PART I
D.C. PERSONNEL REGULATIONS
CHAPTER 8
CAREER SERVICE
CONTENTS

Section **Page**

800 APPLICABILITY 1

801 INCUMBENT CLASSIFICATION SYSTEM 2

802 MERIT SELECTION POLICY 2

803 PROHIBITED PERSONNEL PRACTICES 2

804 IMPLEMENTATION AUTHORITY 3

805 GENERAL REQUIREMENTS FOR COMPETITIVE AND NONCOMPETITIVE SELECTION 4

806 GENERAL REQUIREMENTS FOR SELECTION PROCEDURES 5

807 AGE REQUIREMENTS 6

808 CITIZENSHIP REQUIREMENTS 7

809 EXAMINING SYSTEM 8

810 ESTABLISHMENT AND TERMINATION OF REGISTER 9

811 SPECIAL EMPLOYMENT PROVISIONS FOR EDUCATIONAL SERVICE EMPLOYEES IN THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION 10

812 CAREER SERVICE EMPLOYMENT TO A CONTINUING POSITION 12

813 PROBATIONARY PERIOD 12

814 TERMINATION DURING PROBATIONARY PERIOD 15

815 PROBATIONARY PERIOD FOR APPOINTEES TO SUPERVISORY POSITIONS 16

816 CAREER SERVICE EMPLOYMENT BY REINSTATEMENT 17

817 CAREER SERVICE EMPLOYMENT BY TRANSFER 18

818 SUPERIOR QUALIFICATIONS APPOINTMENT 18

819 EMERGENCY APPOINTMENT 18

820 VOLUNTEER SERVICE 18

821 SPECIAL EMPLOYMENT PROGRAMS 19

822 TEMPORARY APPOINTMENT PENDING ESTABLISHMENT OF A REGISTER (TAPER) 19

823 TERM APPOINTMENT 20

824 TEMPORARY EMPLOYMENT 20

825 FOSTER CARE YOUTH EMPLOYMENT PREFERENCE 21

826 SEPARATION OF TEMPORARY AND TERM EMPLOYEES 22

827 RESTORATION TO DUTY 22

828 MERIT STAFFING AND PROMOTION POLICY 25

829 COMPETITIVE PLACEMENT 25

830 NONCOMPETITIVE PLACEMENT 26

831 QUALIFICATION REQUIREMENTS 27

832 LENGTH OF SERVICE AND EXPERIENCE 27

833 GENERAL RESTRICTIONS ON POSITION CHANGES 27

834 EFFECT OF POSITION CHANGE ON EMPLOYEE RIGHTS 28

835 EFFECTIVE DATE FOR IMPLEMENTING A POSITION CHANGE 28

836 PLACEMENT BY REASSIGNMENT OR DEMOTION 28

837 MERIT PROMOTION REQUIREMENTS 29

838 TIME-IN-GRADE REQUIREMENTS FOR POSITIONS UNDER CAREER SERVICE SALARY SCHEDULES (UNION AND NON-UNION) 30

839 TEMPORARY PROMOTION 32

840 TERM PROMOTION 32

841 DETAIL 33

842 SPECIAL CONSIDERATION OF CERTAIN DEMOTED EMPLOYEES 33

843 PROMOTIONS: VIOLATIONS AND REMEDIAL ACTIONS 34

844 PRIORITY PLACEMENT CATEGORIES AND ORDER OF PRIORITY 35

845 GRIEVANCES 36

846 EVALUATIONS AND INVESTIGATIONS 36

847 PERSONNEL REPORTS 37

848 RESERVED 37

849 ATTORNEY CERTIFICATE OF GOOD STANDING FILING REQUIREMENT 37

850 through 869: RESERVED 40

870 PROCESSING ENTRY-LEVEL CANDIDATES FOR FIREFIGHTER/EMERGENCY MEDICAL TECHNICIAN (EMT) AND FIREFIGHTER/PARAMEDIC POSITIONS 40

871 PROCESSING CANDIDATES FOR POLICE SERGEANT, LIEUTENANT, AND CAPTAIN POSITIONS 49

872 APPOINTMENT TO INSPECTOR, COMMANDER AND ASSISTANT CHIEF OF POLICE 50

873 PROCESSING ENTRY-LEVEL CANDIDATES FOR POLICE OFFICER POSITIONS 51

874 DISTRICT OF COLUMBIA POLICE TRAINING AND STANDARDS BOARD 57

875 PROMOTION TO BATTALION FIRE CHIEF AND DEPUTY FIRE CHIEF 61

876 PROCESSING CANDIDATES FOR FIRE SERGEANT, LIEUTENANT, AND CAPTAIN POSITIONS 63

877 RETIREMENT/RESIGNATION OF MEMBERS WHILE UNDER DISCIPLINARY INVESTIGATION 69

899 DEFINITIONS 72

ADDENDUM - *D.C. REGISTER* UPDATES FOR CHAPTER 8 OF THE D.C. PERSONNEL REGULATIONS, CAREER SERVICE 75

D.C. PERSONNEL REGULATIONS

800 APPLICABILITY

800.1 This chapter applies to the Career Service set forth in section 801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 (2006 Repl. & 2011 Supp.)). Career Service consists of all positions in the District government, except the following:

(a) The Mayor and members of the Council of the District of Columbia;

(b) The President and members of the State Board of Education;

(c) The members of the Board of Trustees of the University of the District of Columbia;

(d) Members of boards and commissions as specified in section 202 of the CMPA (D.C. Official Code § 1-602.02 (c) (2006 Repl.));

(e) Chief Judges, Associate Judges, and non-judicial personnel of the Superior Court of the District of Columbia and the D.C. Court of Appeals;

(f) Positions in the Educational Service pursuant to section 801a of the CMPA (D.C. Official Code § 1-608.01a (2006 Repl. & 2011 Supp.)) other than those covered by section 811 of this chapter who are not "Career Service," but to whom certain "Career Service" provisions apply;

(g) Positions in the Legal Service pursuant to sections 851 through 861 of the CMPA (D.C. Official Code §§ 1-608.51 through 1-608.61 (2006 Repl. & 2011 Supp.));

(h) Positions in the Excepted Service pursuant to sections 901 through 908 of the CMPA (D.C. Official Code §§ 1-609.01 through 1-609.08 (2006 Repl. & 2011 Supp.));

(i) Positions in the Management Supervisory Service pursuant to section 951 through 958 of the CMPA (D.C. Official Code §§ 1-609.51 through 1-609.58 (2006 Repl. & 2011 Supp.));

(j) Positions in the Executive Service pursuant to sections 1051 through 1063 of the CMPA (D.C. Official Code §§ 1-610.51 through 1-610.63 (2006 Repl. & 2011 Supp.)); and

(k) Any other employee excluded by law.

800.2 In the case of a conflict between this chapter and provisions of a collective bargaining agreement, subject to the limitations under section 1708 of the CMPA (D.C. Official Code § 1-617.08 (2006 Repl.)), the provision(s) of the collective bargaining agreement shall take precedence.

801 INCUMBENT CLASSIFICATION SYSTEM

801.1 In accordance with the requirements of section 801 (a) of the CMPA (D.C. Official Code § 1-608.01 (a)), the regulations in this chapter are indexed and cross-referenced to the incumbent classification system, as follows:

(a) The incumbent classification system in effect on December 31, 1978 has been continued in effect without substantial change. Accordingly, these regulations apply in the same manner to all positions in the Career Service, and to all incumbents of the Career Service, except as specifically set forth herein; and

(b) All distinctions in applicability of these regulations, to incumbents transferred to the Career Service on January 1, 1980, and those employees hired on or after that date, are specified herein.

802 MERIT SELECTION POLICY

802.1 As provided in section 801 (a) of the CMPA (D.C. Official Code § 1- 608.01 (a)), and except as otherwise provided by law or regulation, all initial appointments to the Career Service and all subsequent assignments and promotions of employees in the Career Service shall be made by open competition, involving positive recruitment and examining procedures designed to achieve maximum objectivity, reliability, and validity. All such initial appointments and subsequent assignments and promotions shall be made on the basis of merit by selection from the highest qualified available eligibles based on specific job requirements with appropriate regard for affirmative action goals, veterans preference, and residency preference.

803 PROHIBITED PERSONNEL PRACTICES

803.1 No person shall interfere in the competitive process by influencing another person to withdraw from competition for any position in the Career Service, for the purpose of either improving or injuring the prospects of any applicant for appointment or selection.

803.2 In accordance with the D.C. Human Rights Act of 1977 (Act), effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq*.), as amended (2001 and 2007 Supp.), the District government does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, and place of residence or business.

803.3 No public official may appoint, employ, promote, advance, or advocate for appointment, employment, or promotion, in or to a Career Service position in the agency in which he or she is serving or over which he or she exercises jurisdiction or control an individual who is a relative of the public official.

803.4 A personnel authority may not appoint, employ, promote, or advance an individual in or to a Career Service position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official who is serving in or exercising jurisdiction or control over the agency and is a relative of the individual.

803.5 A public official who appoints, employs, promotes, advances, or advocates the appointment, employment, promotion, or advancement of any individual in violation of section 803.3 of this section, shall be required to reimburse the District government for any funds improperly paid to the individual.

803.6 For the purposes of this section, the following terms have the meaning ascribed:

Public official─an officer, an employee, or any other individual in whom authority by law, rule, or regulation is vested, or to whom the authority has been delegated, to select, appoint, employ, promote, reassign, demote, separate, or recommend individuals for any of these actions.

Relative – as defined in section 801 (c) of the CMPA (D.C. Official Code § 1-608.01 (c)(1)), an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

804 IMPLEMENTATION AUTHORITY

804.1 As applicable, the Director of the D.C. Department of Human Resources (DCHR) or independent personnel authority, shall establish standards with respect to education, training, experience, suitability, physical and mental fitness, or other requirements that will be used to evaluate applicants and employees for placement in the Career Service, consistent with all applicable laws and regulations.

804.2 The Director of the DCHR or independent personnel authority may adopt new qualification standards under section 804.1 of this section. Until such adoption, the federal qualification standards as set forth in the *X-118* and *X-118C* series of handbooks and applicable supplementary publications shall remain applicable.

804.3 Whenever the practice of certain occupations and professions is subject to licensure requirements (as established by District, State, or federal law), the possession of a license shall constitute a qualification requirement. Positions subject to licensure requirements shall be listed in the District Personnel Manual by the DCHR.

804.4 As applicable, the Mayor and independent personnel authorities shall establish employee selection procedures for the Career Service. Such procedures shall be consistent with the standards established by these regulations and applicable law, including section 801 of the CMPA (D.C. Official Code § 1-608.01), and federal issuances pursuant to the Civil Rights Act of 1964, as amended, professionally developed standards for examination and selection, and the requirements of agreements with labor organizations entered into in accordance with Chapter XVII of the CMPA (D.C. Official Code § 1-617.01 *et seq.*)

804.5 The applicant evaluation and qualification standards, and the employee selection procedures for the Career Service developed by the Director of the DCHR or independent personnel authority as required by sections 804.1 through 804.4 of this section shall be incorporated in their entirety, or by reference, in the District Personnel Manual; and human resources manuals developed by independent personnel authorities, respectively. Each other personnel authority with Career Service employees may adopt the provisions of the District Personnel Manual applicable to the Career Service or incorporate them in a personnel manual developed by the personnel authority.

804.6 All personnel actions appointing employees to the Career Service, or affecting employees within the Career Service, shall comply with the standards and selection procedures established by the Director of the DCHR or independent personnel authority, and applicable rules as set forth in these regulations.

804.7 The authority to take personnel actions appointing employees to or affecting employees within the Career Service shall be as follows:

(a) For employees subject to the Mayor's personnel authority, the Director of the DCHR, except as otherwise provided by the Mayor or the City Administrator; and

(b) Other personnel authorities specified in section 406 of the CMPA (D.C. Official Code § 1-604.06).

804.8 When the personnel authority finds that an agency has not complied with competitive principles of this chapter, either in an individual case or on a program basis, the personnel authority shall require the agency to rectify the error or omission.

804.9 Subject to the provisions of this chapter, a personnel authority may hire, promote, transfer, assign, or retain an employee in the Career Service.

805 GENERAL REQUIREMENTS FOR COMPETITIVE AND NONCOMPETITIVE SELECTION

805.1 All initial appointments to the Career Service, and subsequent assignments and promotions, shall be made by open competition, unless otherwise authorized by this chapter.

805.2 Noncompetitive appointments to the Career Service shall be restricted to the following:

(a) Reinstatement of a former employee having career status in the District service as specified in § 816;

(b) Transfer of an employee as specified in § 817;

(c) Conversion of an employee by limited competition pursuant to § 821;

(d) Certain term appointments pursuant to § 823;

(e) Emergency appointments pursuant to § 819;

(f) Certain other temporary appointments as provided in §§ 822 and 824;

(g) Restoration to duty pursuant to § 827; and

(h) Upon completion of the prescribed courses of training, employees appointed to medical or dental positions established in a training program under chapter 9 of these regulations may, within five (5) years of the date of completion of such training, be appointed in the Career Service as medical officers and dental officers, without regard to competitive appointment procedures.

805.3 Noncompetitive internal placements shall be limited to those specified in § 830.

806 GENERAL REQUIREMENTS FOR SELECTION PROCEDURES

806.1 All competitive placements shall be made in accordance with the general principles in this section and the specific requirements of applicable sections of this chapter. These principles and requirements shall also govern noncompetitive placements, to the maximum extent practicable.

806.2 For the purposes of this section, the term "placement" includes the development and use of examinations that affect the measurement, ranking, and selection of individuals for initial appointment and subsequent assignment or promotion in the Career Service.

806.3 Selection procedures for competitive placement shall do the following:

(a) Be practical in character and fairly test the relative ability and fitness of candidates for jobs to be filled;

(b) Result in selection from among the best qualified candidates;

(c) Be developed and used without discrimination, as required by §§ 803.2 and 804.4; and

(d) Comply with other requirements of applicable equal employment opportunity and affirmative action laws and regulations.

806.4 Selection procedures for the Career Service shall be based on a job analysis (which may cover a single position or group of positions, or an occupation or a group of occupations having common characteristics) to identify and evaluate the factors that are important in evaluating candidates and the following:

(a) The basic duties and responsibilities; or

(b) The tasks or the knowledge, skills, and abilities required to perform the duties and carry out the responsibilities.

806.5 In cases where adverse impact has been demonstrated, or as determined by the personnel authority, the selection procedures shall be validated using either the content validation or the criterion-related validation model, or any other appropriate model as provided in § 804.4.

806.6 If content validation is used, there shall be a rational relationship between the duties of the position to be filled (or the target position in the case of an entry position) and the content of the selection procedure.

806.7 If criterion-related validation is used, there shall be an empirical relationship between performance in the position to be filled (or the target position in the case of an entry position) and performance in the examination utilized in the selection process.

806.8 In the case of an entry position, the required relationship may be based upon the target position when the following are true:

(a) The entry position is a training position or the first of a progressive series of established training and development positions leading to a target position at a higher level; and

(b) The new employee, within a reasonable period of time and in the great majority of cases, can expect to progress to a target position at a higher level.

806.9 A minimum educational requirement shall not be established except as authorized under §§ 804.1 through 804.3.

806.10 The personnel authority may require an applicant to provide documentary evidence of his or her qualifications for an appointment in the Career Service.

806.11 The personnel authority shall initiate appropriate action, in accordance with chapter 16 of these regulations, in the case of a Career Service employee whose appointment or promotion was based upon fraud or falsification of official personnel records.

806.12 For the purposes of this section, the following term has the meaning ascribed:

Target position─the full performance level of a District Service Schedule position or the journeyman level of a Wage Service Schedule position.

807 AGE REQUIREMENTS

807.1 Notwithstanding the provisions of section 803.2 of this chapter, the following specific age requirements shall be the only age requirements for employment in the Career Service:

(a) Except as otherwise provided herein, the minimum age requirement for employment in the Career Service shall be sixteen (16) years old;

(b) For initial appointment to a firefighter/EMT or firefighter/paramedic position in the Fire and Emergency Medical Services Department (FEMSD), an applicant shall have reached his or her nineteenth (19th) birthday as of the date of application. There shall be no maximum age limit for appointment to a firefighter/EMT or firefighter/paramedic position in the FEMSD, as long as the applicant is found otherwise qualified and successfully passes a medical examination and any other examinations, background investigations or tests required by the FEMSD of candidates for employment;

(c) There shall be no age limit for reinstatement to a rank no higher than the rank last held by a former firefighter/EMT or firefighter/paramedic of the FEMSD, provided that the applicant for reinstatement meets the following requirements:

(1) The applicant submits his or her request for reinstatement in writing to the Fire EMS Chief and the request is approved;

(2) The applicant successfully passes a background investigation; and

(3) The applicant is found to be otherwise qualified and successfully passes a medical examination and any other examinations or tests required by the FEMSD of any incumbent employee, except that no former member shall be required to take the entry-level written examination again.

(d) For initial appointment with the Metropolitan Police Department (MPD) to a police private position, an applicant shall have reached his or her twenty-first (21st) birthday, and shall have applied for appointment prior to his or her thirty-fifth (35th) birthday; except that an individual who has successfully completed the D.C. Police Cadet Training Program may be appointed to a probationary police officer position after having reached his or her twentieth (20th) birthday;

(e) The Chief of Police may consider a uniformed member for reinstatement to the MPD to a rank no higher than the rank last held, after the former member meets the following requirements:

(1) Submit his or her request for reinstatement in writing to the Police Chief;

(2) Successfully passes a background investigation; and

(3) Is found physically qualified based on successfully passing a medical examination and any other examinations or tests required by the MPD of an entry-level candidate; except that no former member shall be required to take the entry-level written examination again;

(f) As authorized under 5 U.S.C. § 3307, for initial entry into positions subject to the Civil Service Retirement system under 5 U.S.C. § 8336 (c), which does not include those covered under sections 807.1 (b) and (c) of this section, the maximum age shall be thirty-four (34); and

(g) As authorized under D.C. Official Code § 1-2513 (b) (2001), it shall not be an unlawful discriminatory practice to establish minimum and maximum age limits for appointment to police officer cadet or firefighter cadet positions; and

(h) Notwithstanding the provisions of 807.1(a) of this section, the Director, D.C. Department of Human Resources and the Police Chief, unless specifically prohibited by law or regulation, may establish higher minimum age requirements for appointment to specific positions or classes of positions, or to positions established under specific employment programs.

808 CITIZENSHIP REQUIREMENTS

808.1 Appointments to uniformed positions in the Police and Fire Departments shall be limited to persons who are citizens of the United States.

808.2 A person who is a United States citizen, or a non-citizen authorized by the Immigration and Naturalization Service to be employed in accordance with part 109 of title 8 of the Code of Federal Regulations, may be appointed to any other position in the Career Service.

809 EXAMINING SYSTEM

809.1 This section applies to the initial selection of an appointee, and to the selection for internal placement of a Career Service employee when the internal placement is by open competitive examination.

809.2 Each competitive selection shall be as a result of a vacancy or examination announcement, available to the public for not less than five (5) working days, and appropriate recruitment activities.

809.3 Competitive selection procedures shall consist of either assembled examining procedures, which may include written, oral, or performance examinations, or a combination thereof; or unassembled examining procedures which may include establishment of rating and ranking plans; or both.

809.4 The personnel authority may refuse to examine, refuse to declare as eligible after examination, or withhold or withdraw from certification prior to appointment any person who fails to meet the examination requirements which are prerequisite to taking the examination established by the personnel authority.

809.5 The personnel authority shall permit the rescheduling or alternate scheduling of an examination for a candidate who was unable to attend the administration of the examination because of the following:

(a) Reserve or National Guard drill or summer camp;

(b) Bona fide religious beliefs;

(c) Illness or injury of sufficient seriousness as to require hospitalization;

(d) Bona fide error on the part of the examining office; or

(e) Other reason acceptable to the personnel authority.

809.6 The personnel authority shall prescribe the absolute and relative weights to be assigned the individual components of the examination, and, where numerical weights are used, shall assign final ratings on a scale with a maximum value of one hundred (100). In these circumstances, candidates who do not receive at least a rating of seventy (70) shall be rated as "ineligible."

809.7 Where numerical ratings are not used, and the results of the examination are to be used only to distinguish those who successfully completed the examination from those who did not, candidates may be rated as "eligible" or "ineligible."

809.8 When categorical rankings are used, candidates may be rated as "Highly Qualified," "Well Qualified," "Qualified," or "Ineligible."

809.9 Each applicant who meets the minimum requirements for entrance to an examination and is rated seventy (70) or more (when numerical ratings are used), or at least "qualified" (when categorical rankings are used), or "eligible" (when pass-fail ratings are used) in the examination is eligible for consideration for appointment.

809.10 The personnel authority shall add either five (5) or ten (10) points, as appropriate, to the earned numerical rating of each applicant entitled to veterans preference in appointment under § 703 of these regulations who is eligible under § 809.5.

809.11 When experience is a factor in determining eligibility, the personnel authority shall credit an applicant with time spent in the military service as follows:

(a) On the basis of actual duties performed in the military service; or

(b) For an employee who is restored to duty under this chapter, an extension of time spent in the position in which he or she was employed immediately before his or her entrance into the military service; or

(c) As a combination of both methods.

809.12 The personnel authority shall credit time spent in the military service according to the method outlined in § 809.11 which will be of most benefit to the applicant.

809.13 All job-related experience, including but not limited to experience gained in religious, civil, welfare, volunteer service, and organizational activities, regardless of whether pay was received therefor, shall be creditable.

809.14 For the purposes of this section, the following terms have the meaning ascribed:

Qualified candidates—those who meet established qualification requirements for the position, including any selective factors.

Selective factors—knowledge, skills, or abilities essential for successful performance on the job, which represent an addition to the basic qualification standard for a position.

810 ESTABLISHMENT AND TERMINATION OF REGISTERS

810.1 The name of each applicant determined by an assembled or unassembled examination to be eligible for the position to be filled, subject to any subsequent suitability or medical determination, shall be listed on a register in accordance with §§ 809.6 through 809.10.

810.2 Unless otherwise required by an affirmative action plan established in accordance with applicable legal requirements or by law or court order, applicants shall be certified from the register in order of their relative standing on the register; except that the entire register of eligible candidates may be certified when it may be reasonably expected that such certification will not produce more candidates than there are vacancies to be filled, upon completion of any subsequent suitability or medical determination, or when the personnel authority determines that other circumstances warrant such certification.

810.3 A maximum of ten (10) eligibles shall be certified for each vacancy, and the determination of the number of persons certified shall be based on an evaluation of the internal statistical characteristics of each selection procedure involved, the quantity and quality of competitors,

equal employment opportunity considerations, and other appropriate factors; however, more than the maximum of ten (10) may be submitted if an agency provides written justification to the personnel authority.

810.4 Selecting officials may select candidates for appointment from among those listed, or return the certificate to the personnel authority with a written justification for nonselection; and, if the justification for nonselection is acceptable to the personnel authority, a new certificate from the register may be issued.

810.5 A register developed as the result of selection processes in which assembled examinations are used shall remain in existence until exhausted, except when an earlier termination date is authorized by the personnel authority.

810.6 Remaining eligibles on a register being terminated may be transferred to any successor register established for the same job category only when the same selection procedures have been used or as otherwise authorized by the personnel authority for good and sufficient reason.

810.7 This section shall not preclude the appointment of an individual who was certified prior to termination of the register.

810.8 The Director of the D.C. Department of Human Resources shall publish instructions and procedures in the District Personnel Manual which set forth the basic rating and ranking plan requirements, and all other requirements of the unassembled examination process to be followed by subordinate agencies.

810.9 For the purposes of this section, the following term has the meaning ascribed:

Certificate─a list of eligible candidates from a register for appointment to a position submitted by a personnel authority to a public official.

811 SPECIAL EMPLOYMENT PROVISIONS FOR EDUCATIONAL SERVICE EMPLOYEES IN THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

811.1 An individual appointed, or one reappointed noncompetitively as of January 22, 2008, to a position within the Educational Service in the Office of the State Superintendent of Education (OSSE) shall serve without tenure, except for the following "Excluded Employees:"

(a) Educational Service OSSE employees in a recognized collective bargaining unit;

(b) Educational Service OSSE employees appointed before January 1, 1980;

(c) Educational Service OSSE employees based at a local school or who provide direct services to individual students; and

(d) Educational Service OSSE employees required to be excluded pursuant to a court order.

811.2 The provisions of this section shall apply to OSSE personnel defined in section 301(13C) of the CMPA (D.C. Official Code § 1-603.01(13C) (2006 Repl.)), and shall not apply to "Excluded Employees" described in subsection 811.1 of this section.

811.3 Within thirty (30) days of January 22, 2008, the Mayor shall notify in writing each employee of his or her non-competitive reappointment without tenure. The employee shall accept or decline the reappointment within ten (10) days of receipt of the written notice. An employee:

(a) Declining the reappointment referenced in subsection 811.5 of this section shall receive a written fifteen (15)-day separation notice and shall be entitled to receive severance pay pursuant to chapter 24 of these regulations.

(b) Accepting the reappointment and who is subsequently terminated shall be terminated as specified in subsection 811.5 of this section.

811.4 A person employed within the Educational Service in the OSSE who is not an Excluded Employee shall be a probationary employee for one (1) year from his or her date of hire and may be terminated without notice or evaluation.

811.5 The following shall apply to Excluded Employees who accept reappointment without tenure who are subsequently terminated and to non-Excluded Employees described in subsection 811.4 of this section:

(a) Following the probationary period, an employee may be terminated, at the discretion of the Mayor; provided, that the employee is given a fifteen (15)-day separation notice and has had at least one (1) evaluation within the preceding six (6) months, a minimum of thirty (30) days prior to the issuance of the separation notice; and

(b) An employee terminated for non-disciplinary reasons may be given separation pay in accordance with chapter 9 of these regulations.

811.6 The Mayor may terminate an employee without notice or evaluation for the following reasons:

(a) Conviction of a felony at any time following submission of an employee's job application;

(b) Conviction of another crime at any time following submission of an employee's job application when the crime is relevant to the employee's position, job duties, or job activities;

(c) Commission of any knowing or negligent material misrepresentation on an employment application or other document given to a government agency;

(d) Commission of any on-duty or employment-related act or omission that the employee knew or reasonably should have known is a violation of law; or

(e) Commission of any on-duty or employment-related act that is gross insubordination, misfeasance, or malfeasance.

811.7 A terminated employee shall retain his or her veterans preference eligibility, if any, in accordance with federal laws and regulations issued by the U.S. Office of Personnel Management, but shall be separated without competition, assignment rights, retreat rights, a right to re-assignment under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to chapter 24 of these regulations; or a or a right to any internal or

administrative review, subject to any right under the Human Rights Amendment Act of 2007 (D.C. Official Code § 2-1402.01 (2007 Repl.)), federal law, or common law.

812 CAREER SERVICE EMPLOYMENT TO A CONTINUING POSITION

812.1 Except as provided in § 816, a person who is given an appointment without time limitation to a continuing position in the Career Service shall be given a Career Appointment (Probational).

812.2 Subject to section 833.2 of this chapter, a Career Appointment (Permanent) shall be converted to a Career Appointment (Probational), and required to complete a new probationary period, when one (1) of the following occurs:

(a) The employee applies for and is appointed from a register to a uniformed position in the Metropolitan Police Department or the Fire and Emergency Medical Services Department, or to any other position for which a formal suitability determination procedure (including a background investigation) has been established pursuant to law, Chapter 4 of these regulations, or any other regulation or procedure; or

(b) Any of the criteria listed in section 813.5 of this chapter is met.

812.3 Upon completion of the probationary period in a Career Appointment (Probational), an employee shall be converted to a Career Appointment (Permanent).

813 PROBATIONARY PERIOD

813.2 A person hired to serve under a Career Service Appointment (Probational), including initial appointment with the District government in a supervisory position in the Career Service, shall be required to serve a probationary period of one (1) year, except in the case of individuals appointed on or after the effective date of this provision to the positions listed in paragraphs (a) through (d) of this subsection below, who shall serve a probationary period of eighteen (18) months:

(a) Individuals hired into entry-level police officer positions in the Metropolitan Police Department;

(b) Individuals hired into entry-level Correctional Officer positions in the Department of Corrections, or entry-level Youth Development Representative positions in the Department of Youth Rehabilitation Services;

(c) Individuals hired into entry-level Firefighter/Emergency Medical Technician (EMT) and entry-level Firefighter/ Paramedic positions in the Fire and Emergency Medical Services Department; and

(d) Individuals hired into emergency or non-emergency operations positions in the Office of Unified Communications.

813.3 For the purposes of subsection 813.2(b) of this section, an "entry-level Youth Development Representative position in the Department of Youth Rehabilitation Services" is a position at the following grade levels:

Position Title	Pay Plan, Series, and Grade Level
Youth Development Representative	CS-0007-07 and CS-0007-08

813.4 For the purposes of subsection 813.2(d) of this section, "operations positions" in the Office of Unified Communications shall consist of the following positions:

Position Title	Pay Plan, Series, and Grade Level
Telephone Equipment Operator	CS-0390-07, 08, and 09
Telephone Equipment Operator (Bilingual)	CS-0390-07, 08, and 09
Customer Service Representative	CS-0392-06, 07, and 08
Customer Service Representative (Bilingual)	CS-0392-06, 07, and 08
Dispatcher	CS-2151-10, 11, and 12

813.5 In addition to the positions listed in subsections 813.2(a) through (d), 813.3, and 813.4 of this section, and on a case-by-case basis, an agency head may submit a request and justification to the personnel authority to impose a probationary period requirement longer than one (1) year for certain classes of positions within the agency. Among the factors or conditions that would warrant a probationary period requirement longer than one (1) year for a specific class of positions are:

(a) The agency must provide new hires with formal classroom or field training (or a combination of both) with specific content and duration;

(b) The training is germane to the position;

(c) The agency has designed a standardized training evaluation system applicable to all participants (new hires). Additionally, the agency must have determined, and demonstrated, that successful completion of the particular training is a pre-requisite for a new hire to be able to perform the duties of the position; or

(d) The new hire must complete specific courses or training and receive certification upon completion of such training, and the agency has determined and can demonstrate that attainment of such certification is a prerequisite to successfully perform the duties of the position.

813.6 The justification submitted by the agency head in requesting a probationary period requirement longer than one (1)-year shall include information to demonstrate how the factors or conditions listed in subsection 813.5 of this section will be met, such as types of courses and curriculum information, certification information, best practices research, and data.

813.7 An employee shall be required to complete the remaining portion of his or her probationary period under the following circumstances:

(a) When the employee is transferred under this chapter, or promoted or reassigned under this chapter, before he or she completes probation; or

(b) Upon the employee's return from active military duty, if he or she entered such military duty before completing probation and if he or she has restoration rights in accordance with section 827 of this chapter.

813.8 Except when the appointment is effected with a break in service of one (1)-workday or more, or as specified in subsection 812.2(a) of this chapter or subsection 813.9 of this section, an employee who once satisfactorily completed a probationary period in the Career Service shall not be required to serve another probationary period.

813.9 An employee who once satisfactorily completed a probationary period in the Career Service shall be required to serve another probationary period when the employee:

(a) Is appointed as a result of open competition to a position with a positive educational requirement from a position with no positive educational requirement or a different educational requirement;

(b) Is appointed as a result of open competition to a position with licensure, certification, or other such requirement, in addition to a positive educational requirement, from a position without such requirements; or

(c) Is appointed as a result of open competition to a position in a different line of work, as determined by the appropriate personnel authority based on the employee's actual duties and responsibilities.

813.10 The probationary period required by subsection 813.2 of this section shall be extended for an equal amount of workdays in each of the following circumstances:

(a) For each workday that the employee is placed in a non-pay status for any reason;

(b) In the case of an entry-level police officer serving an eighteen (18)-month probationary period, for each workday that the employee is not performing the full range of the police duties of the position to which assigned, including, but not limited to, periods of sick leave or non-contact status; and

(c) In the case of an entry-level Firefighter/Emergency Medical Technician (EMT), Firefighter/Paramedic, Paramedic, and EMT in the Fire and Emergency Medical Services Department, for each workday that the employee is unable to perform the full range of duties of the position to which assigned, including but not limited to periods of limited duty, sick leave, or non-contact status.

813.11 The extension of the probationary period under subsection 813.10 of this section shall be for an equitable period of time in increments of full workdays.

813.12 For an individual serving an eighteen (18)-month probationary period, the extension of the probationary period as provided for in subsection 813.10(b) of this section may not exceed an additional eighteen (18)-months.

813.13 Service credit toward completion of the probationary period shall be given for the following periods of absence:

(a) Absence on leave with pay during which an employee is carried on the rolls, except as provided in subsection 813.10(b) of this section;

(b) Absence in a non-pay status while on the rolls because of compensable injury or military duty; and

(c) Absence following separation, suspension, or furlough during the probationary period, when any of the foregoing is found upon timely appeal or administrative determination to have been unjustified or unwarranted, and the employee is restored retroactively as of the effective date of the original action.

813.14 No period during a stay of termination shall be credited toward completion of the probationary period, where an employee has been notified of termination in accordance with subsection 814.2 of this chapter and received a stay of said termination.

813.15 An employee with prior service in the Career Service under a term, temporary (including a TAPER), and in the Excepted Service under a special appointment pursuant to section 904(2) of the CMPA (D.C. Official Code § 1-609.04(2) (2006 Repl. & 2011 Supp.)), shall be creditable toward completion of the probationary period under this section if:

(a) It was rendered immediately preceding a Career Appointment (Permanent) or a Career Appointment (Probational) or a conversion; and

(b) It was in the same competitive level, as provided in chapter 24 of these regulations.

813.16 Satisfactory completion of the probationary period is a prerequisite to continued employment in the Career Service.

813.17 Upon initial appointment, a probationary employee shall be informed of the performance expectations for his or her position.

813.18 The performance of a probationary employee shall be evaluated as specified in chapter 14 of these regulations.

814 TERMINATION DURING PROBATIONARY PERIOD

814.1 Except for an employee serving a supervisory or managerial probationary period under section 815 of this chapter, an agency shall terminate an employee during the probationary period whenever his or her work performance or conduct fails to demonstrate his or her suitability and qualifications for continued employment.

814.2 An employee being terminated during the probationary period shall be notified in writing of the termination and its effective date.

814.3 A termination during a probationary period is not appealable or grievable. However, a probationer alleging that his or her termination resulted from a violation of public policy, the whistleblower protection law, or District of Columbia or federal anti-discrimination laws, may file action under any such laws, as appropriate.

815 PROBATIONARY PERIOD FOR APPOINTEES TO SUPERVISORY POSITIONS

815.1 A Career Service employee shall be required to serve a one-year (1-year) supervisory probationary period upon initial appointment, promotion, reassignment, or demotion from a non-supervisory to a supervisory position. This requirement shall not apply to temporary, term, or TAPER appointments.

815.2 The provisions of this section shall not apply to an employee whose initial appointment with the District government is a Career Appointment (Probational) to a supervisory position. Such an employee is covered under the provisions of sections 812.2, 813, and 814 of this chapter.

815.3 Agencies shall ensure that new supervisors receive training appropriate to the position being filled for the purpose of developing, maintaining, and enhancing their supervisory skills.

815.4 An employee who is promoted, reassigned, demoted, or transferred to another Career Service supervisory or managerial position while serving a probationary period under this section shall have the service completed in the former position credited toward completion of the probationary period in the new position.

815.5 An employee shall complete the one-year (1-year) probationary period required after initial assignment to a supervisory position in the Career Service before progressing to a higher grade level, unless the personnel authority determines that an exception is warranted when the employee's performance and experience indicate a high probability of success in the higher grade position.

815.6 Satisfactory completion of the supervisory probationary period prescribed in this section shall be a prerequisite to continued service in the position.

815.7 If after a full and fair evaluation of the employee’s performance during the supervisory probationary period, supervisory deficiencies are revealed and a determination is made by the immediate supervisor that the employee is not suited to continue to occupy the supervisory position, action shall be initiated prior to the end of the supervisory probationary period to return the employee to a non-supervisory position in accordance with sections 815.8 or 815.9 of this section.

815.8 Except as provided in section 815.9 of this section, an employee who does not satisfactorily complete the supervisory probationary period requirement under this section shall be entitled to a non-supervisory position in his or her employing agency of no lower grade than the employee left to accept the supervisory position, and at the step the employee would have attained, but for the supervisory appointment.

815.9 An employee who is demoted to a lower grade supervisory position voluntarily or involuntarily, and who, for reasons of performance, does not satisfactorily complete the supervisory probationary period, shall be entitled to be assigned to a non-supervisory position in his or her employing agency, at the same grade and pay as the supervisory position to which the employee has been demoted.

815.10 The agency shall notify the affected employee, in writing, of any action taken under sections 815.8 or 815.9 of this section, of the effective date of the action, and that the action is not appealable or grievable.

815.11 Nothing in this section shall prohibit an agency from taking action against an employee for reasons unrelated to supervisory performance.

815.12 An action taken under sections 815.8 or 815.9 of this section shall not be subject to the provisions of Chapters 16 or 24 of these regulations.

816 CAREER SERVICE EMPLOYMENT BY REINSTATEMENT

816.1 Except for a person who has a retreat right to a position in the Career Service as provided in chapter 9 or 10 of these regulations, a person shall have reinstatement eligibility for three (3) years following the date of his or her separation if he or she meets both of the following requirements:

(a) The person previously held a Career Appointment (Permanent); and

(b) The person was not terminated for cause under chapter 16 of these regulations.

816.2 A person having reinstatement eligibility under § 816.1 may be appointed competitively or noncompetitively to a position at a grade no higher than the grade last held under a Career Appointment (Probational) or a Career Appointment (Permanent) in the Career Service in a District agency, except that a reinstatement to a position with a promotion potential higher than the known promotion potential of the last position occupied shall be effected as provided in § 816.4.

816.3 The three-year (3-year) restriction in § 816.1 on the reinstatement eligibility of an employee serving under a Career Appointment (Permanent) (Group I) who is separated by reduction in force after January 1, 1980, shall start on the expiration of his or her entitlement to priority placement consideration under chapter 24 of these regulations.

816.4 All other reappointments of former Career Service employees shall be processed competitively.

816.5 A person who is reinstated under the provisions of § 816.2, 816.4, or 816.6 shall be given a Career Appointment (Permanent).

816.6 Notwithstanding the provisions of §§ 816.1 through 816.4, a former uniformed member of the Fire Department or the Metropolitan Police Department shall have reinstatement eligibility provided he or she meets all of the following requirements:

(a) The former member previously held a Career Appointment (Permanent);

(b) The former member was not terminated for cause under Chapter 16 of these regulations; and

(c) The former member meets the requirements of § 807.1(c) or (e), as appropriate.

817 CAREER SERVICE EMPLOYMENT BY TRANSFER

817.1 An agency may appoint by transfer an otherwise eligible employee serving under a Career Appointment (Probational) or Career Appointment (Permanent) under a different personnel authority.

818 SUPERIOR QUALIFICATIONS APPOINTMENT

818.1 As provided in chapter 11 of these regulations, superior qualifications appointments may be made at such step of the appropriate grade as the personnel authority may authorize for this purpose.

819 EMERGENCY APPOINTMENT

819.1 Pursuant to section 801 (c)(4) of the CMPA (D.C. Official Code § 1-608.01(c)(4)), a personnel authority may make noncompetitive emergency appointments for not more than thirty (30) days to provide for maintenance of essential services in situations determined to be natural disasters or similar unforeseen events or circumstances.

819.2 Emergency appointments may be made without regard to restrictions on employment as set forth in this chapter.

820 VOLUNTEER SERVICE

820.1 As provided by the Volunteer Services Act of 1977, effective June 28, 1977 (D.C. Law 2-12; D.C. Official Code § 1-319.01), and section 4000 of these regulations, it is the policy of the District government to utilize volunteer citizens in as many governmental programs as is practicable to serve the interest of the community.

820.2 The utilization of volunteers by agencies, departments, commissions, and instrumentalities of the District of Columbia shall be in accordance with § 4000 of these regulations.

821 SPECIAL EMPLOYMENT PROGRAMS

821.1 Personnel authorities shall establish employment programs designed to attract and utilize persons with minimal qualifications, but potential for employment, to provide career development opportunities for the following:

(a) Members of disadvantaged groups;

(b) Handicapped persons;

(c) Women; or

(d) Other appropriate target groups.

821.2 A person appointed under § 821.1 shall be given a time-limited appointment.

821.3 An employee serving in a position in a program established under section 821.1 of this section or section 904 (b) of the CMPA (D.C. Official Code § 1-609.04 (b)), may be converted to a Career Appointment (Probational) based upon competition limited to participants in the respective program.

821.4 Programs authorized in this section may provide career development opportunities subsequent to permanent appointment in the Career Service, including but not limited to development of training agreements, upward mobility, and career ladder programs.

822 TEMPORARY APPOINTMENT PENDING ESTABLISHMENT OF A REGISTER (TAPER)

822.1 A personnel authority may fill a vacancy to a permanent Career Service position by a "Temporary Appointment Pending Establishment of a Register" or "TAPER," under the following circumstances:

(a) When there are insufficient eligibles on an appropriate register or in the absence of a list of eligibles; and

(b) Authorization to appoint outside the register via a TAPER is granted by the personnel authority.

822.2 A person being considered for a TAPER shall meet the minimum qualifications requirements for the position.

822.3 The following conditions shall apply to extensions and termination of each TAPER processed by the personnel authority:

(a) A TAPER shall be terminated as soon as a list of eligibles for the permanent appointment can be established and a selection is made by open competition in accordance with this chapter.

(b) The initial TAPER shall not exceed ninety (90) days; and shall not be extended more than one (1) time, for a period of up to ninety (90) days, and only if the personnel authority determines that a list of eligibles cannot be created.

822.4 A person hired in a TAPER may be converted to a Career Appointment Probational or Career Appointment Permanent only if one (1) of the following is true:

(a) The person is otherwise eligible for such conversion under the provisions of this chapter; or

(b) The person is selected for the permanent position as a result of open competition.

822.5 Except as specified in this section, the person hired under a TAPER shall not be subject to the job protection rights of chapters 16 and 24 of these regulations; and shall receive rights and benefits accorded by this chapter to temporary Career Service employees.

822.6 For the purposes of this section, the term "open competition" referred to in sections 822.3 and 822.4 means "competition open to the general public."

823 TERM APPOINTMENT

823.1 A personnel authority may make a term appointment for a period of more than one (1) year when the needs of the service so require and the employment need is for a limited period of four (4) years or less.

823.2 Term appointments may be extended beyond the four (4) year limit with the prior approval of the personnel authority.

823.3 Term appointments at and above grade level CS-13 or equivalent shall result from open competition, except in the case of a candidate who is eligible for reinstatement.

823.4 An agency may make a non-competitive term appointment to a position at or below grade level CS-12, or equivalent; except that the Chief, Metropolitan Police Department, is authorized to make non-competitive term appointments to positions at any grade level.

823.5 Except as provided in section 823.6 of this section, a person appointed to a term appointment shall meet the minimum qualification requirements for the position.

823.6 A veteran who is an applicant for a term appointment at grade level CS-3 or below, or equivalent, shall be considered to be qualified to perform the duties of the position on the basis of his or her total experience, including military service, without regard to the qualification requirements.

823.7 An employee serving under a term appointment shall not acquire permanent status on the basis of the term appointment, and shall not be converted to a regular Career Service appointment without further competition, unless eligible for reinstatement.

823.8 Employment under a term appointment shall end automatically on the expiration of the appointment, unless the employee has been separated earlier.

823.9 Except as specified in section 813.2 of this chapter in the case of correctional officers, a term employee shall serve a probationary period of one (1) year upon initial appointment.

823.10 A term employee may be promoted and reassigned to another term position by new term appointment; provided that the competitive and non-competitive promotion provisions in sections 829 and 830 of this chapter are followed.

823.11 Notwithstanding any other provision of this section and this chapter, in the case of grant-funded positions, promotions and reassignments of term employees paid under the grant shall be made by new term appointment with specific time limitations coterminous (same) with the expiration date of the grant.

824 TEMPORARY EMPLOYMENT

824.1 A personnel authority may develop procedures to effect temporary time-limited appointments in the Career Service, including "When-Actually-Employed" (WAE) appointments, also known as

"intermittent" appointments, to meet an administrative need, such as to fill a temporary position or to fill a continuing position for a temporary period of time.

824.2 Except as provided in this section, all temporary appointments shall be by open competition.

824.3 A person given a temporary appointment in the Career Service shall not acquire career status on the basis of that appointment.

824.4 Personnel authorities may make a temporary appointment to a position in the Career Service under open competitive examination for a period of one (1) year or less.

824.5 Subject to § 829.1(g), a personnel authority may make a temporary appointment to a position in the Career Service based on eligibility for reinstatement for a period of one (1) year or less without open competition.

824.6 A personnel authority may make a temporary appointment to a position in the Career Service for special needs for a period of thirty (30) days without open competition.

824.7 A personnel authority may make a temporary appointment to a position at or below the DS-12 level or equivalent for a period not to exceed one (1) year without open competition.

824.8 A temporary appointment to a position above the DS-12 level shall be made under open competition except in the case of a candidate who is eligible for reinstatement, and except that the Chief of Police is authorized to make a noncompetitive temporary appointment to any grade level.

824.9 A personnel authority, in accordance with the procedures it shall prescribe, may extend the expiration date of a temporary appointment made under § 824.4 or 824.7 for not more than one (1) additional year.

824.10 A temporary appointment shall not confer eligibility to be moved noncompetitively to another position. The placement of a temporary employee to another position shall be accomplished by a new appointment through conversion actions.

825 FOSTER CARE YOUTH EMPLOYMENT PREFERENCE

825.1 Pursuant to D.C. Law 19-162, the "Foster Care Youth Employment Amendment Act of 2012," effective July 13, 2012 (D.C. Act 19-372; 59 DCR 5713, May 25, 2012), a person who applies for competitive employment in the Career Service and who at the time of application is 18 to 21 years of age, is in foster care, or who is within 5 years of leaving foster care may be awarded a 10-point hiring preference, unless the person declines the preference points.

825.2 An applicant must meet the following requirements at the time of application to be awarded the hiring preference in accordance with subsection 825.1:

(a) Be within five (5) years of leaving foster care under the Child and Family Services Agency (CFSA) and is a resident of the District; or

(b) Is currently in the foster care program of CFSA; and

(c) Between the ages of 18 and 21 years of age regardless of residency.

825.3 An applicant claiming the hiring preference pursuant to Subsection 825.1 shall:

(a) Submit proof of eligibility for the foster care youth employment preference by submitting a letter or other documentation from CFSA or the Family Court of D.C. Superior Court showing that the applicant is currently in foster care or showing the date the applicant left court supervisor; and

(b) Be eligible to receive any other hiring preference under the District of Columbia Government Comprehensive Merit Personnel Act of 1978 if a *bona fide* resident of the District.

825.4 An employee who applies for a competitive promotion in the Career Services and who at the time of application is 18 to 21 years of age and in foster care, or who is within 5 years of leaving foster care and is a resident of the District of Columbia may be awarded a hiring preference of ten (10) points, unless the employee declines the preference points.

826 SEPARATION OF TEMPORARY AND TERM EMPLOYEES

826.1 The employment of an individual under a temporary or term appointment shall end on the expiration date of the appointment, on the expiration date of an extension granted by the personnel authority, or upon separation prior to the specified expiration date in accordance with this section.

826.2 A term appointee may be separated as provided in this chapter during a probationary period.

826.3 After satisfactory completion of the probationary period, and prior to the expiration date of the appointment, separation of a term appointee for cause shall be in accordance with chapter 16 of these regulations.

826.4 A term appointee may be separated for lack of funds or lack of work in accordance with the reduction-in-force requirements of chapter 24 of these regulations.

826.5 A temporary appointee may be separated without notice prior to the expiration date of the appointment.

827 RESTORATION TO DUTY

827.1 The provisions of this section shall apply to the following:

(a) An employee holding an appointment in the Career Service, other than a term, temporary, or TAPER appointment, who enters on military duty with restoration rights under §§ 2021 or 2024 of Title 38, U.S. Code;

(b) An employee holding any type of appointment in the Career Service who is receiving disability compensation under Title 1, Chapter 6, Subchapter XXIV, D.C. Code (1981); and

(c) A uniformed member of the Police or Fire Departments who has been retired for disability under Title 4, Chapter 6, D.C. Code (1981).

827.2 Each employee covered by § 827.1(a) may resign, or may be either separated or furloughed at the option of his or her agency, except that a member of a reserve component of the Armed Forces, or a member of the National Guard, who is performing duty covered by § 1-613.3(m), D.C. Code (1981), shall be placed on military leave. Regardless of the nature of the action, all such employees shall be entitled to restoration to duty as provided in this section.

827.3 An agency shall carry an employee covered by § 827.1(b) on leave without pay for two (2) years from the date of commencement of compensation, or from the time compensable disability recurs if the recurrence begins after the employee resumes full-time employment with the District government, or, in the case of an employee holding a term, temporary, or TAPER appointment, until the expiration of the appointment, whichever shall occur first.

827.4 An employee covered by § 827.1(b) holding a term, temporary, or TAPER appointment which expires during the two-year (2-year) period specified in § 827.3, shall be terminated upon the expiration date of his or her appointment.

827.5 At the end of the two-year (2-year) period specified in § 827.3, an agency shall initiate appropriate action under chapter 16 of these regulations.

827.6 An agency shall notify an employee covered by § 827.1(a) or (b) of his or her rights, obligations, and benefits relating to his or her District government employment, including the restoration rights provided in this section.

827.7 An agency shall identify the position vacated by an employee covered by § 827.1(a) or (b), and shall maintain the necessary records to ensure the employee the rights and benefits granted by law and this section.

827.8 An agency shall consider every employee covered by § 827.1(a) or (b) for all promotions for which the employee would have been considered had the employee not been absent. When it can be determined that the employee would have received a promotion if not absent, the promotion shall be mandatory, and shall be effective on the date it would have been made had the employee not been absent. In all other cases it shall be discretionary.

827.9 If the position of an employee covered by § 827.1(a) or (b) is reclassified to a higher grade, an agency shall place the employee in the regraded position upon restoration to duty.

827.10 An agency shall not demote or separate an employee covered by § 827.1(a) while the employee is on furlough or military leave. If the employee's position is abolished during such absence, the agency shall reassign the employee to another position of like status and pay upon restoration to duty.

827.11 An employee covered by § 827.1(b) shall be subject to the same terms and conditions of employment as though the disability had not occurred.

827.12 If an employee covered by § 827.1(a) or(b) is absent at the time that the function with which the employee was associated at the time of his or her departure is transferred to another agency, and if the employee, if not absent, would have been transferred with the function, the gaining agency shall retain the employee in his or her position or assign the employee to a position of like status and pay, and shall assume the obligation to restore the employee in accordance with law and this section.

827.13 If an agency is abolished and its functions are not transferred to another agency, the following shall be done:

(a) The agency shall furnish the Director of Personnel a list of its employees with restoration rights under this section;

(b) For each employee, the list shall state the employee's name, date of birth, position, grade and pay, and the name of the organizational unit in which the employee's position was located;

(c) The agency shall note in each employee's Official Personnel Folder that notification in conformance with §§ 827.13(a) and (b) was made; and

(d) The Director of Personnel shall place such employees who apply for restoration to duty in accordance with the requirements of this section.

827.14 If an employee returning from military duty submits an application for restoration within ninety (90) days after discharge from service, or from hospitalization continuing after discharge for a period of not more than one (1) year, the employee shall be entitled to be restored to duty as soon as possible, but in no event later than thirty (30) days after the application is received.

827.15 An employee covered by § 827.1(b) who has fully recovered within two (2) years from the date of commencement of compensation, or from the time compensable disability recurs if the recurrence begins after the employee resumes full-time employment with the District government, shall be entitled to resume his or her former position (or an equivalent one) immediately upon cessation of compensation.

827.16 An employee covered by § 827.1(c) who recovers from the disabling condition for which he or she has been retired, prior to reaching his or her fiftieth (50th) birthday, and applies for reinstatement in the department from which he or she retired, shall be evaluated to determine whether he or she meets the current entrance requirements of the department as to suitability, and if, so, shall be reinstated to a position in the nearest equivalent grade and salary as that received at the time of disability retirement.

827.17 An employee covered by § 827.1(a) or (b) shall be entitled to be restored to duty in a position determined in the following order, unless that position is then occupied by an employee in a higher retention group under chapter 24 of these regulations:

(a) To the position to which promoted while absent or, if that position is not available, to a position of like status and pay;

(b) To the employee's former position or, if that position is not available, to a position of like status and pay; or

(c) To the next best available position for which the employee is qualified. For purposes of this subsection, the next best available position shall be one that most nearly approximates in status and pay the position to which an employee is entitled under either § 827.17(a) or (b).

827.18 A returning employee who, because of a disability sustained during military duty, is disqualified for a position to which he or she has restoration rights shall be entitled to be restored to another

position in the agency for which he or she is qualified that will provide like status and pay, or the nearest approximation thereof consistent with the circumstances in his or her case.

827.19 An employee covered by § 827.1(b) who, because of compensable injury or disability, is disqualified for a position to which he or she has restoration rights (including an equivalent position), shall be entitled to be restored, within two (2) years from the date he or she began receiving compensation, to another position in the agency for which he or she is qualified that will provide like status and pay, or the nearest approximation thereof consistent with the circumstances in his or her case.

827.20 If two (2) or more employees are entitled to be restored to the same position, the employee who left his or her position first shall be entitled to the prior right of restoration.

827.21 An agency shall make every effort to restore, according to the circumstances in each case, an employee or former employee who has partially recovered from a compensable injury and who is able to return to perform useful and efficient service.

827.22 An employee who was separated because of compensable injury and whose recovery takes longer than two (2) years from the date compensation began (or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the District government) shall be entitled to priority consideration for restoration to the position he or she left or an equivalent one, provided he or she applies for reappointment within thirty (30) days of cessation of compensation.

827.23 When an agency refuses to restore or determines that it is not feasible to restore an employee under the provisions of law and this section, it shall notify the employee in writing of the reasons for its decision and of his or her right to grieve such determination in accordance with the provisions of chapter 16 of these regulations.

827.24 When an agency restores an employee in accordance with § 827.18, it shall notify the employee that he or she is entitled to appeal to the U.S. Office of Personnel Management under the provisions of its regulations.

828 MERIT STAFFING AND PROMOTION POLICY

828.1 The District government policy is to fill each vacancy with the best qualified person available, considering its immediate and long-range needs. The personnel manual developed by each personnel authority to implement the policy shall provide a systematic means of internal placements, including selection for promotion according to merit.

828.2 Vacancies above the normal entrance levels generally may be filled by reassignment or promotion of the best qualified employees, consistent with the best interests and needs of the agency. This policy, however, shall not restrict management's right to fill a position with a highly qualified person by some other means, such as appointment from a register, by reinstatement, by transfer, from a reemployment priority list, or by conversion of an individual employed under § 821.

829 COMPETITIVE PLACEMENT

829.1 Except as provided in § 830, competitive procedures shall apply to all placements, including the following:

(a) Promotions;

(b) Temporary promotions under § 839 exceeding one hundred twenty (120) days;

(c) Selection for details for more than two hundred forty (240) days to a higher grade position or to a position at the same grade level with known promotion potential;

(d) Selection for training which is given primarily to prepare an employee for advancement and is required for promotion (that is, when eligibility for promotion depends on whether the employee has completed training);

(e) Selection for a position, including by reassignment or demotion, with more promotion potential than the last grade held under a Career Appointment (Probational) or a Career Appointment (Permanent) in the District service (except as permitted by reduction-in-force regulations);

(f) A transfer to a higher grade position or a position of the same grade level with a known promotion potential;

(g) Selection for a temporary or term appointment to a position at DS-13 (or equivalent) or above, except in the case of a candidate who is eligible for reinstatement; or

(h) Term promotions under § 840.

830 NONCOMPETITIVE PLACEMENT

830.1 Competitive procedures shall not apply to the following:

(a) A promotion resulting from the upgrading of a position without significant change in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error;

(b) A position change permitted by reduction-in-force regulations;

(c) The following types of career promotions:

(1) A promotion without current competition when at an earlier stage an employee was selected from a register or under competitive promotion procedures for an assignment intended to prepare the employee for the position being filled; or

(2) A promotion resulting from an employee's position being reclassified at a higher grade because of accretion of additional duties and responsibilities without planned management action; or

(3) A promotion resulting from an employee's position being reclassified at a higher grade as a result of the employee's impact on the job, that is, the personal proficiency, competency, and skill of the employee, which impacts on the position so as to generate a recognized change in and an increase in the level of the duties and responsibilities of the position;

(d) A career ladder promotion if the original competition for the position clearly established the career ladder;

(e) A position change from a position having known promotion potential to a position having no higher potential;

(f) A temporary promotion under § 839 of one hundred twenty (120) days or less;

(g) Repromotion to a grade or position from which an employee was demoted without personal cause and not at his or her request;

(h) Consideration of a candidate not given proper consideration in a competitive promotion action; or promotion of an employee who was denied promotion as a result of other error, on order of the D.C. Department of Human Resources or independent personnel authority;

(i) Reassignment or transfer to a position of the same or equivalent grade, including a reassignment from a nonsupervisory to a supervisory position or a nonmanagerial to a managerial position (as specified in § 815), with no known promotion potential;

(j) Restoration to duty at a grade no higher than the last position held; and

(k) Selection for detail of two hundred forty (240) days or less to a higher grade position or to a position with known promotion potential.

830.2 For purposes of this section, the following term has the meaning ascribed:

Planned management action─an action wherein management has a recognized option or alternative to assign work between two (2) or more employees, and assigns the work to a particular employee.

831 QUALIFICATION REQUIREMENTS

831.1 A person who is being considered for a position shall meet the minimum qualification requirements established for the position.

832 LENGTH OF SERVICE AND EXPERIENCE

832.1 Except as required by these regulations, length of service, length of experience, or time in position shall not be used as an evaluation factor unless there is a clear and positive relationship with quality of performance, based upon determination that there are increases in accuracy, speed of performance, quality of workmanship, versatility, responsibility, and so forth, which normally accompany greater length of service or greater experience in the job and which cannot be assessed more appropriately by other measurement devices.

833 GENERAL RESTRICTIONS ON POSITION CHANGES

833.1 An agency may promote an employee or reassign him or her to a different line of work, and it may transfer a present employee or reinstate a former employee of the same or another agency to a higher grade or different line of work, only after three (3) months have elapsed since the employee's latest nontemporary competitive appointment.

833.2 Any internal placement of a Career Service appointee to a position with less rights and benefits shall not be effective unless the employee has waived the rights and benefits in writing; and the waiver shall be made a permanent part of the employee's Official Personnel Folder.

834 EFFECT OF POSITION CHANGE ON EMPLOYEE RIGHTS

834.1 Except as waived in accordance with § 833.2, an employee's rights and benefits with respect to continued employment shall not be reduced by promotion, demotion, or reassignment.

834.2 The personnel authority shall determine whether a position change of an employee affects a requirement that a suitability investigation must be accomplished.

834.3 The promotion, demotion, or reassignment of an employee in the Career Service before he or she has completed probation shall be subject to completion of the probationary period in the new position.

835 EFFECTIVE DATE FOR IMPLEMENTING A POSITION CHANGE

835.1 A position change shall not be made effective before necessary classification action has been completed; the employee has met qualification and other requirements; and, in the case of a position change involving involuntary reduction in grade, rank, or pay, that applicable advance notice and decision requirements have been satisfied.

836 PLACEMENT BY REASSIGNMENT OR DEMOTION

836.1 A personnel authority may fill a vacancy by reassignment of a Career Service appointee to a position, either competitively or noncompetitively; provided that any noncompetitive reassignment is to a continuing position at the same grade, there is no diminution in the rights and benefits of the employee, and the position has no greater promotion potential than the position previously held.

836.2 A temporary reassignment may be made for a period not to exceed one (1) year; and the employee may be restored to his or her former position without the use of adverse action procedures.

836.3 A temporary reassignment exceeding one hundred twenty (120) days to a position with established promotion potential greater than the currently held position shall be effected competitively.

836.4 A temporary reassignment may be extended for one (1) year with the prior approval of the personnel authority.

836.5 An involuntary demotion of a Career Service employee shall be made by either of the following:

(a) By adverse action procedures in accordance with chapter 16 of these regulations; or

(b) By reduction-in-force procedures in accordance with chapter 24 of these regulations.

836.6 An employee may voluntarily accept a lower-graded position, provided that the position has no greater promotion potential than the position currently held, and that a waiver is executed in accordance with § 833.2.

836.7 An employee may voluntarily accept a position with lesser rights or benefits, provided that a waiver is executed in accordance with § 833.2.

837 MERIT PROMOTION REQUIREMENTS

837.1 The promotion of an employee shall be based on merit, and consistent with these regulations.

837.2 Exceptions to competitive promotion procedures shall be limited to those authorized by this chapter.

837.3 The personnel authority shall require that a promotion action (whether identification, qualification, evaluation, or selection of candidates) shall be made without regard to labor organization affiliation or non-affiliation, race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, non-disqualifying physical handicap, source of income, or place of residence or business and shall be based solely on job-related criteria.

837.4 The personnel authority shall ensure that each employee within the area of consideration who is absent for legitimate reason, for example, on detail, on leave, at training courses, in the military service, on disability compensation, or on temporary assignments under chapter 27 of these regulations, receives appropriate consideration for promotion.

837.5 The personnel authority shall provide methods of evaluation for promotion and placement, and selection for training which leads to promotion, consistent with the requirements of this chapter.

837.6 To be eligible for promotion, a candidate shall meet minimum qualification standards adopted in accordance with § 804.2.

837.7 Due weight shall be given to performance appraisals and incentive awards of a candidate.

837.8 Selection procedures shall provide for an agency's right to do the following:

(a) Select or not select from among a group of best qualified candidates; and

(b) Select from other appropriate sources, such as reemployment priority lists, reinstatement, transfer, or conversion of a handicapped employee.

837.9 In deciding which recruitment sources to use, an agency shall determine which is most likely to best meet the agency's mission and objectives and meet the agency's affirmative action goals.

837.10 The area of consideration shall be sufficiently broad to ensure the availability of high quality candidates, taking into account the nature and level of positions covered.

837.11 The minimum area of consideration shall be the agency, except that a smaller area may be authorized by a personnel authority in a situation which meets the criteria established by the authority's personnel manual.

837.12 When the minimum area of consideration will produce enough high quality candidates and the agency does not find it necessary to make a broader search, the minimum area of consideration and the area of consideration shall be deemed to be the same.

837.13 Administration of the promotion procedures shall include recordkeeping, the provision of necessary information to employees and the public, and ensuring that each individual's right to privacy is protected.

837.14 Each personnel authority shall maintain a record of each promotion sufficient to allow reconstruction of the promotion action, including documentation of how each candidate was rated and ranked.

837.15 All promotion records shall be retained for a minimum period of two (2) years. In addition, any promotion record relating to a grievance or appeal submitted by an applicant shall be retained until the grievance or appeal is adjudicated.

837.16 For the purposes of this section, the following terms have the meaning ascribed:

Area of consideration—the area in which the agency makes an intensive search for eligible candidates and from which applications will be accepted in a specific recruitment action.

Minimum area of consideration—the agency in which the vacancy occurs, or a portion thereof as provided in § 837.11.

838 TIME-IN-GRADE REQUIREMENTS FOR POSITIONS UNDER CAREER SERVICE SALARY SCHEDULES (UNION AND NON-UNION)

838.1 This section explains time-in-grade requirements and restrictions for promotions and appointments to higher grade positions; and reinstatements to higher grade positions when such reinstatements are made within one (1) year after separation from nontemporary appointments in the Career Service.

838.2 The purpose of the time-in-grade restrictions is to prevent excessively rapid promotions in competitive appointments, and protect competitive principles. Additionally, time-in-grade restrictions provide budgetary control on promotion rates.

838.3 The time-in-grade restrictions in this section shall not apply to employees occupying Wage Service positions.

838.4 The time-in-grade restrictions in this section shall be applied in conjunction with the restriction in section 833.1 of this chapter on position changes to a different line of work within three (3) months after placement.

838.5 Except as specified in sections 838.6 and 838.7 of this section, a Career Service employee shall not advance in grade by promotion to a position under a Career Service Salary Schedule unless the employee meets the following minimum time-in-grade requirements:

(a) For an employee at grade levels CS-12 or above, only after he or she has served one (1) year at the next lower grade;

(b) For an employee at grade levels CS-6 through CS-11, only after he or she has served:

(1) One (1) year in a position two (2) grades lower, when the position to which he or she is advanced is in a line of work properly classified at two-grade (2-grade) intervals; or

(2) One (1) year at the next lower grade, when the position to which he or she is

advanced is in a line of work properly classified at one-grade (1-grade) intervals; and

(c) An employee may be advanced to a position at grade levels CS-5 or below which is not more than two (2) grades above the lowest grade he or she held within the preceding year under a nontemporary appointment without regard to time in grade.

838.6 Notwithstanding the provisions of section 838.5 of this section, the one (1) year time-in-grade restriction may be waived in the case of an employee who does not meet the time in grade requirement but meets the qualifications requirements for the position and is ranked among the best qualified candidates and within reach for selection, based on the following criteria:

(a) On the basis of the employee's total work history;

(b) When the employee has performed work related to the higher grade position at a level at least commensurate (equivalent) to the higher grade position;

(c) On the basis of the employee's education, superior academic credentials, or superior academic achievements; or

(d) For reasons of hardship, inequity, or in especially meritorious cases.

838.7 While an employee's salary history (i.e., previous higher salary) shall not automatically be considered the determining factor in waiving the time-in-grade restriction under section 838.6 of this section, it may be considered along with the criteria specified in that section.

838.8 An employee promoted under the conditions described in section 838.6 of this section may be advanced more than two (2) grade levels at a time.

838.9 If selected for the higher grade position, an employee who was granted a waiver of the time-in-grade requirements shall be required to complete one (1) year of service at the position before he or she meets the requirements for advancement to the next grade level.

838.10 In applying the time-in-grade requirements of this section and crediting prior service and experience towards meeting time-in-grade, an employee will receive credit for:

(a) Prior District or federal government service under an appointment at the same level as or a higher level than the employee's current appointment;

(b) As appropriate, any specialized experience with the military, state or local governments, or with the private sector; and

(c) As appropriate, college or university education.

838.11 The personnel authority shall develop procedures for the granting of waivers of the time-in-grade requirements, and the circumstances and conditions for crediting prior service towards meeting time-in-grade.

838.12 (a) The waiver of time-in-grade provisions in section 838.6 of this section shall not apply career ladder promotions within the Career Service.

(b) A career ladder exists when employees occupying a group of similar positions are hired at less than full performance level and are all given grade-building experience such that each may be promoted as he or she qualifies and demonstrates the ability to perform at the next higher grade level, and where there is sufficient work at the full performance level for all employees who qualify and who are performing the work at a given time.

839 TEMPORARY PROMOTION

839.1 A temporary promotion shall be for a period of thirty (30) days or more.

839.2 A Career Service appointee may be temporarily promoted without competition for a period not to exceed one hundred twenty (120) days.

839.3 Competitive procedures shall be used for a temporary promotion over one hundred twenty (120) days. In computing the days, prior service under all details to higher graded positions or temporary promotions shall be counted, whether competitive or noncompetitive, during the preceding twelve (12) months.

839.4 A competitive temporary promotion shall be in accordance with the following:

(a) It shall be for a definite period of one (1) year or less;

(b) It may be extended for an additional period not to exceed one (1) year with the prior approval of the personnel authority based upon a written determination of the agency that unusual needs of the service require it; and

(c) It may be made permanent without further competition, provided that the original competition made known to all potential applicants the fact that it might lead to a permanent promotion.

839.5 A temporary promotion shall not be used for the purpose of training or evaluating an employee in a higher grade position.

839.6 For the purposes of this section, the following term has the meaning ascribed:

Temporary promotion─a promotion for a definite period of thirty (30) days or more, not exceeding one (1) year, which may be extended for up to one (1) additional year.

840 TERM PROMOTION

840.1 A personnel authority may competitively promote an employee not serving under a temporary appointment for a limited term in excess of one (1) year, but not to exceed four (4) years, to complete a designated project.

840.2 A term promotion may be extended for an additional period of one (1) year for a total of five (5) years with the prior approval of the personnel authority.

840.3 Upon completion or termination of the assigned project, the agency shall return the employee from the term promotion to the position from which he or she was promoted or to a position of equivalent grade or pay.

840.4 The return of an employee to the position from which he or she was promoted or to a position of equivalent grade or pay shall not be subject to chapters 16 and 24 of these regulations.

840.5 A term appointee who accepts a term promotion in the same project shall have no right to return to the position from which promoted.

840.6 For the purposes of this section, the following term has the meaning ascribed:

Term promotion—a promotion for a limited term in excess of one (1) year, but not to exceed four (4) years for a designated project.

841 DETAIL

841.1 A Career Service appointee may be detailed to another position to meet a temporary employment need for a period of not more than one hundred twenty (120) days to an established position or two hundred forty (240) days to an unestablished position; and, unless prohibited by this section, the detail may be extended by the personnel authority in increments of one hundred twenty (120) days.

841.2 A detail to an established position (as defined in chapter 11 of these regulations) may be made for up to one (1) year during a major reorganization.

841.3 All details to established higher grade positions extending beyond two hundred forty (240) days shall be made by competition.

841.4 No detail to a higher grade position or to an unestablished position (as defined in chapter 11 of these regulations) shall extend beyond one (1) year, unless the personnel authority determines that highly unusual circumstances warrant an extension beyond one (1) year.

842 SPECIAL CONSIDERATION OF CERTAIN DEMOTED EMPLOYEES

842.1 A Career Service employee serving under a Career Appointment (Permanent), who has been demoted as a result of a reduction in force under chapter 24 or a classification action under chapters 11 and 16 of these regulations, shall be entitled to special placement consideration for a period of two (2) years from the date of the personnel action placing the employee in a lower-graded position. This special consideration shall apply to vacancies similar to the position from which demoted occurring in the agency in which demoted at his or her former grade (or any intervening grade).

842.2 Placement consideration of an employee under this section shall precede efforts to fill vacancies through competitive placement procedures as provided in § 844.

842.3 An employee who was separated by reduction in force and later reemployed in the Career Service in his or her former agency shall be entitled to special placement consideration for two (2) years from the date of the separation due to reduction in force in accordance with this section if such later reemployment is either of the following:

(a) At a lower grade than his or her former position; or

(b) Under a temporary or term appointment regardless of grade level.

842.4 Placement consideration of an employee for repromotion under this section shall not be a guaranteed repromotion.

842.5 The provisions of this section shall not apply in instances wherein demotion action is effected by the personnel authority because the affected employee was determined to be not qualified or not eligible for the position from which demoted.

843 PROMOTIONS: VIOLATIONS AND REMEDIAL ACTIONS

843.1 In Career Service placement and promotion actions, failure to adhere strictly to laws, regulations, or the personnel authority's personnel manual shall be rectified promptly by the personnel authority or the agency involved.

843.2 The nature and extent of actions to be taken in any case shall be determined on the basis of all the facts in the case, with due regard to the circumstances surrounding the violation, to the equitable and legal rights of the parties concerned, and to the interest of the District government.

843.3 The general rule shall be that an erroneously placed or promoted Career Service employee may be retained in the position only if the promotion action can be corrected to conform essentially to all requirements as of the date the action was taken.

843.4 Upon written determination that equity, hardship, or the needs of the service require it, a personnel authority may waive the requirements of § 843.3 and retain the employee in the position.

843.5 Waiver of requirements and retention of an employee in his or her position shall be dependent on the nature, extent, and seriousness of the violation(s) involved in the particular situation, and shall take into account such factors as the following:

(a) How close the employee was to meeting qualification or regulatory requirements at the time of promotion;

(b) How close the employee was to being in the best qualified group;

(c) How much time has elapsed since placement or promotion; and

(d) Whether identification can be made of employees who were or should have been in the group certified to the selecting official and whether they have been placed or promoted, have left the agency, or are no longer available for placement or promotion.

843.6 If an employee is not retained in the position, he or she shall be returned to his or her former position or placed in another position of equal grade for which he or she is qualified.

843.7 If the position in which the employee is placed is in a higher grade or level than the position he or she was in prior to the erroneous placement or promotion, the position change shall be made under competitive promotion procedures as though the employee were still serving at the grade or level from which erroneously placed or promoted.

843.8 If the action taken to remedy the erroneous placement or promotion was to require that the position be vacated, an employee who was not placed or promoted or given proper consideration because of the violation (that is, an employee in the best qualified group who was not selected or an employee who should have been in this group but was not) shall be considered for placement or promotion to the vacated position before candidates are considered under a new promotion or other placement action as provided in § 844.

843.9 If the remedial action did not include vacating the position, an employee who was not placed or promoted or given proper consideration because of the violation shall be given priority consideration under a new promotion or other placement action as provided in § 844.

843.10 An employee's entitlement to priority consideration under this section shall continue until the employee's name has been referred on a certificate for a comparable position, or the employee declines consideration for a comparable position, or the employee is no longer available for consideration.

843.11 Violations by design shall be proper grounds for disciplinary or adverse action, and the personnel authority shall investigate all allegations of violation by design and take appropriate action, as provided in chapter 16 of these regulations.

844 PRIORITY PLACEMENT CATEGORIES AND ORDER OF PRIORITY

844.1 Priority placement category 1 shall consist of the following:

(a) An employee or ex-employee entitled to statutory veteran's restoration rights under federal law as described in § 827;

(b) An employee separated as a result of a compensable injury entitled to return to duty in accordance with the provisions of § 827; and

(c) A person ordered to be placed by an administrative body (for example, Office of Employee Appeals, Office of Human Rights), or a court of competent jurisdiction, or by an arbitrator.

844.2 Placement of an individual in priority placement category 1 shall be effected or considered in accordance with applicable statutory rights or orders or judgments pertaining thereto, and shall be effected as mandated.

844.3 Priority placement category 2 shall consist of the following:

(a) A current employee whose name has been entered on the agency reemployment priority list in accordance with chapter 24 of these regulations;

(b) A former employee whose name has been entered on an agency reemployment priority list in accordance with chapter 24 of these regulations;

(c) An employee or former employee whose name has been entered on the displaced employee program list in accordance with chapter 24 of these regulations;

(d) An employee entitled to placement or promotion consideration because of violation of or failure to adhere to law, regulation, or procedure in accordance with the provisions of § 843;

(e) An employee whose name has been entered on an agency repromotion register in accordance with § 842; and

(f) An employee separated as the result of a compensable injury as described in § 827.5 who was not placed within the two (2) years set forth in § 827.22, for a period of one (1) year following expiration of the two-year (2-year) period.

844.4 Placement of an individual in priority placement category 2 shall be subject to the following:

(a) Except for a person in category 1, or an individual described in § 844.5, no person shall be selected ahead of an individual in category 2 unless the selecting official justifies the nonselection in writing and obtains the approval of the personnel authority or his or her designee.

(b) Each individuals shall be referred for positions in the order listed in § 844.3.

844.5 A current employee in the Career Service who is serving under a Career Appointment (Probational) or a Career Appointment (Permanent), provided he or she is qualified, may be selected for a position for which a category 2 candidate described in § 844.3(d), (e), or (f) has been referred; and the selection shall not need to be justified in writing.

845 GRIEVANCES

845.1 A Career Service employee may file a grievance with an agency or personnel authority, as appropriate under these regulations, when he or she believes that an employment practice which was applied to him or her violates a requirement of law or these regulations.

845.2 A candidate may file a grievance with the personnel authority regarding an action on his or her application for employment in the Career Service.

845.3 A grievance shall be resolved under appropriate grievance procedures, pursuant to chapter 16 of these regulations or an applicable collective bargaining agreement.

845.4 While the procedures used to identify and rank qualified candidates are proper subjects for formal grievances, nonselection from among a group of properly ranked and certified candidates shall not be an appropriate basis for a formal grievance.

845.5 An action required to be taken under the provisions of law or regulations, or by a court or other competent authority as applied to groups of positions or to a specific action, shall not be a basis for a formal grievance.

846 EVALUATIONS AND INVESTIGATIONS

846.1 A personnel authority or other authorized agency may investigate allegations of violations of law and these regulations, and may order appropriate action, including action pursuant to chapter 16 of these regulations against a person found to be responsible for a violation.

846.2 A personnel authority may conduct program monitoring and evaluation of the administration of the Career Service and compliance with law and these regulations.

847 PERSONNEL REPORTS

847.1 Each agency shall report to the personnel authority, in the manner and at such time as the personnel authority may prescribe, personnel information relating to positions and employees in the Career Service.

848 RESERVED

849 ATTORNEY CERTIFICATE OF GOOD STANDING FILING REQUIREMENT

849.1 The provisions of this section shall be applicable to each attorney appointed in the Career Service at the level of DS-13 or equivalent and above who is required to be a member of the D.C. Bar as a prerequisite of employment, and who is employed by:

(a) Any agency, subordinate or independent, and whose duties, in whole or substantial part, consist of hearing cases as an administrative law judge or as an administrative hearing officer;

(b) The Office of the Chief Financial Officer; and

(c) Any independent agency excluded from the Legal Service, including the Housing Finance Agency, Pretrial Services Agency, Water and Sewer Authority, and Housing Authority.

849.2 Not later than December 15 of each year, or as specified in sections 849.18 and 849.19 of this section, each attorney as described in section 849.1 of this section shall file with the D.C. Department of Human Resources (DCHR) a certificate of good standing from the Committee on Admissions, D.C. Court of Appeals.

849.3 Except as specified in §§ 849.18 and 849.19, the certificate of good standing submitted every year pursuant to this section shall be dated not earlier than October 1 and not later than December 15 of the year of submission.

849.4 Each subordinate agency or independent personnel authority that employs Career Service attorneys subject to the filing requirement shall be responsible for:

(a) Notifying each agency attorney of the filing requirement every year; and

(b) Submitting a list of agency attorneys subject to the filing requirement to the Director of the DCHR every year, not later than the December 15 deadline.

849.5 Notwithstanding the procedures in section 849.2 of this section, each subordinate agency or independent personnel authority may elect to submit every year to the Committee on Admissions, D.C. Court of Appeals, a consolidated listing requesting certificates of good standing (certificates) for each agency attorney subject to the filing requirement, and file the original individual certificates with the DCHR on behalf of each attorney.

849.6 A subordinate agency or independent personnel authority that elects to submit a consolidated listing as specified in § 849.5 shall establish internal procedures for the compilation of the consolidated listing and every year inform each attorney subject to the filing requirement of the

internal procedures. Any consolidated listing submitted to the Committee on Admissions, D.C. Court of Appeals (Court) shall include, at a minimum, the following:

(a) The attorney's name and bar number and, if necessary, some other identifier such as the attorney's date of admission to the D.C. Bar;

(b) A request that an individual certificate of good standing be prepared for each attorney in good standing from the names submitted in the consolidated listing; and

(c) A request that the Court specify which attorneys, from the names submitted in the consolidated listing, are not in good standing.

849.7 Any consolidated listing prepared pursuant to § 849.5 shall be submitted to the Committee on Admissions, D.C. Court of Appeals, as soon after October 1 of each year as practicable, but not later than November 15 of each year.

849.8 Nothing in this section shall prevent an attorney subject to the filing requirement from individually applying for the certificate of good standing (certificate) from the Committee on Admissions, D.C. Court of Appeals, and filing the certificate directly with the DCHR by December 15 of each year.

849.9 Each subordinate agency head or independent personnel authority that elects to submit a consolidated listing to the Committee on Admissions, D.C. Court of Appeals (Court) pursuant to section 849.5 of this section shall provide every year to the Director of the DCHR:

(a) Each original individual certificate of good standing received;

(b) The name of each attorney who is not in good standing and any documentation from the Court to that effect; and

(c) A copy of the consolidated listing submitted to the Court.

849.10 Upon receipt of the original individual certificate of good standing (certificate) from each attorney, or subordinate agency or independent personnel authority on his or her behalf, the Director of the DCHR (or designee) shall:

(a) File the original individual certificates in a place designated for that purpose; and

(b) In the case of an attorney who is not in compliance with the filing requirement, forward the name to the appropriate agency head.

849.11 Notwithstanding any other provision in this section, the Director of the DCHR may establish internal procedures to identify every year each attorney as described in section 849.1 of this section who is subject to the filing requirement and subsequently identify any attorney who did not comply with the filing requirement.

849.12 Failure of any attorney as described in section 849.1 of this section, either individually, or through his or her employing subordinate agency or independent personnel authority, to file the certificate of good standing with the DCHR by December 15 of each year, or as specified in section 849.18 or 849.19 of this section, shall result in forfeiture of employment.

849.13 Upon written request from an attorney subject to the filing requirement, the Director of the DCHR or independent personnel authority may grant a temporary waiver of the filing requirement to the attorney if compliance with the filing requirement by December 15 is inordinately difficult due to circumstances beyond his or her control or other good cause.

849.14 Any request for a temporary waiver of the filing requirement shall be submitted by the attorney to the Director of the DCHR or independent personnel authority not later than December 1.

849.15 The Director of the DCHR or independent personnel authority shall grant a temporary waiver of the filing requirement to an attorney who has exercised due diligence in applying to be waived in to the D.C. Bar from another jurisdiction but does not anticipate being waived in by December 15.

849.16 A request for temporary waiver of the filing requirement shall include all of the following:

(a) The reason or reasons for the request;

(b) The date of appointment to the attorney position subject to the filing requirement;

(c) In the case of an attorney as described in § 849.15, the date he or she submitted application to be waived in to the D.C. Bar; and

(d) Any appropriate or required supporting material or documentation to substantiate the request.

849.17 The Director of the DCHR or independent personnel authority shall promptly determine whether to grant the request for a temporary waiver of the filing requirement and notify the attorney in writing. A notification granting the request shall inform the attorney of the deadline to file prescribed in section 849.18 of this section. A notification denying the request shall inform the attorney of the following:

(a) The reason or reasons for the denial of the request;

(b) That he or she has thirty (30) days from the receipt of the notification denying the request to attempt to file the certificate of good standing (certificate) with the DCHR;

(c) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the DCHR within the prescribed period; and

(d) The effective date of termination in the event that he or she is unable to file the certificate with the DCHR within the prescribed period.

849.18 An attorney granted a temporary waiver of the filing requirement (waiver) shall file a certificate of good standing (certificate) with the Director of the DCHR within thirty (30) days of being admitted to the D.C. Bar. A certificate filed pursuant to this subsection shall not be dated earlier than the date of the written request for the waiver submitted by the employee.

849.19 When a personnel action placing an employee in an attorney position subject to the filing requirement, such as in the case of a promotion to a grade DS-13 or equivalent, becomes effective on or after the December 15 deadline, the attorney shall file a certificate of good standing

(certificate) with the DCHR within thirty (30) days of the effective date of such personnel action. A certificate filed pursuant to this subsection shall not be dated earlier than the effective date of the personnel action that placed the employee in the attorney position subject to the filing requirement.

849.20 Upon establishing the effective date of a personnel action as described in section 849.19 of this section and processing the action, the Director of the DCHR or independent personnel authority shall promptly inform the affected employee, in writing, of the deadline to file prescribed in section 849.19 of this section.

849.21 Each subordinate agency or independent personnel authority shall provide a written notice of the intent to terminate employment to any covered attorney who is not in compliance with the filing requirement. The notice shall inform the attorney:

(a) That he or she has thirty (30) days from the receipt of the notice to attempt to file the certificate of good standing (certificate) with the DCHR;

(b) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the DCHR within the prescribed period; and

(c) The effective date of termination in the event that he or she is unable to file the certificate with the DCHR within the prescribed period.

849.22 Each appointee to an attorney position subject to the filing requirement (requirement) shall be notified by the appropriate personnel authority at the time of hire, in writing, of the requirement and that failure to comply by December 15 of each year or as specified in §§ 849.18 and 849.19, as applicable, shall result in forfeiture of employment.

849.23 Not later than March 1 of each year after the December 15 filing deadline for the preceding year, the Director of the DCHR shall publish in the *D.C. Register* the list of attorneys who have not met the filing requirement.

850 through 869: RESERVED

870 PROCESSING ENTRY-LEVEL CANDIDATES FOR FIREFIGHTER/EMERGENCY MEDICAL TECHNICIAN (EMT) AND FIREFIGHTER/PARAMEDIC POSITIONS

870.1 For the purposes of this section, the following terms have the meaning ascribed:

Certificate of Eligibles (Certificate)—the list of candidates selected from a register for consideration for appointment to a position.

Disposition—the final status of individuals considered for appointment from a Certificate, indicated on a Certificate of Eligibles by means of the coding system described in section 870.8 of this section.

Firefighter/Emergency Medical Technician (EMT)—an employee of the Fire and Emergency Medical Services Department (FEMSD) who is cross-trained as a Firefighter and an EMT.

Firefighter/Paramedic—an employee of the FEMSD who is cross-trained as a Firefighter and a Paramedic. The Term "Paramedic" includes EMT/Intermediate (EMT/I) and Basic Paramedic (EMT/P).

Probationary – an entry-level Firefighter/Emergency Medical Technician (EMT) and entry-level Firefighter/ Paramedic shall be required to serve a probationary period of eighteen (18) months, during which time he or she shall be terminated whenever performance or conduct fail to demonstrate the individual's fitness or qualifications for continued employment.

Register—a list of all individuals eligible for consideration for appointment to a position.

Unassembled examination— an examination that does not require a written test.

870.2 Appropriate staff within the personnel authority will establish a Register of eligible candidates for the positions of Firefighter/EMT and Firefighter/Paramedic. Each Register will include the numerical rank, name, and social security number of all eligible candidates.

870.3 Candidates on the register shall be eligible for appointment only if they successfully complete all the stages of the selection process.

870.4 As specified in section 819 of this chapter, a Register may also be established by administering an entry-level examination to eligible candidates or, at the discretion of the Fire Chief, by unassembled examination for the purposes of hiring individuals for the position of Firefighter/Paramedic.

870.5 Following the establishment of a Register, each candidate who passes the entry-level examination for Firefighter/EMT and Firefighter/Paramedic or is qualified by unassembled examination will be required to:

(a) Take a physical abilities test (PAT) to assess his or her physical abilities to perform the duties of a Firefighter/Paramedic;

(b) Undergo a background investigation to determine suitability for appointment; and

(c) Be determined to be medically and psychologically qualified to perform in the position for which he or she is being considered.

870.6 Processing of candidates on a Register, and the responsibilities and authorities for each step, are as specified in this section.

870.7 The Certificate will include a sufficient number of candidates to fill available vacancies, and the numerical rank, name, and social security number of qualified candidates on the Register. In the case of a Register established by written examination, the candidates will be listed on the Register in order of their position on the written examination.

870.8 Appropriate staff within the personnel authority will transmit the Certificate and D.C. 2000 Employment Applications to the Agency Recruiting Officer (ARO) within the FEMSD. The ARO will review the D.C. 2000 Employment Applications and indicate the final status of each candidate in the "Disposition" column of the Certificate, using the following codification system:

(a) A: The candidate could not be contacted regarding availability for processing by means of the U.S. Postal Service; the mailings were returned to the ARO as undeliverable;

(b) B: The candidate failed to respond to mailings regarding availability for processing; the mailings were not returned by the U.S. Postal Service to the ARO;

(c) C: The candidate requested deferral, that is, consideration for processing for appointment at a later date;

(d) D: The candidate declined further consideration for the position;

(e) E: The candidate failed to complete the required documentation for the background investigation;

(f) F: The candidate was determined to be unsuitable for appointment to the position on the basis of the background investigation only;

(g) G: The candidate failed to report for the medical examination;

(h) H: The candidate failed to complete the medical examination;

(i) I: The candidate was determined to be unsuitable for appointment to the position on the basis of the medical examination only;

(j) J: The candidate was offered the position, but declined appointment to the position;

(k) K: The candidate was offered the position, but deferred appointment to the position to a later date;

(l) L: The candidate was appointed to the position;

(m) M: The candidate did not meet the maximum age, education or experience, or citizenship requirements for appointment to the position;

(n) N: The candidate was temporarily suspended from further processing because of pending criminal charges, or the possession of a suspended or revoked motor vehicle license, or charges to that effect; and

(o) O: Other circumstances not described above.

870.9 The ARO will establish a file for all of the candidates to be processed. Each file must contain the D.C. 2000 Employment Application and all other correspondence and documents concerning the processing of the candidate.

870.10 The ARO will review each D.C. 2000 Employment Application to ensure that the candidates meet the age and education or experience requirements. Candidates who would be older than the required maximum age, education, or experience requirement they cannot be considered for a position.

870.11 The names of candidates who are excluded from consideration on the basis of the age, education, or experience review will be coded “M” in the “Disposition” column on the Certificate. These candidates will not be given any further consideration for positions filled from this Register.

870.12 Using information available on the D.C. 2000 Employment Application, the ARO will send all candidates not coded "M" a letter including an information packet. The letter will advise the candidates of the purpose of and the procedures for completing and returning all forms enclosed with the letter. The letter will also instruct candidates to bring with them original or notarized copies of their birth certificate, high school diploma or equivalency certificate, and D.D. 214 Form, if applicable.

870.13 As needed because of unusual circumstances, the personnel authority may authorize telephone contacts of candidates to arrange expedited scheduling of medical examinations or other processing steps.

870.14 Candidates who do not respond to the letter within ten (10) workdays of the date of the letter will be sent a second (2nd) letter and enclosures, by certified mail. Candidates who do not respond to the certified letter within ten (10) workdays of the mailing date will be coded "A" or "B," as appropriate, in the "Disposition" column on the Certificate (see also sections 870.8(a) and (b) of this section). The names of these individuals will be placed at the bottom of the Register in position order following the name of the last candidate. The personnel authority will determine whether to consider such candidates, as specified in section 870.45 of this section.

870.15 The names of candidates who have indicated that they wish to be considered at a later date shall be coded "C" in the "Disposition" column of the Certificate, and the specific date placed to the right of the code. These candidates may be processed on the date requested in order of their position on the register if the register has not been terminated by the personnel authority prior to this date.

870.16 The names of candidates who have declined consideration for the position will be coded "D" in the "Disposition" column of the Certificate. Their names shall be placed at the bottom of the Register in position order following the name of the last candidate. The personnel authority may approve their consideration at a later date (see also section 870.8 (d) of this section).

870.17 Candidates will be notified by the ARO regarding the scheduling of the PAT required under section 870.5 of this section.

870.18 Candidates who successfully pass the PAT will report to the ARO as the initial step of the background investigation and suitability review process. Each candidate will bring an original or notarized copy of his or her birth certificate and high school diploma or equivalency certificate, as well as D.D. 214, if appropriate.

870.19 During the initial screening process, candidates will be provided the following forms and will be expected to complete them, after which the ARO will collect the forms:

(a) A "Criminal History Request" form (P.D. 70);

(b) A "Record Check Request" form (P.D. 697); and

(c) A "Release of Information Waiver Authorization" form (P.D. 171);

870.20 The ARO will conduct the background investigation of those candidates who pass the PAT. The background investigation will be conducted prior to initial referral to a Suitability Board (Board)

established by the Fire Chief in accordance with the requirements of this section, for a provisional determination of suitability. The background investigation will include all of the following elements:

(a) A local investigation including the following checks:

(1) Criminal background check;

(2) Traffic record check;

(3) Warrant detail check;

(4) Morals Division check; and

(5) Central Names File check;

(b) A report on the candidate from the Washington Area Law Enforcement System (WALES);

(c) Department of Motor Vehicles reports from Maryland, Virginia, and the District of Columbia, as appropriate;

(d) Out-of-state reports, when necessary, including the following:

(1) Department of Motor Vehicles reports;

(2) State police checks; and

(3) Local police checks;

(e) Checking with present and at least one (1) former employer; and

(f) Conducting a records check of military service.

870.21 The background investigation pursuant to section 870.20 of this section may be submitted to the Board for a provisional determination, prior to the receipt of the elements listed below in this subsection. The ARO is responsible for ensuring that this information is obtained within a reasonable amount of time following a provisional determination of suitability, and informing the Board or other appropriate agency management official in the event that any information is obtained that may reasonably affect the decision of the Board. The required elements are:

(a) A report on the candidate from the Federal Bureau of Investigations (FBI) criminal history check;

(b) At least three (3) personal reference checks; and

(c) Checks with at least three (3) associates or friends of the candidate.

870.22 The files of candidates whose investigations under § 870.20 of this section have been completed will be transmitted to and reviewed by the Board.

870.23 The Board will be composed of three (3) uniformed members of the FEMSD at a rank no lower than that of Captain.

870.24 The presence of all three (3) members of the board shall constitute a quorum, and no action will be taken by the Board without a quorum present.

870.25 Decisions of the Board will be effected by majority vote. In making its determination as to the suitability of a candidate for further consideration, the Board may use as reference material the guidelines found within the District Personnel Manual (DPM) (or any other procedural manual developed) and any other procedures issued by the Director, D.C. Department of Human Resources (DCHR).

870.26 The Board's findings and the reasons thereof on the suitability of a candidate shall be recorded by the Board on a form expressly designed for this purpose.

870.27 The Fire Chief will establish procedures to ensure that candidates are acted upon by the Board in the same order as listed on the Certificate, except for candidates who are delayed in processing through no fault of the District government.

870.28 In the case of an unassembled examination, candidates will be selected based on rank qualification, and in accordance with the residency preference provisions of Chapter 3 of these regulations.

870.29 The Board has the authority to consider a variety of factors in determining a candidate's suitability for appointment, but may not consider juvenile records. The possession of one or more of the following background characteristics may make a candidate ineligible for further processing and subsequent appointment:

(a) A conviction for any felony;

(b) A conviction for any serious misdemeanor, including but not limited to petit larceny or sex offenses;

(c) Any record of having served a jail sentence; or

(d) An admission of drug abuse or reasonable grounds to believe that there has been drug abuse. Excessive use of marijuana would normally be disqualifying; however, each case will be considered individually, during which time all the relevant facts and circumstances will be evaluated before a final decision is made. As a general guide, excessive use may be defined as the use of marijuana on more than fifteen (15) occasions.

870.30 The following background variables will be closely reviewed by the Board and may be used to render a candidate ineligible for appointment:

(a) All military discharges and the reasons for such discharges, will be reviewed, to include but not be limited to performance, conduct, and medical records;

(b) The circumstances surrounding a conviction or convictions for disorderly conduct shall be reviewed and evaluated on a case-by-case basis;

(c) Other acts which would constitute a crime shall be individually evaluated;

(d) Traffic records will be judged on an individual basis. A pattern of disregard for existing traffic regulations, particularly where the applicant has been convicted of driving under the influence of intoxicants or drugs, may result in the exclusion of the candidate form further processing.

870.31 Any material false statements, misrepresentations or omissions made during any phase of the application process will be the basis for disqualification of a candidate.

870.32 An applicant's file will be placed in a condition of temporary suspension from further processing for either of the following reasons:

(a) The applicant has criminal charges pending; or

(b) The applicant's motor vehicle license has been suspended or revoked or such action is pending.

870.33 The Board will return the candidates' files to the ARO with its recommendation as to whether the candidate should be determined suitable or unsuitable for further processing.

870.34 Based upon the Board's recommendation, the ARO will render a decision as to the suitability of each candidate for further processing. If the ARO does not concur with the decision of the Board, he or she will notify the Board and ask for reconsideration.

870.35 The names of candidates who have a suspended or revoked drivers license, or charges pending to that effect will be coded "N" on the Certificate by the ARO. (See section 870.8 (n) of this section). Depending upon the nature and seriousness of the charge, candidates who have criminal charges pending may be coded "N" on the Certificate by the ARO. The ARO will inform the candidates in writing of their temporary suspension from further processing, and will advise such candidates to notify the ARO when these impediments have been removed, as well as provide the ARO with appropriate evidence of such removal. Candidates will also be advised that they may be processed at the time of such notification if the Register has not been terminated prior to that date. These candidates would then be processed in order of their original position number on the Register.

870.36 The ARO will inform each candidate who has been deemed unsuitable, in writing, giving the candidate the reasons for the determination. In addition, each candidate will be informed that he or she may submit, within fifteen (15) workdays of the date of the letter informing the candidate of his or her unsuitability, a written request to the ARO to re-evaluate the facts that led to the determination.

870.37 When requests for review are received, the ARO will remand the background material to the Board for reconsideration. The ARO will inform the candidates in writing as to the final determination of suitability, including the basis for the determination, and that they may appeal the decision in writing to the Fire Chief (or his or her designee). The decision of the Fire Chief is final.

870.38 The names of candidates who failed to provide the required documentation for the background investigation will be coded "E" in the "Disposition" column of the Certificate. The names of those who have been determined to be unsuitable on the basis of the background investigation will be coded "F." These candidates will not be further considered for positions to be filled from the Register being used at the time. (See section 870.8 (e) and (f) of this section).

870.39 Upon completion, termination, or suspension from further processing, the ARO will transmit each candidate's file to appropriate staff person.

870.40 Upon request, and for good reason, the ARO may allow a candidate who fails to report to or complete the medical examination one (1) additional opportunity to take or complete the medical examination.

870.41 The Police and Fire Clinic (PFC) will make the medical determination for each candidate and will inform the ARO of its determination in writing.

870.42 The ARO will inform the candidates who were medically disqualified by the PFC of the reasons for the disqualification, both orally and in writing. These candidates will also be advised that they may submit a written request asking that the ARO refer the case to the PFC for reconsideration. The request must be submitted within fifteen (15) days of receipt of the letter that informed them of their medical disqualification.

870.43 A code of "G" will be placed in the disposition column of the Certificate by the names of any candidate who failed to report for the medical examination after being given a second (2nd) opportunity; a code of "H" will be placed in the disposition column of the Certificate by the name of any candidate who failed to complete the medical examination after being given a second (2nd) opportunity; and a code of "I" will be placed in the disposition column of the Certificate by the name of any candidate deemed unsuitable on the basis of the medical examination. Candidates who have been coded "G," "H," or "I" will not be given further consideration for positions filled from the Register being used.

870.44 The Fire Chief may require candidates to complete an updated medical examination or background investigation if more than one hundred and twenty (120) days have elapsed between the date either the medical examination or background investigation were completed and the date of appointment.

870.45 Appropriate staff within the personnel authority will contact selectees in writing to tender offers of appointment. Every effort will be made to ensure that appointments are tendered in the order of original position on the Register, with the exception of variances caused by the occurrence of disposition categories "A," "B," "C," "D," "J," "K," and "N" (candidates placed within disposition categories "E," "F," "G," "H," "I," and "M" would not be tendered an offer of appointment), and subject to processing delays not within the control of the FEMSD. The selectees will be informed of all of the following:

(a) That the selection is tentative pending completion of the background investigation, if applicable;

(b) The components of the background investigation that have not been completed, if applicable;

(c) That a report resulting in a determination of unsuitability will result in termination of employment;

(d) Where and when to report for appointment; and

(e) The procedures for declining or deferring the appointment.

870.46 Delays in processing caused by a candidate's action or inaction may result in the candidate being offered an appointment after other candidates who were initially placed in a lower position on the Certificate. Appropriate staff within the personnel authority will be responsible for documenting the reasons for all such offers of appointment, and for providing the Director of the DCHR, with such documentation upon request.

870.47 Appropriate staff within the personnel authority will prepare all candidate appointment forms for those candidates who have accepted offers of appointment and will secure the necessary signatures as specified on the forms. A code of "L" will be placed in the disposition column of the Certificate by the names of candidates who have been appointed.

870.48 A code of "J" will be placed in the disposition column of the Certificate by the names of candidates who have declined appointment. Their names will be placed at the bottom of the Register in position order following the name of the last candidate. The personnel authority may approve their consideration at a later date.

870.49 A code of "K" will be placed in the disposition column of the Certificate by the names of candidates who have requested deferral of their appointment, with the date indicated in the space to the right. These candidates may be appointed on the date requested in the order of their position on the Register if the Register has not been terminated by the personnel authority prior to this date.

870.50 Candidates whose requested deferral dates exceed thirty (30) days from the date of the original date of appointment may be subjected to an updated background investigation.

870.51 Appropriate staff within the personnel authority will provide the ARO with the names of the candidates who have accepted appointment, declined appointment, or deferred appointment, so that the ARO may make the appropriate notations on the Certificate.

870.52 The ARO will return the Certificate to the human resources (HR) staff within the FEMSD before requesting another Certificate.

870.53 When each name has been certified and the last Certificate returned to the HR staff within the personnel authority, the following actions may be taken:

(a) Terminate the Register; or

(b) If there is a need for any entry-level Firefighter/EMT or Firefighter/Basic Paramedic to be hired, prior to the time that a new Register will be available, instruct the appropriate staff to arrange for consideration of those candidates who are still eligible and have been placed at the bottom of the Register in accordance with this section, by the same procedure as was used with the candidates previously considered.

870.54 Candidates whose requested deferral dates exceed 30 days from the date of the original date of appointment may be subject to an updated background investigation.

870.55 The Cluster shall notify the LPD of the identity of those candidates who have accepted appointment, declined appointment, or deferred appointment, so that appropriate notations may be made on the Certificate by the LPD.

870.56 The LPD shall return the Certificate of Eligibles through the Assistant Director to the DCOP Examination and Recruitment Division before requesting an additional Certificate.

870.57 When each name has been certified and the last Certificate returned to the personnel authority, the appropriate staff shall do either of the following:

(a) Terminate the register; or

(b) If there is a need for entry-level firefighters to be hired, prior to the time that a new register will be available, arrange for consideration of those candidates who are still eligible and have been placed at the bottom of the register in accordance with these regulations, by the same procedure as was used with the previously considered candidates, as set forth in this section.

871 PROCESSING CANDIDATES FOR POLICE SERGEANT, LIEUTENANT, AND CAPTAIN POSITIONS

871.1 To be eligible to participate in any selection process conducted in or after calendar year 2009, members applying for the Sergeant, Lieutenant, or Captain selection process must have achieved an annual performance evaluation rating of at least "Meets Expectations," or the equivalent, in the rating period prior to the selection process and shall meet the following time-in-rank qualification requirements:

(a) An officer applying for the Sergeant selection process shall have a minimum of four (4) years of cumulative service, continuous or intermittent, as an officer in the Metropolitan Police Department of the District of Columbia, as of the qualifying date of the selection process;

(b) A Sergeant applying for the Lieutenant selection process shall have a minimum of two (2) years of continuous service as a Sergeant in the Metropolitan Police Department, as of the qualifying date of the selection process, and shall be serving in the rank of Sergeant as of the qualifying date of the selection process; and

(c) A Lieutenant applying for the Captain selection process shall have a minimum of one (1) year of continuous service as a Lieutenant in the Metropolitan Police Department, as of the qualifying date of the selection process, and shall be serving in the rank of Lieutenant as of the qualifying date of the selection process.

871.2 The Metropolitan Police Department shall establish, for each rank, a register of eligible candidates who successfully complete all phases of the selection process for the Police Sergeant, Lieutenant, and Captain positions.

871.3 Registers established under this section shall be structured in descending order in accordance with the results of the selection process.

871.4 Each register established under this section shall include the rank, name, employee identification number, and final ranking of each eligible candidate.

871.5 A candidate on the register shall be eligible for promotion only if the candidate successfully completes all stages of the selection process and is serving in the qualifying rank on the date the candidate's name is reached for promotional purposes.

871.6 The Chief shall publish, according to the department's directives issuance system, the procedures for processing candidates on a register and the responsibilities and authorities for each step.

871.7 Following the establishment of a register, each candidate shall be required to pass a medical examination, including drug screening, prior to promotion to a Sergeant, Lieutenant, or Captain position, in accordance with Department policy.

871.8 Unless otherwise authorized by the Chief, the register shall expire at 12:00 midnight on April 30, two (2) years from the date the register is established.

871.9 The Chief shall ensure that the register is coded with final disposition codes before a subsequent register is issued.

871.10 Promotional files shall be retained for a minimum of three (3) years from the expiration date of the register, and then disposed of in accordance with the applicable records retention schedule.

871.11 For members subject to collective bargaining, the collective bargaining agreement shall provide for how sustained adverse or corrective actions against a member shall affect that member's eligibility for promotion. The Chief of Police shall consider the disciplinary records of members who are candidates for promotion and who are not subject to collective bargaining.

871.12 Repealed – *See* Notice of Final Rulemaking published at 56 DCR 003685 (May 8, 2009)

871.13 To the extent that any provision of these regulations, other than § 871.1 conflicts with any provision of a written agreement with a labor organization, the provision of the written agreement shall prevail.

872 APPOINTMENT TO INSPECTOR, COMMANDER AND ASSISTANT CHIEF OF POLICE

872.1 The Chief of the Metropolitan Police Department is vested with the authority to assign to duty and to appoint all officers and members of the Metropolitan Police Department.

(a) Consistent with the duty to maintain a force of the highest possible quality, the Chief of Police may appoint qualified candidates from within the Department, as well as seek and appoint qualified candidates from outside the Department, to positions of Assistant Chief of Police, Commander, and Inspector.

(b) The Chief of Police must consider a candidate's broad knowledge of law enforcement techniques and principles, including his or her knowledge of management principles and employee development in a law enforcement setting.

(c) The Chief of Police shall consider the disciplinary record of all candidates for appointment under this section.

872.2 Appointment to Inspector shall be in accordance with the following:

(a) Whenever one or more appointments are to be made to the rank of Inspector, the Chief of Police may make such selection(s) from a register containing the names of all eligible candidates.

(b) Each individual selected for appointment to Inspector must successfully complete a medical examination, including drug screening, at the Medical Services Division before the effective date of the promotion.

872.3 Appointment to Commander shall be in accordance with the following:

(a) The position of Commander connotes a candidate who meets the qualifications outlined in § 872.1 (b).

(b) A commander is vested with authority to establish a command system which most effectively utilizes the human and material resources available to them and best fulfills the mission of the department.

(c) Each individual selected for appointment to Commander must successfully complete a medical examination, including drug screening, at the Medical Services Division before the effective date of the promotion.

872.4 Appointment to Assistant Chief of Police shall be in accordance with the following:

(a) Whenever one or more appointments are to be made to the rank of Assistant Chief, the Chief of Police may make selection(s) from a register containing the names of all eligible candidates.

(b) Each individual selected for appointment to Assistant Chief must successfully complete a medical examination, including drug screening, at the Medical Services Division before the effective date of the promotion.

872.5 Assistant Chiefs of Police, Commanders, and Inspectors appointed by the Chief of Police pursuant to D.C. Official Code § 1-609.03 are Excepted Service employees. Assistant Chiefs of Police, Commanders, and Inspectors selected by the Chief of Police from the force pursuant to D.C. Official Code §§ 5-105.01 and 1-608.01, are Career Service employees, who serve in such positions at the pleasure of the Chief of Police, and may be returned to their previous rank/position at the discretion of the Chief of Police.

873 PROCESSING ENTRY-LEVEL CANDIDATES FOR POLICE OFFICER POSITIONS

873.1 In this section, the following terms have the meaning ascribed:

(a) Conditional—When an offer of employment is "conditional," it is pending the successful completion of the remaining portion of the selection process.

(b) Chief—Chief of Police of the Metropolitan Police Department.

(c) Intrafamily offense – As that term is defined in D.C. Official Code § 16-1001 (5).

(d) MPD—Metropolitan Police Department.

(e) Nolle prossed—A formal entry on the record by the government by which it declares that the government will not further prosecute the case.

(f) Nolo contendere—A plea which is entered with the permission of a court to a criminal complaint or indictment by which the defendant does not admit or deny the charges, though a fine or sentence may be imposed pursuant to it.

(g) Probationary—Entry-level police officers shall be required to serve a probationary period

of eighteen (18) months, during which time said officer shall be terminated whenever his or her performance or conduct fails to demonstrate his or her fitness or qualifications for continued employment.

(h) Register─ a list of all individuals eligible for consideration for appointment to a position, ranked according to each candidate's written examination score and the requirements of any applicable provisions of the Departmental Affirmative Action Plan.

873.2 To be considered as a candidate for the position of Police Officer, an applicant shall:

(a) Possess a high school diploma or a general equivalency diploma (G.E.D.);

(b) Possess a valid driver's license; and

(c) Pass any job-related aptitude or ability test as prescribed by the MPD;

(d) Be at least twenty-one (21) years of age.

873.3 The Chief shall establish a register of eligible candidates which:

(a) Shall be rank-ordered according to the candidates§ scores on the qualifying examinations, including veterans and residency preference points, if applicable; and

(b) Shall remain in existence for one (1) year from the date of issuance, unless otherwise authorized by the Chief of Police.

873.4 Following establishment of a register, each candidate shall be required to pass a medical examination, a truth verification test, and a background investigation in order to be offered a probationary appointment.

873.5 Once the candidate has passed the preliminary screening, the Human Resource Bureau Officer or Designee shall provide the candidate with a written conditional offer of employment, indicating the intent to appoint the candidate pending the successful completion of the remaining portion of the selection process.

873.6 If the written conditional offer of employment is accepted by the candidate, the candidate shall:

(a) Complete a "Medical History Form" (PD Form 688);

(b) Undergo a drug screening test;

(c) Undergo a medical examination;

(d) Be fingerprinted and photographed by the MPD; and,

(e) Submit a birth certificate, or notarized copy thereof, and such other forms as the MPD may require.

873.7 Each candidate shall undergo medical testing conducted at MPD Police and Fire Clinic by properly licensed health care practitioners or by licensed health care practitioners to whom candidates have been referred for further evaluation by the Medical Director of the Police and Fire Clinic.

873.8 Medical testing shall consist of a complete physical examination and psychological screening which includes a written psychological examination and a psychiatric evaluation performed by a licensed psychiatrist, and such other tests as determined by the Police and Fire Clinic.

873.9 The Medical Director of the Police and Fire Clinic shall make the medical determination of suitability for each candidate.

873.10 If a candidate has been medically disqualified, the Human Resource Bureau Officer or Designee shall notify the candidate in writing of the reasons for the disqualification and the procedures to appeal the decision pursuant to § 873.15.

873.11 A candidate is ineligible to become a police officer if the candidate has done any of the following:

(a) Engaged in any conduct which would constitute a felony in the District of Columbia, whether or not the conduct resulted in the arrest of the candidate or the filing of criminal charges;

(b) Been convicted of, pled guilty or nolo contendere to, or been given probation before judgment for any misdemeanor, or any offense in any other state, territory, or country which would be a misdemeanor if committed in the District of Columbia, when the misdemeanor involves:

(1) Violence, including, but not limited to, an intrafamily offense; simple assault; violence toward the aged, a spouse, incompetent persons, or children; or threats of violence;

(2) Perjury or falsification, including the making of false reports of crimes, or falsification of official documents;

(3) Sexual offenses, including, but not limited to, indecent exposure; promoting, procuring, compelling, soliciting or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism (peeping tom); committing sex acts in public; incest; and sexual battery;

(4) Any offense involving violations of the civil rights of any person under the Constitution or laws of the U.S. or any state or territory;

(5) Any theft committed after reaching the age of 18;

(6) Illegal possession, use, sale, distribution, or manufacture of any controlled substance;

(7) Driving under the influence (DUI) of any controlled substance used illegally;

(8) Any offense involving the possession or use of a firearm; or

(9) Any bias-related crime.

(c) Been convicted of, pled guilty or nolo contendere to, or been given probation before judgment for driving while intoxicated from alcohol on any single occasion within five (5) years prior to application, or two (2) or more times at any time prior to application;

(d) Been convicted of, pled guilty or nolo contendere to, or been placed on probation before judgment for manslaughter (negligent homicide), hit and run with injury, or fleeing and eluding police;

(e) Exhibited an unacceptable driving record within five (5) years of application, as evidenced by, but not limited to:

(1) Two (2) or more negligent collisions;

(2) Suspension for moving violations;

(3) Revocation; or

(4) Operating after suspension or revocation.

(f) Received three (3) or more adjudicated and sustained tickets for moving violations within the twelve-month (12-month) period prior to application;

(g) Been dishonorably discharged from military service;

(h) While in the military, engaged in any conduct which would constitute a felony or disqualifying misdemeanor in the District of Columbia;

(i) Is on parole or probation for any criminal offense, or is pending final disposition on a criminal charge;

(j) Been discharged from civilian employment two (2) or more time within five (5) years prior to application due to disciplinary action;

(k) Been terminated or forced to resign from any commissioned or recruit/probationary position with a law enforcement agency for disciplinary reasons; or resigned from a law enforcement agency to avoid potential or proposed adverse disciplinary action or termination;

(l) Is receiving a disability retirement allowance from any law enforcement agency;

(m) Knowingly made any false statement or falsified any document concerning any matter;

(n) Knowingly made any false statement or been deceptive by statement or omission in the written police application or in any part of the police entry-level selection process;

(o) Refused to submit to a truth verification test as part of the pre-employment process; or

(p) Demonstrated a history of personality and/or mental disorders as determined by the MPD Police and Fire Clinic; been a patient in a mental institution for personality or mental disorders; or received treatment as an out-patient for personality or mental disorders.

873.12 A candidate may be ineligible to become a police officer if the candidate has done any of the following:

(a) Been convicted of, pled guilty or nolo contendere to, or given probation before judgment for any misdemeanor charge not listed in § 873.11 above;

(b) Been given less than an honorable discharge from the military, or an honorable discharge with an unfavorable re-entry code;

(c) Been arrested for or charged with a criminal offense that was nolle prossed or dismissed;

(d) Exhibited evidence of alcoholism or an alcohol problem that poses an unacceptable threat to the safety of the individual or others as determined by the MPD Police and Fire Clinic acting in compliance with the Americans with Disabilities Act and the requirements of law enforcement;

(e) Established a verifiable civilian employment record of any of the following:

(1) Three (3) or more unexcused absences or eight (8) or more unexcused late occurrences during his/her last twelve (12) months of employment;

(2) Poor performance as documented by an evaluation of less than satisfactory in three (3) of his or her five (5) most recent performance ratings;

(3) Subjected to disciplinary action within three (3) years prior to application based upon insubordination or inability to follow orders;

(4) Three (3) or more civilian employment disciplinary actions filed against the applicant within five (5) years prior to application;

(5) An unstable or sporadic work history within five (5) years prior to application, *e.g.*, has frequently moved from job to job or experienced lengthy periods of unemployment, as demonstrated by jobs lasting one (1) year or less;

(6) Unfavorable recommendations from past employers; or

(f) During an administrative or criminal investigation, resigned from a law enforcement agency or otherwise demonstrated evidence of guilt without a final judgement having been rendered;

(g) Failed, during the police entry-level selection process and without prior notification and approval, to meet mandated deadlines, cooperate fully with and provide necessary documentation to and keep all scheduled appointments with MPD staff personnel;

(h) Failed, during the police entry-level selection process, to provide additional personal information as requested or to submit information updates/changes, particularly changes

of address and home and business telephone numbers, within five (5) business days of the change;

(i) Resigned or been terminated from any law enforcement academy due to a lack of proficiency in an academic or skill area;

(j) Established a history of civil law suits in the following areas: as a defendant resulting from several motor vehicle accidents, as a defendant in cases involving civil rights or human rights violations, or as a plaintiff in unresolved workers§ compensation cases;

(k) Failed to obey or honor any judgment entered by a court of record, including, but not limited to, failure to make alimony or support payments, failure to pay any fine imposed by any court of record, or has demonstrated a lack of honesty and integrity in disposing of financial obligations;

(l) Engaged in any activity constituting grounds for dismissal under Chapter 16 of the District Personnel Manual.

873.13 Appointments shall be tendered at the conclusion of the selection process, by the Human Resources Bureau Officer or Designee.

873.14 Candidates who are disqualified for the position of police officer shall receive written notification by the Human Resources Bureau Officer or Designee.

873.15 Candidates who are disqualified on the basis of either the medical examination or the background investigation may appeal to the Chief of Police or his or her designee, whose decision shall be final.

873.20 Consistent with the Chief's duty to maintain a force of the highest possible quality, the Chief may seek and appoint qualified persons who have worked for other law enforcement agencies.

873.21 The Chief of Police may make conditional offers of employment to applicants from other law enforcement organizations, subject to all restrictions and limitations contained in this chapter.

873.22 Candidates who receive conditional offers of appointment pursuant to § 873.21 may be entitled to receive compensation commensurate with their experience and expertise.

873.23 Such additional compensation shall be granted at the discretion of the Chief of Police.

873.24 The Chief of Police may consider but not be limited by the following factors in determining whether or not additional compensation shall be granted:

(a) Completion of two (2) to four (4) years of undergraduate collegiate coursework; or

(b) Completion of an undergraduate degree program from an accredited university or college; or

(c) Service with another law enforcement agency subject, but not limited to, the following restrictions:

(1) The law enforcement agency served a metropolitan area with a populace comparable to that of the District of Columbia.

(2) Service with a federal law enforcement agency with broad responsibilities such as, but not limited to, the U.S. Park Police, the U.S. Secret Service, the Capitol Hill Police, the Federal Bureau of Investigation, the Drug Enforcement Agency, or the Federal Protective Service.

873.25 Employees hired under § 873.21 shall be paid in accordance with existing wage/grade policies and or negotiated contracts where applicable.

874 DISTRICT OF COLUMBIA POLICE TRAINING AND STANDARDS BOARD

874.1 There is hereby established the District of Columbia Police Training and Standards Board ("Board").

874.2 Membership on the Board shall consist of the following 11 persons who shall be voting members:

(a) The Mayor or the Mayor's designee;

(b) Chief of Police, Metropolitan Police Department or the Chief of Police's designee;

(c) Corporation Counsel for the District of Columbia or the Corporation Counsel's designee;

(d) United States Attorney for the District of Columbia or the United States Attorney's designee;

(e) Assistant Director in Charge, Washington Field Office, Federal Bureau of Investigation or the Assistant Director's designee;

(f) Representative of the District of Columbia Superior Court appointed by the Mayor in consultation with the Chief Judge of the Superior Court;

(g) One criminal justice educator appointed by the Mayor;

(h) Two police representatives appointed by the Mayor in consultation with the Chief of Police; and

(i) Two community representatives appointed by the Mayor.

874.3 The following persons may be advisory, nonvoting members of the Board:

(a) The Executive Director, Maryland Police and Correctional Training Commission; and

(b) The Executive Director, Virginia Division of Training and Standards.

874.4 The appointments to the Board shall be for a 3-year term.

874.5 No member shall serve beyond the time when he or she holds the office or employment by reason of which he or she was initially eligible for appointment. Any member chosen to fill a vacancy created otherwise than by expiration of a term shall be appointed for the unexpired portion of the term of the member whom he or she succeeds.

874.6 The members shall receive no salary, but shall be reimbursed for their expenses lawfully incurred in the performance of their official functions.

874.7 Members appointed to the Board by the Mayor may be removed by the Mayor for incompetence, neglect of duty, or misconduct.

874.8 The Chairperson shall be appointed by the Mayor from among the voting members of the Board and the vice chair shall be elected from among the voting members.

874.9 The Board shall hold its initial meeting promptly after the appointment and qualification of its members. Thereafter, the Board shall meet a minimum of twice each calendar year and at other times as it or the Board's Chairperson may determine. The majority of the voting members of the Board shall constitute a quorum for the transaction of business, the performance of duties or for the exercise of any of its authority. Advisory members shall be entitled to participate in the business and deliberation of the Board, but shall not be entitled to vote. The Board shall establish its own procedures and requirements with respect to the place and conduct of its meetings.

874.10 Duties of the Board; standards for applicants; continuing education program.

The Board shall establish application and appointment criteria that include the following:

(a) That an applicant be a citizen of the United States at the time of application;

(b) Age limits;

(c) Height and weight guidelines;

(d) Physical fitness and health standards;

(e) Psychological fitness and health standards;

(f) The completion of a criminal background investigation;

(g) The consideration to be placed on an applicant's participation in court-ordered community supervision or probation for any criminal offense at any time from application through appointment;

(h) The consideration to be placed on an applicant's criminal history, including juvenile records;

(i) The completion of a background investigation;

(j) Military discharge classification information;

(k) Information on their prior service with the Metropolitan Police Department, if any.

874.12 The administrative work of the Board shall be carried out by members of the Metropolitan Police Department as appointed by the Chief of Police.

874.13 Notwithstanding the standards established by the Board in accordance with subsection (a) of this section, the Chief of Police is authorized to deny employment to any applicant based upon conduct occurring while the applicant was a minor if, considering the totality of the circumstances, the Chief of Police determines that the applicant has not displayed the good moral character or integrity necessary to perform the duties of a sworn member of the Metropolitan Police Department.

874.14 Each applicant selected for appointment as a sworn member of the Metropolitan Police Department shall successfully complete an initial training program developed by the Training and Standards Board, unless the applicant receives a waiver pursuant to § 874.69.

874.15 The Training and Standards Board shall determine:

(a) The minimum number of hours required for the initial training program;

(b) If and under what circumstances the initial training program will include temporary deployment of the applicant prior to regular deployment as a sworn member; and

(c) The subjects to be included as part of every applicant's initial training.

874.16 Prior to deployment, each applicant shall successfully complete an initial firearms training program developed by the Board.

874.17 The Board shall determine the appropriate sequence, content, and duration of the initial training program and of the initial firearms training program.

874.18 The Metropolitan Police Department is authorized to utilize the services of other law enforcement agencies or organizations engaged in the education and training of law enforcement personnel to satisfy any portion of the initial training program or the initial firearms training program.

874.19 The Chief of Police is authorized to modify or waive the initial training program and initial firearms training program requirements for either of the following:

(a) Any applicant who is a former sworn member of the Metropolitan Police Department who has been separated from employment with the Metropolitan Police Department for less than 3 years; or

(b) Any former member of a federal, state, or local law enforcement agency who has completed training similar to the Metropolitan Police Department's initial training program and initial firearms training program and who has been separated from employment with a federal, state, or local law enforcement agency for less than 3 years.

874.20 The Training and Standards Board shall:

(a) Develop and implement a program of continuing education for its sworn members.

(b) Determine the components for the Metropolitan Police Department's continuing education program;

(c) Determine the appropriate consequence, including ineligibility for promotion, if a member fails to satisfy the continuing education requirement; and

(d) Require each sworn member to successfully complete a firearms training program.

874.21 The Metropolitan Police Department is authorized to utilize the services of other law enforcement agencies or organizations engaged in the education and training of law enforcement personnel to satisfy any portion of the required continuing education or the firearms training program. The Board shall establish guidelines for the approval of any training program.

874.22 The Training and Standards Board shall:

(a) Establish the minimum requirements for any instructor of any component of the Metropolitan Police Department's initial training program, continuing education program, or firearms training program; and

(b) Through the Chief of Police, not later than November 31 of each calendar year, deliver a report to the Mayor and the Council concerning the Metropolitan Police Department's initial training program, continuing education program, and firearms training program.

(c) The report shall include the number of:

(1) Applicants who have successfully completed the application process;

(2) Applicants who have completed the initial training program;

(3) Sworn members who have completed the continuing education and firearms training programs; and

(4) A plan for the following calendar year's recruiting efforts and initial and continuing education programs, including plans for correcting any deficiencies indicated by the data from the preceding calendar year.

874.23 Any applicant who met the age requirement at the time of application and who was denied appointment on the basis of racial discrimination, as determined by the Director of the Office of Human Rights, may be appointed notwithstanding the applicant's age at the time of that determination.

874.24 Applications for appointment to the Metropolitan Police Department shall be made on forms furnished by the Metropolitan Police Department.

874.25 Appointments to the Metropolitan Police Department shall be for a probationary period to be determined by the Training and Standards Board. Continuation of service after the expiration of that period shall be dependent upon the conduct of the appointee and his or her capacity for the

performance of the duties to which assigned, as indicated by reports of superior officers. The probationary period shall be an extension of the examination period.

874.26 If the Police and Fire Clinic shall find any probationer physically or mentally unfit to continue his or her duties, that probationer shall be required to appear before the Police and Firefighter's Retirement and Relief Board. That Board shall make any findings as are required pursuant to section 12(i) of the Policemen and Firemen's Retirement and Disability Act and those findings shall be incorporated in a recommendation submitted to the Mayor.

874.27 Each police officer appointed shall maintain a level of physical fitness to be determined by the Training and Standards Board. The final determination with respect to inappropriate fitness levels shall be made by the Medical Director of the Police and Fire Clinic.

875 PROMOTION TO BATTALION FIRE CHIEF AND DEPUTY FIRE CHIEF

875.1 Until September 30, 2007, promotion to Battalion Fire Chief will be accomplished in accordance with the following:

(a) A Captain will be eligible for consideration for promotion to the rank of Battalion Fire Chief after having served as a Captain for a period of at least one (1) year;

(b) Whenever one (1) or more promotions are to be made to the rank of Battalion Fire Chief, the Fire Chief will submit to the Mayor a list of the names of all Captains eligible under section 875.1 (a) of this section, together with such other information as the Mayor may require;

(c) The Fire Chief will submit the final nomination of names to the Mayor for approval; and

(d) Each individual selected for promotion to Battalion Fire Chief must successfully complete a promotional medical examination by the Board of Police and Fire Surgeons in order to be promoted.

875.2 Until September 30, 2007, promotion to Deputy Fire Chief will be accomplished in accordance with the following:

(a) Whenever one (1) or more promotions are to be made to the rank of Deputy Fire Chief, the Fire Chief will submit to the Mayor a list of the names of all Battalion Fire Chiefs, together with such other information as the Mayor may require;

(b) The Fire Chief will submit the final nomination of names to the Mayor for approval; and

(c) Each individual selected for promotion to Deputy Fire Chief must successfully complete a promotional medical examination by the Board of Police and Fire Surgeons in order to be promoted.

875.3 Section 2 (b) of the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-402 (b)) (2005 Supp.), provides that the Fire Chief must establish criteria for Career Service promotions to Battalion Fire Chief

and Deputy Fire Chief that addresses the areas of education, experience, physical fitness, and psychological fitness. The criteria established, which will become effective on October 1, 2007, are specified in sections 875.4 through 875.6 of this section.

875.4 Beginning on October 1, 2007, promotion to Battalion Fire Chief will be accomplished in accordance with the following:

(a) A Captain will be eligible for consideration for promotion to the rank of Battalion Fire Chief after having served as Captain for at least one (1) year;

(b) Each candidate must be certified to the Fire Officer II level in accordance with the standards of the National Fire Protection Association (NFPA), or equivalent, and must meet at least one (1) of the following three (3) educational and training requirements:

(1) Certification to Fire Officer III level in accordance with NFPA standards, or equivalent;

(2) A minimum of forty-five (45) semester hours of college level course work, with at least fifteen (15) semester hours in core subjects such as English composition, mathematics, and science, and the remainder in fire science or administration courses, or the equivalent of fire science or administration courses; or

(3) A minimum of thirty (30) hours toward certification as Fire Officer III in accordance with NFPA standards, or equivalent, with an additional fifteen (15) semester hours of college level course work in core subjects such as English composition, mathematics, and science.

(c) A candidate hired after December 31, 1980 will be considered ineligible for consideration for promotion to the rank of Battalion Fire Chief if his or her record includes a suspension action for a period of fourteen (14) days or more within the three (3) years prior to submission of his or her application for promotion.

(d) Each candidate will be required to successfully complete a promotional physical at the time of selection.

875.5 Beginning on October 1, 2007, promotion to Deputy Fire Chief will be accomplished in accordance with the following:

(a) A Battalion Fire Chief will be eligible for consideration for promotion to the rank of Deputy Fire Chief after having served as Battalion Fire Chief for at least one (1) year;

(b) Each candidate must be certified to Fire Officer II level in accordance with the standards of the National Fire Protection Association (NFPA), or equivalent, and must meet at least one (1) of the following three (3) educational and training requirements:

(1) Certification to Fire Officer III level in accordance with NFPA standards, or equivalent;

(2) A minimum of forty-five (45) semester hours of college level course work, with at least fifteen (15) semester hours in core subjects such as English composition,

mathematics, and science, and the remainder in fire science or administration courses, or the equivalent of fire science or administration courses; or

(3) A minimum of thirty (30) hours toward certification as Fire Officer III in accordance with NFPA standards, or equivalent, with an additional fifteen (15) semester hours of college level course work in core subjects such as English composition, mathematics, and science.

(c) A candidate hired after December 31, 1980 will be considered ineligible for consideration for promotion to the rank of Deputy Fire Chief if his or her record includes a suspension action for a period of fourteen (14) days or more within the three (3) years prior to submission of his or her application for promotion.

(d) Each candidate will be required to successfully complete a promotional physical at the time of selection.

875.6 The selection process for the Battalion Fire Chief and Deputy Fire Chief is as follows:

(a) The Fire Chief is authorized to select for promotion any of the members who meet the minimum qualification standards listed in sections 875.4 and 875.5 of this section.

(b) The Fire Chief will submit the final nomination of names to the Mayor, together with any other information as the Mayor may require.

876 PROCESSING CANDIDATES FOR FIRE SERGEANT, LIEUTENANT, AND CAPTAIN POSITIONS

876.1 In this section, the following terms have the meaning ascribed:

Disposition─the final status of individuals considered for appointment from a register of eligibles, indicated on the register by means of the coding system herein described.

Register of eligibles (register) ─a list of all individuals eligible for consideration for appointment to a position.

Promotion Board─a group of Fire Department (Department) officers appointed by the Fire Chief, as described in § 876.12, to determine the fitness for promotion of eligible Sergeant, Lieutenant, and Captain candidates.

876.2 To be eligible to take a promotional examination, the candidate shall meet the following time-in-rank requirements:

(a) Eligible firefighters applying for the Sergeant Examination shall have a minimum of five (5) years of cumulative service, continuous or intermittent, as a firefighter in the Fire Department of the District of Columbia as of the qualifying date for the examination;

(b) Sergeants applying for the Lieutenant Examination shall have a minimum of one (1) year of continuous service as a Sergeant in the Fire Department of the District of Columbia as of the qualifying date for the examination and shall be serving in the rank of Sergeant on the date of the examination; and

(c) Lieutenants applying for the Captain Examination shall have a minimum of one (1) year of continuous service as a Lieutenant in the Fire Department of the District of Columbia as of the qualifying date for the examination and shall be serving in the rank of Lieutenant on the date of the examination.

876.3 The personnel authority shall establish a register of eligible candidates who complete the written examination phase of the selection process for Fire Sergeant, Lieutenant, and Captain positions.

876.4 Registers established under this section shall be structured in descending order of the candidate's rating. The rating reflects the candidate's final score on the written examination plus any additional points for service and/or education.

876.5 Registers established under this section shall include the rank, names, social security numbers, and ratings of all eligible candidates.

876.6 Candidates on the register shall be eligible for appointment only if they successfully complete all stages of the selection process, as specified in this section.

876.7 The register shall be in compliance with any applicable provisions of the Affirmative Action Plan of the Department.

876.8 The Assistant Director shall transmit the register of eligibles to the Fire Chief (Chief), who shall designate the Liaison Personnel of the Department (LPD) as the custodian of the register. The Assistant Fire Chief, Operations, shall be designated as the LPD.

876.9 After receiving the register from the Chief, the LPD shall indicate the final status of each candidate in the "Disposition" column on the register, using the following coding system, and in accordance with the instructions set forth in this section:

(a) A: The candidate declined to appear before the Promotion Board;

(b) B: The candidate failed to appear before the Promotion Board;

(c) C: The candidate was determined to be unsuitable for promotion by the Promotion Board only;

(d) D: The candidate declined to undergo the medical examination;

(e) E: The candidate failed to report for the medical examination;

(f) F: The candidate failed to complete the medical examination;

(g) G: The candidate was determined to be unsuitable for appointment to the position on the basis of the medical examination only;

(h) H: The candidate was appointed to the position;

(i) I: The candidate declined appointment to the position; or

(j) J: The candidate was not appointed to the position for reason(s) other than those described above. The LPD shall record the status of each candidate not selected.

876.10 The LPD shall establish a file for each candidate whose name is referred to the Promotion Board. Each file shall contain all correspondence and documents concerning the consideration of the candidate for promotion.

876.11 The Trial Board or other administrative system for corrective or adverse action shall notify the Fire Chief of any case initiated or any action taken on any case which may come before it, if that case involves a candidate on a promotion register as set forth in this section.

876.12 The Chief shall, whenever one (1) or more promotions are to be made, establish a Promotion Board (Board) in accordance with the following requirements:

(a) The Board shall consist of an Assistant Fire Chief, at least two (2) of the Deputy Fire Chiefs from the Fire Fighting Division and at least one (1) other Deputy Fire Chief from either the Fire Prevention Division, the Training Division, the Apparatus Division, or the Ambulance Division;

(b) When a Deputy Fire Chief of a Division is on extended leave, a regular Acting Deputy Fire Chief of that Division may be selected to serve;

(c) All members of the Board shall be considered as full voting members; and

(d) The presence of all members of the Board shall constitute a quorum, and no action shall be taken by the Board without a quorum present.

876.13 The Chief shall submit to the Board for its consideration nine (9) more names than the number of promotions to be made. All such names shall be submitted in rank order from the top of the appropriate register.

876.14 The Chief shall submit to the Board the names of the remaining candidates on a register when, for any reason, there are fewer than ten (10) eligible candidates remaining on the register.

876.15 The LPD shall schedule each candidate to appear before the Board.

876.16 The names of candidates who have declined to appear before the Board shall be coded "A" in the "Disposition" column of the register. These candidates shall not be permitted further consideration for positions filled from this register.

876.17 The Board shall convene in order to determine each candidate's fitness for promotion based on the following:

(a) The official personnel record;

(b) An evaluation by superior officers; and

(c) A job-related oral examination by the Board.

876.18 Candidates who fail to appear before the Board as scheduled, upon their request, may be permitted by the LPD one (1) additional opportunity to appear before the Board.

876.19 The names of candidates who have either (a) failed to appear before the Board and who have not requested rescheduling, or (b) failed to appear before the Board after rescheduling shall be coded "B" in the "Disposition" column of the register. These candidates shall not be permitted further consideration for positions filled from this register.

876.20 All Board proceedings shall be electronically or stenographically recorded and shall remain in the possession of the LPD.

876.21 The proceedings shall be made available for inspection upon the written request to the LPD of any candidate evaluated by the Board for the duration of the register and for two (2) years thereafter. Each candidate shall be provided access only to that information which is relevant to his or her evaluation.

876.22 The Board shall evaluate the fitness of candidates using standardized procedures and forms approved by the Chief and the Director, DCOP, in order to arrive at a just and fair recommendation concerning promotion.

876.23 A candidate shall be recommended for promotion by the Board to the Chief if a majority of the members of the Board so recommend.

876.24 When the Board unanimously determines that there is sufficient evidence of unfitness for promotion, the Board shall recommend to the Chief that the name of the candidate be removed from the register.

876.25 If a candidate is not recommended for promotion by a majority of the members of the Board and the Board does not unanimously determine that the candidate is unfit for promotion, the Board shall recommend to the Chief that the candidate not be promoted at that time. The name of the candidate then shall be placed in its original rank-ordered position on the register for consideration for promotion by the next Board to be convened.

876.26 In each case where the Board recommends that a candidate not be promoted at that time or that a candidate is unfit for promotion and should have his or her name removed from the register, the candidate shall be given a written summary of the findings upon which the Board's decision was based by the LPD within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, of the Board's decision. Upon request, the candidate shall also be given access to the proceedings as specified in § 876.21.

876.27 The candidate shall also be advised by the LPD that he or she may submit a written appeal to the Chief, within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, from the date of receipt of the written summary, informing him or her of the basis for the recommendation to refrain from promotion.

876.28 The Chief shall take action on the appeal, in writing, within fifteen (15) days. An allotment of positions equal to the number of appeals submitted to the Chief shall be set aside by the Board and shall not be filled until such appeals have been acted upon by the Chief.

876.29 The Chief's determination, under § 876.28, shall be considered the final agency decision on an employee grievance, which the candidate may then appeal.

876.30 If the Chief upholds the appealed recommendation(s) of the Board, the Chief shall submit to the Board for its consideration, an equal number of additional names to replace those determined to be unfit for promotion and those not recommended for promotion at that time. Such additional names shall be referred in rank order from among those candidates who remain on the register. These additional candidates will be considered by the Board as described in §§ 876.15 through 876.29.

876.31 Upon consideration of a sufficient number of candidates, nine (9) plus the number of promotions to be made at the time, the Board shall list these candidates according to their rank-ordered standing on the register and shall submit this list to the Chief.

876.32 The Chief shall select a candidate for promotion from the list of candidates recommended for promotion by the Board.

876.33 Those candidates recommended by the Board for promotion but who are not selected by the Chief shall retain their rank-ordered standing on the register. Their names shall be submitted to the next Board to be convened and shall then be referred by the Board to the Chief for reconsideration without re-examination. Referral of these candidates to subsequent Boards in order of their standing on the register shall proceed until the register has expired or until these candidates have been selected for promotion by the Chief.

876.34 Those candidates who were not recommended by the Board for promotion and whose names are to remain on the register shall retain their rank-ordered standing on the register. They shall be referred to the next Board to be convened and shall be re-examined by this Board as described in §§ 876.15 through 876.29.

876.35 If this Board then recommends these candidates for promotion, their names shall be submitted to the Chief as described in § 876.31.

876.36 If this Board does not recommend these candidates for promotion at that time, they shall retain their rank-ordered standing on the register and shall be referred to subsequent Boards for reconsideration in accordance with the requirements of § 876.34.

876.37 If this Board recommends that the name of the candidate be removed from the register, the candidate shall be treated in accordance with the requirements of §§ 876.24 through 876.29.

876.38 After all appeals within the agency have been exhausted, the names of those candidates who are to be removed from the register shall be coded "C" in the "Disposition" column of the register. These candidates shall not be permitted consideration for positions filled from this register.

876.39 Following selection for promotion by the Chief, each candidate shall be required to successfully complete a medical examination prior to appointment as a Sergeant, Lieutenant, or Captain.

876.40 The LPD shall schedule the medical examination and notify each candidate of the date and time at which to report to the Police and Fire Clinic for the pre-promotional medical examination.

876.41 The names of candidates who have declined to undergo the medical examination shall be coded "D" in the "Disposition" column of the register. These candidates shall not be permitted further consideration for positions filled from this register.

876.42 Each candidate shall report to the Police and Fire Clinic for the medical examination. The staff of the Clinic shall arrange for all necessary tests, including x-rays and other required laboratory procedures.

876.43 Candidates who fail to report for or to complete the medical examination, upon their request and for adequate reason, may be permitted by the LPD one (1) additional opportunity to take/complete the medical examination.

876.44 The Board of Police and Fire Surgeons shall make the medical determinations for each candidate and shall indicate its findings on the Medical Survey Form (PD305 or FD35), which shall be returned directly to the LPD along with the results of all other medical tests.

876.45 The LPD shall review the Medical Survey Form of each candidate and shall ensure that all reasons for medical disqualification are clearly indicated and recorded on that form.

876.46 Those candidates who were medically disqualified by the Board of Police and Fire Surgeons shall be given the reason for their medical disqualification in writing by the LPD within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, of such decision.

876.47 Candidates shall also be advised by the LPD that they may submit, within fifteen (15) days from the date of the letter informing them of their medical disqualification, a written request to the LPD to refer the case to the Board of Police and Fire Surgeons for reconsideration. The results of this reconsideration shall be the final determination of that Board.

876.48 The LPD shall inform candidates in writing within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, of the results of the final medical determination under § 876.47 and of their right of appeal to the Chief. The candidate may then appeal to the Chief in accordance with the requirements of §§ 876.27 through 876.29.

876.49 The Chief's determination regarding an appeal submitted under § 876.48 shall be considered as the final agency decision on an employee grievance.

876.50 The candidate may appeal the Chief's decision either to the Office of Employee Appeals, or in the manner specified in an Agreement with a labor organization, as appropriate under such agreement, and shall be informed of such rights in the issuance of the Chief's final decision.

876.51 The names of candidates who failed to report for the medical examination shall be coded "E" in the "Disposition" column of the register. The names of candidates who failed to complete the medical examination shall be coded "F." The names of candidates deemed to be unsuitable on the basis of the medical examination shall be coded "G." These candidates shall retain their rank-ordered standing on the register, and as further promotions are to be made, their names shall be submitted for consideration by the next Board to be convened.

876.52 Candidates whose effective date of promotion exceeds a reasonable period of time as determined by the LPD (approximately 120 days) from the date of the medical examination may be subject to re-examination by the Board of Police and Fire Surgeons.

876.53 At any time during the selection process, the Director of Personnel may request the Chief to review the findings of the Promotion Board in regard to the qualifications of a candidate. Such

review and any resultant appeal by the candidate shall be conducted in accordance with §§ 876.26 through 876.29 and §§ 876.46 through 876.50.

876.54 The Chief shall contact each selectee in writing to tender an offer of promotion, inform the selectee as to where and when to report for promotion, and indicate the procedures for declining the appointment.

876.55 The names of candidates who have been appointed shall be coded "H" in the "Disposition" column of the register.

876.56 The names of candidates who have declined appointment shall be coded "I" in the "Disposition" column of the register. These candidates shall not be permitted further consideration for positions filled from this register.

876.57 The LPD shall document the disposition of each candidate on the register prior to the return of the register through the Assistant Director to the Recruitment and Examining Division. The LPD shall also provide such documentation, through the Assistant Director, to the Recruitment and Examining Division.

876.58 The Assistant Director shall prepare all candidate appointment forms for those candidates who have accepted offers of appointment and shall secure the necessary signatures, as specified on the forms.

876.59 Successive registers shall be established at 12:01 a.m. on October 16 of the even-numbered years. However, the period of eligibility under any special examination shall expire when the next regularly qualifying list becomes effective.

876.60 The LPD shall return the register of eligibles through the Assistant Director to the DCOP Recruitment and Examining Division before a subsequent register is transmitted to the LPD.

876.61 Promotional files are to be retained by the Department for a minimum of three (3) years before being retired to the appropriate records center.

876.62 To the extent that any provision of these regulations, other than § 876.2, conflicts with any provision of a contract with a labor organization, the provision of the contract shall prevail.

877 RETIREMENT/RESIGNATION OF MEMBERS WHILE UNDER DISCIPLINARY INVESTIGATION

877.1 A member who decides to resign from the department shall submit a written notification through his or her chain of command to the Chief of Police at least thirty (30) days from the date he or she wishes to resign.

877.2 The notification shall include:

(a) The member's name;

(b) Appointment date;

(c) Forwarding address;

(d) Social security number;

(e) Date of separation;

(f) Reason for resignation;

(g) If accepting another position with the District of Columbia or federal Government, the name and address of the agency; and

(h) If desired, a request for waiver of the thirty (30) days notification period.

877.3 A member who decides to voluntarily retire from the department shall submit a request for optional retirement, Police Department Form 292, through his or her chain of command to the Chief of Police at least sixty (60) days from the date he or she wishes to retire.

877.4 Upon receipt of the notification of resignation or request for optional retirement, the Commanding Officer shall:

(a) Determine whether the member is being investigated for serious misconduct by officials within the command;

(b) Determine whether the OPR is currently investigating the member for allegations of serious misconduct;

(c) Determine whether actions alleging serious misconduct are pending against the member in DDRO; and

(d) Forward the notification of resignation, or, request for optional retirement to the Office of the Chief of Police with a notation as to whether disciplinary actions are pending against the member.

877.5 Upon receipt of a notification of resignation, or, request for optional retirement that includes a notation that the member is being investigated for serious misconduct, the Chief of Police shall:

(a) Deny the request for waiver of the thirty (30) day notification requirement (for members seeking to resign) or sixty (60) day notification requirement (for members seeking to retire);

(b) Order the expedited completion of the investigation;

(c) Inform the member that he or she is under investigation for allegations of serious misconduct and that the final accounting of the member's salary and annual leave balance is conditional upon final resolution of the investigation; and

(d) Inform MPD’s Director of Human Services and MPD’s Chief Financial Officer that the member’s resignation or retirement is conditional and that the final accounting with respect to the member’s salary and annual leave balances are to be held in abeyance pending resolution of the disciplinary investigation.

877.6 Investigations against members for allegations of serious misconduct shall be completed within twenty-five (25) days from the effective date of the member's resignation or retirement.

877.7 Upon completion of the investigation, if the allegations of serious misconduct are sustained and if the member would have been suspended as a penalty for the misconduct, the Director of DDRO shall assess the member a fine in lieu of suspension in accordance with the schedule established in General Order 201.15 "Retirement Program." Such fine shall not be less than $100 nor greater than $5,000.

877.8 If the sustained allegations would have resulted in the member being terminated from MPD as a result of the misconduct, the Director of DDRO shall assess the member a fine in lieu of suspension in accordance with the schedule established in General Order 201.15 "Retirement Program." Such fine shall not be less than $1,000 nor greater than $5,000.

877.9 The Director of DDRO shall assess the penalties for sustained allegations of serious misconduct in accordance with the penalty guidelines set forth in MPD General Order 1202.1 "Disciplinary Procedures and Processes."

877.10 The member against whom a penalty has been assessed, shall be afforded all rights to which he or she is entitled under federal and District of Columbia law and regulations, police regulations, and any applicable labor agreement as if they were still an employee of MPD.

877.11 If the allegations of misconduct are not sustained, or the investigation is not completed within twenty-five (25) days from the effective date of the member's resignation or retirement, the matter shall be deemed as closed and the final payments due to the member released.

877.12 If the allegation of the misconduct has been sustained but there were no funds available from the member's salary and/or leave balances to assess the penalty, the Chief of Police at his discretion may authorize the collection of the debt through a request to the Office of the Corporation Counsel for enforcement action.

877.13 The following terms shall have the meaning ascribed in this section:

"Conditional Retirement" - The retirement of a member from MPD while under disciplinary investigation for serious misconduct.

"Disciplinary Investigation" - Any official investigation by MPD, including the Office of Internal Affairs, of allegations of serious misconduct by any member of MPD.

"DDRO" – MPD's Office of Disciplinary Review.

"Member" - Sworn employees of MPD.

"MPD" - The Metropolitan Police Department.

"OPR" - MPD's Office of Professional Responsibility.

"Resignation" - The voluntary separation of a member from MPD before the member's pension rights have accrued or vested.

"Retirement" - The voluntary separation of a member from MPD after the member's pension rights, retirement pay, or other benefits have accrued and vested as provided by federal or District of Columbia law or regulation.

"Serious Misconduct" - Any felony violation of federal, local or District of Columbia law, making of a false statement under oath, falsification of official records or reports, unnecessary force, comprising a felony or assisting a person to escape investigation or prosecution, use of illegal or controlled substances, or other violations as determined by the Chief of Police by general order.

899 DEFINITIONS

899.1 For the purposes of this chapter, the following terms have the meaning ascribed:

Administrative hearing officer – A person whose duties, in whole or substantial part, consist of conducting or presiding over hearings in contested matters pursuant to law or regulation, or who is engaged in adjudicatory functions, including, but not limited to any person who bears the title Hearing Officer, Hearing Examiner, Attorney Examiner, Administrative Law Judge, Administrative Judge, or Adjudication Specialist.

Administrative law judge – A person whose duties, in whole or substantial part, consist of conducting or presiding over hearings in contested matters pursuant to law or regulation, or who is engaged primarily in adjudicatory functions on behalf of an agency, rather than investigative, prosecutory or advisory functions, including, but not limited to any person who bears the title Hearing Officer, Hearing Examiner, Attorney Examiner, Administrative Law Judge, Administrative Judge, or Adjudication Specialist.

Break in service – a period of one (1) workday or more between separation and reemployment that may cause a loss of rights or privileges.

Career Appointment (Permanent)—an appointment of an employee, who has satisfactorily completed his or her probationary period, to a continuing position in the Career Service.

Career Appointment (Probational) – an appointment of an employee to a continuing position in the Career Service subject to satisfactory completion of a probationary period of at least one-year (1-year) probationary period.

Career Service – all positions, including part-time positions, of the District government that are not included in the Educational Service, Excepted Service, Management Supervisory Service, or Executive Service, or otherwise excluded by section 800 of this chapter.

Conversion—a change in the employment rights or time limitation of an appointment without a break in service of one (1) full workday.

Days—calendar days, unless otherwise stated. In computing a period of time prescribed by regulation, the day of the action or event triggering the count is not included in the computation. The last day of the period shall not be a Saturday, Sunday, or legal holiday, but shall be, instead, the end of the next day which is not a Saturday, Sunday, or legal holiday.

Demotion—the change of an employee to a lower grade, or to a position with a lower basic pay rate, when both the old and new positions are under the same pay schedule or in different pay schedules.

Detail—the temporary assignment of an employee to a different position for a specified period, with the employee returning to his or her regular duties at the end of the detail. A position is not

filled by a detail, as the employee continues to be the incumbent of the position from which detailed.

Eligibles—those qualified to be chosen for appointment on the basis of any of the following (subject to possible suitability or medical determination):

(a) Having received a rating of seventy (70) or more under § 809.6;

(b) Having successfully completed an examination under § 809.7;

(c) Having been rated "Highly Qualified," "Well Qualified," or "Qualified" under § 809.8; or

(d) Having been rated "eligible" under § 809.9.

Employee—unless otherwise stated herein, a person appointed to a position in the Career Service.

Foster Care- 24 hour substitute care for children placed away from their parents or guardians for whom the Child and Family Services Agency has placement care and responsibility.

Foster Child - a child who comes under the jurisdiction of the Superior Court of the District of Columbia pursuant to D.C. Official Code § 16-2320 or whose parents' rights have been relinquished pursuant to D.C. Official Code § 4-1406. Per subsection 825.3(a), an individual claiming the preference may have documentation from CFSA or the Family Court of the D.C. Superior Court that identifies them as a "foster child."

Open competition—the use of examination procedures which permit application and consideration of all persons without regard to current or former employment with the District government.

Personnel authority – an individual or entity authorized by section 406 of the CMPA (D.C. Official Code § 1-604.06) to implement personnel rules and regulations for employees of an agency or group of agencies of the District of Columbia; or persons delegated such authority by such an individual or entity. For purposes of this chapter, the Mayor's personnel authority is delegated to the Director of Personnel.

Position change—a promotion, demotion, or reassignment or transfer made during an employee's continuous service within the Career Service, but not a detail. A position change by any of these methods may also involve a change of official headquarters or post of duty within the Career Service.

Probationary period – except otherwise specified in this chapter, a one-year (1-year) trial period during which an employee must demonstrate his or her qualification and ability for the position.

Promotion— the change of an employee to a position at a higher grade level within the same job classification system and pay schedule, or to a position with a higher representative rate in a different job classification system and pay schedule.

Reassignment—the change of an employee from one position to another without promotion or demotion.

Register—a list of eligible applicants compiled in order of relative standing for certification.

Subordinate agency – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in § 301(q) of the CMPA (D.C. Official Code § 1-603.01(17)) (2001).

Supervisor – at grade levels CS-10 and below, a position that accomplishes work through the direction of other people and meets at least the minimum requirements for coverage in accordance with the U.S. Office of Personnel Management Supervisory Grade Evaluation Guide, or other appropriate classification standards adopted by the D.C. Department of Human Resources. Those directed may be subordinate District service employees, whether full-time, part-time, intermittent, or temporary; non-District service workers; unpaid volunteers; student trainees, or others. Supervisors exercise delegated authorities such as described in Factor 3 – Supervisory and Managerial Authority Exercised, in the Supervisory Grade Evaluation Guide. A first (1st) level supervisor personally directs subordinates without the use of other subordinate supervisors. A "full assistant" shares fully with a higher-level supervisor in all phases of work direction, contractor oversight, and delegated authority over the subordinate staff.

Temporary Appointment Pending Establishment of a Register (TAPER) – a temporary appointment pending establishment of a register when there are insufficient candidates on a register appropriate for filling a position that will last for more than one (1) year and the public interest requires that the vacancy be filled before eligibles can be certified.

Temporary appointment—an appointment with a specific time limitation of one (1) year or less.

Term appointment—an appointment with a specific time limitation in excess of one (1) year, but not exceeding four (4) years, unless extended by the personnel authority as provided in § 823.2, or as otherwise provided by statute.

Transfer—a change, without a break in service of a full workday of a career (probational) or career (permanent) employee to another Career Service position of like tenure under a different personnel authority.

Veteran—as defined in § 703 of chapter 7 of these regulations.

Ward of the State – A person between the age of 18-21 years old who is currently committed to the Mayor as a ward of the District of Columbia or previously deemed a ward within the past five (5) year from the date of application for employment, pursuant to D.C. Official Code § 4-114. Per Subsection 825.3(a), an individual claiming the preference may have documentation from CFSA or the Family Court of the D.C. Superior Court that identifies them as a "ward of the state."

When-actually-employed (WAE) appointment – temporary appointment under which the employee serves on an intermittent basis, that is, non full-time without a prescheduled regular tour of duty. This type of temporary appointment is also referred to as either "intermittent appointment," or as "intermittent service."

D.C. Register Updates for Chapter 8 of the D.C. Personnel Regulations,
Career Service

The following *D.C. Register* citations identify when a given section(s) of Chapter 8, Career Service, of Title 6 of the District of Columbia Municipal Regulations, was amended. Following the publication in the *D.C. Register* of subsequent final rulemaking notices, this Addendum will be updated accordingly.

For the convenience of Electronic-DPM (E-DPM) readers, the Addendum identifies amendments on a section-by-section basis, as well as the page in the DPM Transmittal impacted by the amendment(s), and provides brief comments on the amendment(s) accomplished.

***D.C. Register* Date**	**Section(s)**	**Change(s) Reflected on Page(s)**	**Comments**
37 DCR 7117 (11/9/90)	See below	(DPM Transmittal 19)	See below
In reference to DPM Transmittal No. 19, the corresponding rulemaking notice was published in separate issues of the *D.C. Register*. Sections 800 through 848 and 899 were published in final at 32 *DCR* 1857 (April 15, 1985). A notice published at 35 *DCR* 1087 (February 19, 1988) affected §§ 807.1 (c), 807.1 (d) (renumbered as 807.1 (d) and 807.1 (f), respectively), and 816.5, and added new §§ 807.1(c), 807.1 (e), and 816.6. A notice published at 36 *DCR* 6069 (August 25, 1989) amended §§ 807.1 (a) and (d) and added §§ 807.1 (g) and (h). A notice published at 37 *DCR* 3952 (June 15, 1990) amended § 807.1 (d). Section 870 was published at 30 *DCR* 2555 (May 27, 1983), amended at 32 *DCR* 2473 (May 3, 1985) (§ 870.9 (b), and amended at 33 *DCR* 4299 (July 18, 1986) (deleted §§ 870.24 and 870.25, renumbered §§ 870.26 through 870.49 as 870.34 through 870.57, added new §§ 870.26 through 870.33, and amended renumbered §§ 870.41 and 870.49). Section 871 was published at 31 *DCR* 4529 (September 14, 1984); § 872 was published at 30 *DCR* 4223 (August 19, 1983); § 875 was published at 30 DCR 4608 (September 9, 1983); and § 876 was published at 31 *DCR* 2715 (June 1, 1984).			
42 DCR 3520 (7/7/95)	Section(s) 875	Page(s) 53 and 54 (DPM Transmittal No. 44)	These rules amended the title of section 875, Promotion to Battalion Fire Chief and Deputy Fire Chief; and rescinded section 875.3.
45 DCR 451 (1/23/98)	Section(s) 871, 872, 873	No DPM Transmittal issued	
45 DCR 1641 (3/20/98)	Section(s) 823, 824	No DPM Transmittal issued	These rules added language at the end of sections 823.4 and 823.8; and made a grammatical change.
47 DCR 2419 (4/7/00)	Section(s) 823, 824, 829	Page(s) 19, 20, 24, and 46 through 53 (DPM Transmittal No. 52)	The main purpose of the rules was to amend the provisions governing non-competitive appointments in the Career Service.
48 DCR 8973 (9/28/01)	Section(s) 874	Page(s) i through iii; and 53-65 (DPM Transmittal No. 78)	The main purpose of the rules was to amend the chapter to add provisions creating the D.C. Police Training and Standards Board.
49 DCR 1859 (3/1/02)	Section(s) 871, 872	Page(s) 45 though 48 (DPM Transmittal No. 82)	These rules amended the time-in-rank requirement for promotions and amended the rules pertaining to appointments to Inspector, Commander, and Assistant Chief of Police.

D.C. Register Updates for Chapter 8 continued			
Section(s)	**Section(s)**	**Change(s) Reflected on Page(s)**	**Comments**
49 DCR 8368 (8/30/02)	Section(s) 874	No DPM Transmittal issued	These rules added section 874, *Retirement/Resignation of Members While Under Disciplinary Investigation.* Note: Original final rulemaking published on 8/30/02 erroneously repealed the rules governing the Training and Standards Board. Section 874 in DPM Transmittal No. 78 contained the provisions on the Training Board.
49 DCR 9298 Errata Notice (10/11/02)	Section(s) 877	Page(s) 63 though 66 (DPM Transmittal No. 90)	Establishment of rules governing members of the MPD who resign or retire while under disciplinary investigation.
49 DCR 6842 (7/19/02)	Section(s) 813	Page(s) 14 (DPM Transmittal No. 91)	These rules amended section 813.4 to allow for the extension of the probationary period for certain employees in the Fire and Emergency Medical Services Department (FEMSD).
51 DCR 9706 (10/15/04)	Section(s) 811, 848, 899	Page(s) 9, 33 (DPM Transmittal No. 120)	These rules rescinded sections 811 and 848, and amended the Definitions section.
51 DCR 10410 (11/12/04)	Section(s) 849, 899	Page(s) 33-36 (DPM Transmittal No. 120)	These rules added a new section 849, *Attorney Certificate of Good Standing Filing Requirement,* establishing the provisions for the filing of the certificate by Career Service attorneys; and amended the Definitions section.
53 DCR 3248 (4/21/06)	Section(s) 807, 875	Page(s) 6; 56-58; and 36-44 (DPM Transmittal No. 142)	The main purpose of these rules was the amend section 875 to change the requirements for promotions to Battalion Fire Chief and Deputy Fire Chief in the FEMSD, as required under the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004.
54 DCR 725 (1/26/07)	Section(s) 812 through 815; 824 and 825, 838, and 899	Page(s) 26 (DPM Transmittal 149)	These rules amended the time-in-grade requirements in section 838 of the chapter.
54 DCR 9556 (10/5/07)	Section(s) 807, 813, 822	Page(s) ii, 6,7,10, 15,16 (DPM Transmittal No. 153)	The main purpose of these rules was to amend section 807.1 (e) to provide that a former uniformed member of the MPD may be reinstated to a rank no higher than the rank last held.

D.C. Register Updates for Chapter 8 continued			
Section(s)	**Section(s)**	**Change(s) Reflected on Page(s)**	**Comments**
55 DCR 21 (1/4/08)	Section 872.5	Page(s) 44 (DPM Transmittal No. 163)	These rules amended section 872.5 to provide that Inspectors, Commanders, and Asst. Chiefs of Police may be returned to their previous rank/position at the discretion of the Chief of Police.
55 DCR 7731 (7/18/08)	Section(s) 802, 803. 813, 823, and 838	Page(s) (DPM Transmittal No. 170)	These rules amended the chapter to add *gender identity or expression, familial status, genetic information, disability (instead of physical handicap), and status as victim of an intrafamily offense*, to the list of prohibited discriminatory personnel practices; amended section 813.2 *on probationary period requirements*, to provide that correctional officers first hired after the effective date of this provision shall be required to complete an eighteen-month (18-month) probationary period; and amended the chapter to provide criteria to allow waivers of the one-year (1-year) time-in-grade restriction for promotions within the Career Service.
56 DCR 002571 (4/3/09)	Section(s) 800, 801, 802, 804, 810, 813, 819, 820, 821, 830, 849, 870, 873, 876, and 899	Throughout the chapter (DPM Transmittal No. 183)	These rules (1) amended section 813, *Probationary Period*, of the chapter to provide that "*operations staff*" in the Office of Unified Communications (OUC) first hired after the effective date of the new requirement, shall complete an eighteen-month (18-month) probationary period, (2) added a list of the positions within the OUC considered *operations staff* to which the new requirement shall apply; (3) and provide that an agency head may submit a request to the personnel authority to impose a probationary period longer than one (1) year for certain classes of positions, and include factors or conditions that would warrant the establishment of a longer probationary period requirement.

D.C. Register Updates for Chapter 8 continued			
Section(s)	**Section(s)**	**Change(s) Reflected on Page(s)**	**Comments**
56 DCR 003685 (5/8/09)	Sections(s) 871	Page(s) 43 and 44 (E-DPM Transmittal No. 188)	These rules amended subsections 871.1 and 871.4 of the chapter, to: (1) decrease the time-in-rank requirements for promotion to the ranks of police Sergeant, Lieutenant, and Captain; (2) eliminate the requirement that the promotional register contain each employee's social security number; and (3) consolidate the existing performance ranking requirement with the time-in-grade requirements for clarity. In addition, subsection 871.12 of the chapter was repealed.
56 DCR 006162 (8/7/09)	Sections(s) 807	Page(s) 6 (E-DPM Transmittal No. 193)	These rules amended subsection 807.1 (c) to remove the age requirements for original (new) firefighter appointments and reinstatements to firefighter positions in the Fire & Emergency Medical Services Department (FEMSD); and corrects a typographical error (non-substantive change) in subsection 807.1 (b).
59 DCR 008388 (7/13/12)	Section(s) 800, 811, 813.2, 813.3 through 813.18	Page(s) 1, 10, and 12 through 15 (E-DPM Transmittal No. 204)	These rules amended section 800 to add the Educational Service employees in the Office of the State Superintendent of Education, except as provided in section 811; amend subsection 813.2 to provide that individuals appointed to entry-level Firefighter/Emergency Medical Technician (EMT) and entry-level Firefighter/Paramedic positions in the Fire & Emergency Medical Services Department are subject to an eighteen (18) month probationary period and change the position title of the entry-level positions in the Department of Youth and Rehabilitation Services that require an eighteen (18) month probationary period from "Correctional Officer" to "Youth Development Representative;" add subsection 813.3 to provide that entry-level Youth Development Representative positions in the DYRS are at the grade levels 07 and 08; and renumber subsections 813.3 through 813.18 of the chapter and make the resulting renumbering changes throughout those subsections.

D.C. Register Updates for Chapter 8 continued			
Section(s)	**Section(s)**	**Change(s) Reflected on Page(s)**	**Comments**
61 DCR 002122 (03/14/2014)	Section 825	Page(s) 21 (E-DPM Transmittal No. 215)	These rules amended section 825, to add provisions that allow for a 10-point hiring preference to be awarded to an applicant for a Career Service position who is 18 to 21 years of age and in foster care or within 5 years of leaving foster care. In addition, section 899 was amended to add a definition for the term "foster care," "foster child," and "ward of the state."
61 DCR 12498 (12/5/2014	Section(s) 823 and 830.1	Page (s) 20 and 26 (E-DPM Transmittal No. 221)	The rules amended sections 823 and 830.1 to allow agencies to noncompetitively convert employees serving in term appointments to a regular Career Service appointment.