resumes. For purpose of status, the period of lapsed validity shall be considered equivalent to a leave of absence granted without salary and without service credit for retirement. While reassignment to the original position is not precluded, the holder of such a restored license may be assigned at the discretion of the Executive Director of the Division of Human Resources to any appropriate vacancy for which the individual has secured a written request from a Superintendent at any convenient time following the restoration of the license.

No service during the period of lapsed validity under another license or as a substitute shall reduce the total probationary period the applicant is required to complete under the license which was terminated and then restored. Thus, a teacher who served two years of a three-year probationary term prior to termination for failure to satisfy requirements and whose license was restored afterward, would be required to complete the remaining year of the probationary term upon resumption of service under the restored license regardless of any service between termination and resumption of service under the restored license.

For supervisory licenses, sections d., e. and f. below apply.

- d. If the person had been appointed under a license based upon a Certificate of Qualification but did not secure the appropriate Provisional Certificate in a timely manner, he or she must secure the Provisional Certificate but still must submit the Permanent Certificate by the date the Provisional Certificate expires, unless he or she is entitled to a time extension under the Regulations of the State Commissioner



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of Education and is granted such time extension. The City license which terminated may be restored when such extension is granted.

- e. If the person had been appointed under a license based upon a Provisional Certificate but did not meet the requirements for the Permanent Certificate by the expiration date of the Provisional Certificate, he or she must ascertain from the New York State Education Department whether he or she is entitled to a time extension under the Regulations of the State Commissioner of Education. If the extension is granted, the City license may be restored.
- f. If the person had been appointed but failed to meet either the requirement of the 6 semester hours of courses in special education or the requirement of the 2 semester hours of courses in human relations or both, the City license may be restored when the requirements have been met in full.

In the case of d., e. or f., if the person has a break in service of less than a year between the termination of service and the restoration of license, he or she may be restored to service in the same school and the same license area if the Parents Association has no objection and the Superintendent or the Executive Director (in a central division) approve. If the break in service is more than a year, the person must apply for service in the same license area under the C-30 Regulation of the Chancellor.

24. Dismissal for Cause, Resignation or Retirement While Charges Are Pending - This subdivision applies to persons who were dismissed pursuant to Section 3020a of the New York State Education Law or who resigned or retired while such charges were pending. All licenses and/or certificates held by such a person at the time of separation from service shall terminate permanently. No such person shall be eligible to apply for any new license or certificate, nor for reemployment by any unit of the City District or of any community school district without the recommendation of the Executive Director of the Division of Human Resources and the express written authorization of the Chancellor.

25. Discontinuance of Probationary Service or Denial of Completion of Probation – This subdivision applies to persons whose services have been discontinued during the probationary term or who have been denied completion of probation but in no way applies to those persons covered by Subdivision 24 above. Although either action results in the dismissal of the employee, neither discontinuance of probationary service nor denial of completion of probation results in termination of the individual's license.

- a. When a determination to discontinue probationary service or to deny completion of probation is reversed before actual termination of services, the employee continues to serve without interruption and there is no change in status.
- b. After discontinuance of probationary service or denial of completion of probation, a non-supervisory pedagogical employee retains the license and may, upon



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application, be granted a certificate valid for substitute service. This certificate is valid as long as service is satisfactory and the holder indicates continuing availability for service.

- c. A district other than the one which discontinued the services of a probationer or denied completion of probation may reappoint the probationer to a new probationary term although the possibility of such appointment does not convey any right to such consideration. Such appointments shall be limited to those where the minimum probationary period is no less than two full school terms or one full school year. For the purpose of determining the length of the new probationary term, each full term of service rated satisfactory under the former appointment exclusive of any period of less than a full school term shall be considered equivalent to a term of regular substitute service. For purposes of determining status in other respects, any period of non-service between termination by the first district and appointment by the second shall be considered equivalent to a leave of absence granted without right of return to prior position, without pay and without service credit for retirement.

Note: Since for this purpose, the schools operated under the jurisdiction of the Chancellor and Central Board comprise one district, persons whose probationary service was discontinued in one school in the City District may not be reappointed under the same license to another school in the City District. This is true even if the dismissal occurred from one "high school district" and the dismissed employee sought employment in a different "high school district."

Those discontinued by one Community District, however, may be appointed to a new probationary term by another Community District. Similarly, a teacher who was discontinued or denied completion of probation in a high school under central jurisdiction might be appointed to a new probationary term for service in a high school under Community District jurisdiction.

- d. A dismissed probationer who previously served satisfactorily under another regular license, may request reassignment under the other license. Upon receipt of such written request by the Executive Director of the Division of Human Resources, the affected employee shall be assigned to the first appropriate vacancy. For determination of status, the period of non-service between dismissal and reassignment shall be considered equivalent to a leave of absence granted without pay, without the right of return and without service credit for retirement. A dismissed probationer who was previously tenured under another regular license shall be returned forthwith to an appropriate position.

26. **Resignation** - Except in the case of resignation to return to a former position, the resignation by a member of the teaching and supervising staff shall be deemed to be a resignation from the pedagogical service of the public school system. Thereafter, upon application, the resigned employee may be issued a certificate valid for substitute service



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so long as service is satisfactory and the holder indicates his or her availability for continuing service. Resignations shall be submitted in writing and, once submitted by an employee, shall be considered final. However, if there has been no break in actual service, the appointing authority may, in its discretion, permit the employee to rescind the resignation before its effective date.

- a. Required Notice of Resignation A pedagogical employee who desires to resign is required to submit written notice to the principal or equivalent organizational unit head at least thirty calendar days prior to the date on which the resignation is to take effect. (See Section 3019a of the Education Law.) Failure to submit timely notice shall preclude subsequent restoration of the license or the issuance of a substitute certificate without the specific, written authorization of the Executive Director of the Division of Human Resources.
- b. Absence Without Notice As provided by contractual agreements, any pedagogical employee who is absent without notice for twenty or more consecutive school or work days is deemed to have resigned as of the first day of such absence. Notwithstanding any other regulation, withdrawal of such a resignation may not be permitted without express written authorization by the Chancellor.

27. Return to Former Position from Present Position - Provided Section 24 of this Regulation does not apply, a person who is serving under regular license and appointment may request reassignment to a vacancy in a non-supervisory grade or salary level in which the employee served satisfactorily for at least one year or two full school terms and for which the employee was previously granted a valid license. After a receipt of such a written request, the Executive Director of the Division of Human Resources shall assign the employee to the first appropriate vacancy in the former title. In such cases, the employee shall be deemed to have resigned from his or her present position. Salary upon resumption of service in the former position shall be fixed as if all appointed service had been performed in the position to which the employee is returned. An employee who has resigned and had been returned to a former position in this manner may be permitted to withdraw such resignation in accordance with the general rules set forth in Subdivision 28 below.

28. Withdrawal of Resignation Generally – Except for persons covered by Section 24 or subdivision 26b of this Regulation, upon written request, a pedagogical employee who has resigned may, at the discretion of the Executive Director of the Division of Human Resources, be permitted to withdraw such resignation for the purpose of reinstatement to service, regardless of whether the person was tenured or not on the date of his or her resignation, if:

- a. at the time of resignation, the individual had completed at least one year (or two full school terms) of satisfactory, regularly appointed service under the license; and



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- b. the license has not been invalidated and is not subject to invalidation for failure to satisfy requirements. If the employee was untenured at the time of resignation, a three year probationary period will be required.

29. Withdrawal of Resignation Within Five Years by Tenured Staff – Except for persons covered by Section 24 or subdivision 26b of this Regulation, a non-supervisory pedagogical employee who had attained permanent tenure prior to the date of resignation shall, remain tenured and, upon written request, be permitted to withdraw such resignation subject only to medical examination and the approval of the Chancellor, provided that reinstatement is made on or before the opening of school in September next following five years after the effective date of resignation. If reinstatement is made after this date, a two year probationary period will be required.

30. Substitute Service Following Resignation – Except for persons covered by Section 24 of this Regulation, a resigned employee may perform substitute service after resignation as follows:

- a. Substitute service may be performed in any field for which the resigned employee holds a certificate or license valid for substitute service.
- b. A resigned employee who does not hold a valid substitute credential but who met the minimum preparation requirements for licensure, may request issuance of a substitute certificate valid for substitute service in the field of any license held at resignation. After receipt of the applicant's written request by the Executive Director of the Division of Human Resources, the applicant may be issued such a certificate valid so long as service is satisfactory and the holder indicates continued availability for service.

31. Retirement and Reinstatement – Except for persons covered by Section 24 of this Regulation, a pedagogical employee who desires to retire shall submit written notice to the principal or equivalent organizational unit head at least thirty calendar days prior to the effective date of retirement. (See Section 3019a of the Education Law.) Failure to submit such timely notice shall preclude subsequent restoration of the license, reinstatement to service or the issuance of a certificate valid for substitute service without the specific written authorization of the Executive Director of the Division of Human Resources.

32. Substitute Service Following Retirement – Except for persons covered by Section 24 of this Regulation, a retired employee may perform substitute service after resignation as follows:

- a. Substitute service may be performed in any field for which the retired employee holds a valid substitute credential.



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- b. A retired employee who does not hold a valid substitute credential but who met the minimum preparation requirements for licensure, will be issued a certificate valid for substitute service in the field of any license held at retirement. After receipt of the applicant's written request by the Executive Director of the Division of Human Resources, the applicant may be issued such a certificate valid so long as service is satisfactory and the holder indicates continued availability for service.

Note:

Paid employment by the Board of Education is subject to the income limitations imposed upon retirees by Sections 211 or 212 of the New York State Retirement and Social Security Law. Any retiree contemplating employment by a New York City or New York State Agency which may generate substantial income must consult with the retirement system of which the retiree is a member to ensure compliance with the law. Failure to do so may result in interruption or reduction of the retirement allowance which the retiree normally receives.

33. **Reinstatement to Active Service Following Retirement** – Except for persons covered by Section 24 of this Regulation, a retired pedagogical employee may, at the discretion of the Executive Director of the Division of Human Resources and after written request, be permitted to terminate retirement if:
 - a. at the time of retirement, the individual had completed at least one year (or two full school terms) of satisfactory regularly appointed service in the license under which service is to resume;
 - b. the license has not been invalidated and is not subject to invalidation for failure to satisfy academic and professional requirements;
 - c. the requirements and procedures specified for such cases by the Retirement System of which the applicant is a member shall have been complied with; and
 - d. the retired pedagogical employee who is permitted to terminate retirement and is reinstated to service shall serve a new probationary term for three years.
34. **Involuntary Termination of Disability Retirement** – The status of a person who has been retired for disability is subject to review from time to time by the retirement system of which the individual is a member. Upon determination by the retirement system that the person is free of disability or, in the case of accidental disability retirement, is no longer disabled as the result of an accidental injury sustained in the line of duty, the retirement system may order termination of retirement without the consent of the affected individual. After receipt of notice that disability or accidental disability retirement is to be terminated, the former employee shall be assigned to an appropriate vacancy. Generally, such reinstatement is effected no later than the opening of schools in the September following receipt of notice from the retirement system.



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Note:

Involuntary termination of disability or accidental disability retirement is solely within the jurisdiction of the retirement system of which the individual is a member. Neither the Board of Education nor the Medical Bureau of the school system has authority to alter a retirement system's determination that disability retirement is to be terminated. Any appeals from such determination must be directed to the retirement system concerned.

- a. A person whose disability retirement has been terminated and who has been reinstated as a result of action by the retirement system must report for service as directed by the Executive Director of the Division of Human Resources unless granted a leave of absence without pay in accordance with regulations. Such leave may be granted for restoration of health only on recommendation of the Medical Bureau of the Board of Education. Leave of absence without pay for other purposes does not require approval by the Medical Bureau.
- b. It may happen that a person whose accidental disability retirement has been terminated based on a determination by the retirement system that the person is no longer disabled as the result of accidental injury in the line of duty may, nevertheless, qualify for ordinary disability on account of some other condition. In such cases, an individual who has been reinstated after termination of accidental disability retirement may find it advantageous to apply to the retirement system for ordinary disability retirement. Until and unless such retirement is granted by the retirement system, the individual must either perform service or have applied for and been granted an appropriate leave of absence.
- c. Unless a reinstated employee has applied for and been granted a leave of absence, failure to report and to perform service as directed may result in loss of status and the forfeiture of important rights.

35. Inquiries

Inquiries concerning this regulation should be directed to:

Chief Administrator, ORPAL Licensing
New York City Board of Education
65 Court Street - Room 401
Brooklyn, New York 11201
Telephone: **(718) 935-5868**