

PART I
D.C. PERSONNEL REGULATIONS
CHAPTER 9
EXCEPTED SERVICE
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D.C. PERSONNEL REGULATIONS**CHAPTER 9****EXCEPTED SERVICE****900 APPLICABILITY AND AGE REQUIREMENTS**

- 900.1 This chapter applies to all appointments in the Excepted Service under the authority of Title IX 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 § 1-609.01 *et seq.*) (2006 Repl. and 2007 Supp.).
- 900.2 Unless otherwise required by law, all Excepted Service appointees, other than persons appointed under the authority of section 904 of the CMPA (D.C. Official Code § 1-609.04) (2007 Supp.), shall serve at the pleasure of the appointing personnel authority.
- 900.3 The minimum age for employment in the Excepted Service, unless a different age requirement is specifically provided by law for a particular appointment or position, is sixteen (16) years, except that the minimum age for any junior youth aide in the Department of Parks and Recreation and for summer employment is fourteen (14) years for a person appointed to a transitional position.

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901 EXCEPTED SERVICE CLASSIFICATION SYSTEM AND STANDARDS

- 901.1 Notwithstanding the provisions in section 903 of this chapter on the establishment of the new Excepted Service Pay Schedule, the classification system or systems in effect on December 31, 1979 shall remain in effect until the adoption of a new classification system or systems pursuant to section 1102 of the CMPA (D.C. Official Code § 1-611.02) (2006 Repl.), and shall be the system utilized to classify Excepted Service positions.
- 901.2 Each Excepted Service position shall be classified as prescribed in Chapter 11 of these regulations, except that:
- (a) Statutory positions shall be classified in a manner consistent with their governing statutes, as appropriate; and
 - (b) The personnel authority may adjust the grade, pay level, or salary, as applicable, of a position, to reflect the professional, scientific, or technical stature of an individual appointed as an expert or consultant.

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902 EXCEPTED SERVICE QUALIFICATIONS AND OTHER APPOINTMENT REQUIREMENTS

- 902.1 A person appointed to an Excepted Service position, other than an appointment to a statutory position, shall meet the minimum qualifications requirements for the position.

- 902.2 Employment in the Excepted Service shall comply with the Immigration Reform and Control Act of 1986, as amended, which requires that employers hire only citizens and nationals of the United States and aliens authorized to work and verify the identity and employment eligibility of all employees hired after November 6, 1986.
- 902.3 Pursuant to section 408 of the CMPA (D.C. Official Code § 1-604.08) (2006 Repl.), each personnel authority shall designate a person to administer the oath of office to each new employee of an agency. The oath is as follows: “I, (employee’s name), do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will to the best of my ability, preserve, protect and defend the Constitution of the United States, and will faithfully discharge the duties of the office of which I am about to enter.”
- 902.4 The personnel authority shall determine whether an applicant or appointee is or has been involved in any activities that constitute a reasonable basis for concluding that the candidate would not faithfully discharge the duties of the position for which he or she is being considered.
- 902.5 For purposes of this chapter, a person who advocates the overthrow of the governments of the United States or the District of Columbia by unconstitutional means shall be considered unsuitable for employment with the District government.

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903 PAY PLAN AND PAY-FOR-PERFORMANCE SYSTEM FOR THE EXCEPTED SERVICE

- 903.1 An Excepted Service Pay Schedule (“ES Schedule”) has been established as the basic pay schedule for all Excepted Service positions. The ES Schedule, which was approved on July 6, 2005 by Council Resolution No. 16-219, is a merit-based pay plan that provides for market competitive open-salary ranges with progression based on performance, and replaces the salary schedule structure for Excepted Service positions consisting of pay levels and ten (10) steps.
- 903.2 The structure and application of the ES Schedule provides flexibility in hiring and compensation for Excepted Service positions. Some of the features of a merit-based pay plan such as the new ES Schedule are:
- (a) Merit pay or pay for performance systems provide the flexibility to:
 - (1) Combine merit or performance-based increases with what is commonly known as “cost-of-living-adjustments” or “market adjustments;” or
 - (2) Base the total salary increase the employee receives solely on merit (performance);
 - (b) Base-pay increases vary in direct relationship to each employee’s performance level;
 - (c) The system differentiates between various levels of performance and rewards employees through additional compensation accordingly;

- (d) Success of the system depends on accurate and realistic performance evaluations by supervisors; and
 - (e) The system provides flexibility for varying budget constraints and revenues.
- 903.3 The ES Schedule is divided into eleven (11) pay levels (ES 1 through ES 11). Each pay level has an open range with a “minimum,” “midpoint,” and “maximum” as reference points of the range.
- 903.4 Application of the ES Schedule shall ensure compliance with the principle of equal pay for substantially equal work contained in section 1103 (a)(2) of the CMPA (D.C. Official § 1-611.03 (a)(2)) (2006 Repl.).
- 903.5 As appropriate, Excepted Service employees paid under the ES Schedule shall be treated as employees in other services in applying other compensation regulations contained in Chapter 11 of these regulations that may be applicable to that service.
- 903.6 Eligible employees paid under the ES Schedule shall not receive more than one (1) salary increase in a calendar year (annual salary increase). Sections 903.7 through 903.10 of this section explain the eligibility requirements and conditions for annual pay-for-performance salary increases for employees paid from the ES Schedule.
- 903.7 Except as otherwise determined by the Mayor (or designee), or personnel authority, annual salary increases for employees paid under the ES Schedule shall become effective on the last full biweekly pay period in the calendar year (pay period number twenty-six (26)), or pay period number twenty-seven (27), as may occur from time to time); provided that the following eligibility requirements are met:
- (a) The employee received a Performance Plan for the year; and
 - (b) The employee’s level of competence and job performance is determined to be acceptable or better, as evidenced by a performance rating of “*Meets Expectations*” or higher, for Excepted Service employees whose performance is rated using the PMP in Chapter 14 of these regulations.
- 903.8 For the purposes of sections 903.6 and 903.10 of this section, the term “salary increase” shall have the following meaning:
- (a) A market adjustment;
 - (b) A merit-pay increase based on performance as specified in section 903.7 (a) of this section; or
 - (c) A market adjustment, plus a merit-pay increase based on performance as specified in section 903.7 (a) of this section combined.
- 903.9 Each personnel authority, in consultation with the Office of the Chief Financial Officer, shall:

- (a) Plan for and determine the payroll cost of salary increases every year for agency Excepted Service employees who meet the requirements in section 903.7 (a) and (b) of this section;
 - (b) Determine the total percentage of the annual salary increases for these employees; and
 - (c) Communicate the plan to agency heads every year.
- 903.10 An eligible Excepted Service employee whose salary is at the top of the range for the pay level of the position he or she occupies and who meets the requirements in section 903.7 (a) and (b) of this section, shall receive a one-time (1-time) lump sum payment for the calendar year in question, the amount of which shall not exceed the total percentage afforded to other eligible agency employees with the same performance rating.
- 903.11 The Director, D.C. Department of Human Resources, shall determine the salary levels for Capital City Fellows assigned to subordinate agencies.
- 903.12 The salary of an employee paid under the ES Schedule may be reduced for unacceptable performance or for misconduct that does not warrant separation.
- 903.13 Nothing in this section shall prevent Excepted Service employees paid under the ES Schedule from receiving performance incentives and incentives awards in accordance with section 912 of this chapter and Chapter 19 of these regulations.

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904 EXCEPTED SERVICE POSITIONS

- 904.1 The following types of positions are considered Excepted Service positions:
- (a) Excepted Service statutory positions include positions occupied by employees who, pursuant to section 908 of the CMPA (D.C. Official Code § 1-609.08) (2006 Repl.), serve at the pleasure of the appointing authority; or who, as provided by other statute, serve for a term of years subject to removal for cause as may be provided in the appointing statute. Among the Excepted Service statutory positions listed in section 908 of the CMPA are the following:
 - (1) The City Administrator;
 - (2) The Director of Campaign Finance, District of Columbia Board of Elections and Ethics;
 - (3) The Auditor of the District of Columbia;
 - (4) The Chairman and members of the Public Service Commission;
 - (5) The Executive Director of the Public Employee Relations Board;

- (6) The Chief Administrative Law Judge, Administrative Law Judges, and Executive Director of the Office of Administrative Hearings; and
 - (7) The Chief Tenant Advocate of the Office of the Tenant Advocate.
- (b) Positions created under public employment programs established by law, pursuant to section 904 (1) of the CMPA (D.C. Official Code § 1-609.04 (1)) (2007 Supp.).
 - (c) Positions established under special employment programs of a transitional nature designed to provide training or job opportunities for rehabilitation purposes, including persons with disabilities, ex-offender or other disadvantaged groups, pursuant to section 904 (2) of the CMPA (D.C. Official Code § 1-609.04 (2)) (2007 Supp.).
 - (d) Special category positions established pursuant to section 904 (3), (4), and (5) of the CMPA (D.C. Official Code § 1-609.04 (3), (4), and (5)) (2007 Supp.), specifically:
 - (1) Positions filled by the appointment of a federal employee under the mobility provisions of the Intergovernmental Personnel Act of 1970, approved January 5, 1971 (P.L. 91-648; 84 Stat. 1909; 5 U.S.C. § 3301 *et seq.*);
 - (2) Positions established under federal grant-funded programs that have a limited or indefinite duration and are not subject to state merit requirements by personnel authorities; excluding employees of the Board of Education or of the Trustees of the University of the District of Columbia; and
 - (3) Positions established to employ professional, scientific, or technical experts or consultants.
 - (e) Positions established under cooperative educational and study programs pursuant to section 904 (6) of the CMPA (D.C. Official Code § 1-609.04 (6)) (2007 Supp.), including but not limited to positions established under a pre-doctoral or post-doctoral training program under which employees receive a stipend; positions occupied by persons who are graduate students under temporary appointments when the work performed is the basis for completing certain academic requirements for advanced degrees; and positions established under the Capital City Fellows program administered by the D.C. Department of Human Resources.
 - (f) Excepted Service policy positions under section 903 (a) of the CMPA (D.C. Official Code § 1-609.03 (a)) (2007 Supp.) are positions reporting directly to the head of the agency, with primary duties of a policy determining, confidential, or policy advocacy character, and shall consist of the following:
 - (1) Positions on the staff of the Mayor and paid from funds appropriated for the Office of the Mayor;

- (2) Not more than two hundred twenty (220) positions in subordinate agencies as designated by the Mayor, sixty (60) of which may be allotted to and designated by the Office of the Inspector General and, in a control year, up to twenty (20) shall be allocated to and designated by the Office of the Chief Financial Officer;
- (3) All positions occupied by employees of the Council of the District of Columbia, except those permanent technical and clerical employees appointed by the Secretary or General Counsel, and those in the Legal Service;
- (4) The District of Columbia Auditor may designate four (4) positions;
- (5) Not more than twenty-five (25) positions selected by the D.C. Public Schools;
- (6) Positions occupied by persons appointed by the Board of Trustees of the University of the District of Columbia as officers of the University, those who report directly to the President, those who head major units of the University, academic administrators, and persons in a confidential relationship to the foregoing, exclusive of those appointed under section 801 (a) of the CMPA (D.C. Official Code § 1-608.01 (a)) (2007 Supp.);
- (7) Not more than six (6) persons appointed by the District of Columbia Lottery and Charitable Games Control Board who report directly to either the Executive Director or Deputy Director, or who head major units of the Board;
- (8) In addition to the two hundred twenty (220) positions under subsection 904.1 (f)(2) above, the Chief of Police may designate up to one percent (1%) of the total number of authorized positions within the Metropolitan Police Department as Excepted Service policy positions, no more than ten (10) of which may be filled by sworn members or officers;
- (9) In addition to the two hundred twenty (220) positions under subsection 904.6 (f)(2) above, and notwithstanding any other law or regulation, the Chief of the Fire and Emergency Medical Services Department may designate up to eleven (11) positions as Excepted Service policy positions, no more than four (4) of which may be filled by sworn members;
- (10) All employees of the Criminal Justice Coordinating Council;
- (11) The District of Columbia Sentencing and Criminal Code Revision Commission may appoint six (6) persons; and
- (12) No more than two (2) positions selected by each other personnel authority not expressly designated in this section.

- 904.2 The following shall apply to professional, scientific, or technical expert and consultant positions listed in subsection 904.1 (d)(3) of this section:
- (a) Persons serving in expert or consultant positions may be offered paid or unpaid employment; shall be qualified to perform the duties of the position; and the positions shall be bona-fide expert or consultant positions, as these terms are defined in section 999 of this chapter.
 - (b) Experts and consultants may be employed under intermittent or temporary appointments not-to-exceed one (1) year; except that appointments may be renewed from year to year without limit on the number of reappointments, provided there is continued need for the services.
 - (c) Hiring an expert or consultant to do a job that can be performed as well by regular employees, to avoid competitive employment procedures, or avoid District Service pay limits shall be considered improper uses of experts and consultants.
 - (d) Persons employed as experts and consultants shall be subject to the domicile requirements specified in section 909 of this chapter and Chapter 3 of these regulations.
- 904.3 A statutory or policy position as described in subsection 904.1 (a) or subsection 904.1 (f)(1) through (12) of this section occupied by a person holding an appointment to an attorney position shall be treated solely as a statutory or policy position, as the case may be.

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905 METHOD OF MAKING EXCEPTED SERVICE APPOINTMENTS

- 905.1 A person may be appointed to any position in the Excepted Service by the appropriate personnel authority non-competitively, provided that the individual appointed meets the qualification standards established for the position.
- 905.2 An appointment to a statutory position will be made as specified in the law authorizing the position.
- 905.3 An appointment to a special category position under a federal grant-funded program shall be either for an indefinite period, or a time-limited appointment reflecting the duration of the grant.
- 905.4 An appointment to a policy position shall be subject to the following provisions:
- (a) Each person appointed to a policy position shall perform duties that include policy determination, or that are of a confidential or policy advocacy character;
 - (b) Each personnel authority authorized to make appointments to policy positions shall ensure that the position to which the appointment is to be made, together with the position qualifications, standards, and salary range, is published in the D.C. Register;

- (c) The position shall become a position in the Excepted Service automatically upon being filled by a policy appointment, and shall remain an Excepted Service position only for so long as filled by a policy appointment; if a Career or Educational Service employee holds a position converted to an Excepted Service position, and the employee is not afforded or does not accept a policy appointment to that position, the employee shall have all rights and remedies available under Chapter 24 of these regulations;
- (d) An appointment to a policy position may be either for an indefinite or time-limited period;
- (e) Each personnel authority, within forty-five (45) days of filling any such designated position by a policy appointment, shall publish in the D.C. Register the name of the person accepting the policy appointment, and the position to which appointed; and
- (f) The authority to make policy appointments may be delegated or redelegated in whole or in part.

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906 EXCEPTED SERVICE APPOINTMENTS OF CAREER SERVICE OR EDUCATIONAL SERVICE EMPLOYEES

- 906.1 Any person holding a position in the Career or Educational Services may be detailed, temporarily promoted, temporarily transferred, or temporarily reassigned, without a break in service, to a position that would otherwise be in the Excepted Service without losing his or her existing status in the Career or Educational Service.
- 906.2 Before making an appointment to a position in the Excepted Service as specified in section 906.1 of this section, the appointing personnel authority shall first inform the appointee, in writing, of the conditions of employment under the appointment, and that the appointee will not lose his or her existing status in the Career Service or Educational Service, as applicable. The appointee must accept or decline the appointment in writing.
- 906.3 Any person tendered an appointment to a position in the Excepted Service under this section who declines or refuses to accept such appointment shall continue to be subject to the rules applicable to the service in which he or she has existing status as provided in section 906.1 of this section.
- 906.4 The temporary nature of an appointment under this section shall be clearly stated and recorded on the appointing personnel action or actions. As a means of so stating, the appointing personnel authority may specify the anticipated duration of the appointment by including a not-to-exceed (NTE) date to the appointing personnel action(s). Additionally, the appointing personnel action(s) shall include remarks specifying all of the following:
- (a) The temporary nature of the appointment to the Excepted Service position;

- (b) That the appointee was informed in writing of the conditions of employment under the new appointment, and accepted the appointment;
- (c) That the appointee will not lose his or her existing status in the Career or Educational Service by accepting the temporary appointment to the Excepted Service position; and
- (d) That, upon termination of the temporary appointment to the Excepted Service position, the appointee is entitled to be returned to the Career or Educational Service position he or she occupied prior to the temporary assignment, or to an equivalent position.

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907 EMPLOYEE RIGHTS

- 907.1 A person appointed to a position in the Excepted Service shall not acquire permanent career status.
- 907.2 A person appointed to the Excepted Service shall serve at the pleasure of the appointing personnel authority; may be terminated at any time, with or without a stated reason, except as provided in this section; and does not have any right to appeal the termination.
- 907.3 (a) A person serving in an Excepted Service statutory position who is appointed in accordance with a law that provides for a term of years subject to removal for cause may be removed only as provided for in the applicable law.
- (b) If the law that provides for a term of years does not specify what the procedure for the removal of the incumbent shall consist of, the appointing authority shall satisfy the incumbent's minimal due process rights by affording the incumbent some type of pre-discharge opportunity to respond to the grounds for the proposed removal. At the pre-removal stage, these minimal due process rights generally include: specific charges; legal notice to the affected incumbent; a reasonable opportunity for the individual to respond to the charges and notice; and a finding or judgment. At the post-removal stage, the minimal due process rights generally include an opportunity for an evidentiary hearing if one has not already been provided.
- 907.4 Except as provided in section 907.3 of this section, and in accordance with section 905 of the CMPA (D.C. Official Code § 1-609.05) (2006 Repl.), a person holding an appointment in the Excepted Service is entitled to advance written notice of at least fifteen (15) days when termination is contemplated. The notice may explain the reason for the termination.
- 907.5 The fifteen-day (15-day) notice is not required for termination on the date previously anticipated for termination, such as in the case of an employee serving under an

Excepted Service appointment with a not-to-exceed (NTE) date or other date of anticipated termination included on the appointing personnel action.

- 907.6 Any person serving in an Excepted Service policy position whose position ceases to be authorized as a policy position by reason of a notice published in the D.C. Register in accordance with section 905.4 of this chapter is to be terminated not later than thirty (30) days from the date of the published notice, except that the minimum advance written notice provision of section 907.4 of this section shall apply, as appropriate.

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908 RESTRICTIONS ON SUBSEQUENT APPOINTMENT TO THE CAREER, MANAGEMENT SUPERVISORY, OR EDUCATIONAL SERVICES

- 908.1 In accordance with section 902 of the CMPA (D.C. Official Code § 1-609.02 (2006 Repl.), and except as provided in section 908.2 of this section, no person holding an Excepted Service appointment pursuant to sections 904.1 or 904.6 of this chapter may be appointed to a position in the Career, Management Supervisory, or Educational Service during the six-month (6-month) period immediately preceding a Mayoral election.
- 908.2 Upon termination, a person holding an Excepted Service appointment pursuant to sections 904.1 (a) or 904.1 (f)(1) through (12) of this chapter who has Career Service or Educational Service status may retreat, at the discretion of the terminating personnel authority, within three (3) months of the effective date of the termination, to a vacant position in such service for which he or she is qualified.
- 908.3 The provisions of sections 908.1 and 908.2 of this section shall not apply to employees of the Council of the District of Columbia.

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909 RESIDENCY AND DOMICILE REQUIREMENTS

- 909.1 The statutory residency and domicile requirements for the Excepted Service and the provisions of Chapter 3 of these regulations are applicable to all persons appointed to positions in the Excepted Service.

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910 SPECIAL CONSIDERATION FOR PLACEMENT AND ADVANCEMENT

- 910.1 The following employees shall be referred to selecting officials in subordinate agencies for interview by management and special consideration for placement and advancement for Excepted Service positions they apply for:
- (a) Graduates of the District government's Certified Public Manager Program; and
 - (b) Persons appointed as Capital City Fellows.
- 910.2 As applicable, if appointed, any employee as described in section 910.1 above shall be required to comply with the residency and domicile requirements for the Excepted Service pursuant to section 906 of the CMPA (D.C. Official Code § 1-609.06) (2006 Repl.).

910.3 The Director, D.C. Department of Human Resources, shall issue procedures for the implementation of this section.

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911 PRE-EMPLOYMENT TRAVEL, RELOCATION, AND TEMPORARY HOUSING ALLOWANCE

911.1 In accordance with section 903 (g)(1) of the CMPA (D.C. Official Code § 1-609.03 (g)(1)) (2007 Supp.), an agency may pay to an individual reasonable travel expenses, up to a maximum of five thousand dollars (\$5000), incurred incidental to pre-employment interviews held for the purpose of ascertaining his or her qualifications for a hard-to-fill policy position in the Excepted Service at grade level 11 or pay level ES-5, as applicable, or above.

911.2 In accordance with section 903 (g)(2) of the CMPA (D.C. Official Code § 1-609.03 (g)(2)) (2007 Supp.), an agency may pay reasonable relocation expenses for an individual and his or her immediate family when that individual is selected for or appointed to a hard-to-fill policy position in the Excepted Service at grade level 11 or pay level ES-5, as applicable, or above, if relocation is to the District of Columbia from outside the Greater Washington Metropolitan Area.

911.3 In the case of an individual eligible for relocation expenses pursuant to section 911.2 of this section, an agency may pay reasonable temporary housing allowance for a period not to exceed sixty (60) days for the individual and his or her immediate family.

911.4 The personnel authority may designate a position as a hard-to-fill position on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

911.5 Payment of expenses under sections 911.2 and 911.3 of this section may only be made after the selectee or appointee signs a notarized agreement to remain in the District government service for twelve (12) months after his or her appointment unless separated for reasons beyond his or her control which are acceptable to the agency head concerned.

911.6 Any expense incurred for which reimbursement is sought pursuant to this section must be supported by valid receipts or invoices, the originals of which must be submitted with the request for reimbursement.

911.7 If an individual violates an agreement under section 911.5 of this section, the money paid by the District government for expenses will become a debt due the District government and will be recovered by set-off in accordance with Chapter 29 of these regulations, against accrued pay or any other amount due the individual, and by other lawful collections actions.

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912 PERFORMANCE INCENTIVES AND INCENTIVE AWARDS FOR EXCEPTED SERVICE EMPLOYEES

- 912.1 In accordance with section 903 (e) of the CMPA (D.C. Official Code § 1-609.03 (e)) (2007 Supp.), a personnel authority may authorize performance incentives for exceptional service by an employee appointed to an Excepted Service policy position under section 903 (a) of the CMPA (D.C. Official Code § 1-609.03 (a)) (2007 Supp.).
- 912.2 Any performance incentive awarded under this section will be paid only once in a fiscal year, and only when the employee is subject to an annual performance contract that clearly identifies measurable goals and outcomes and the employee has exceeded contractual expectations in the year for which the incentive is to be paid.
- 912.3 For Excepted Service employees in agencies under the personnel authority of the Mayor, when there is no annual performance contract as described in section 912.2 of this section, the employee's annual individual performance plan pursuant to Chapter 14 of these regulations will be considered the annual performance contract for the purpose of authorizing a performance incentive.
- 912.4 A performance incentive shall not exceed ten percent (10%) of the employee's rate of basic pay. For the purposes of determining the percentage of a performance incentive, the amount of the incentive will be calculated based on the employee's scheduled rate of basic pay during the performance rating period in which the exceptional service occurred, pursuant to Chapter 19 of these regulations. The percentage scale provided in Chapter 19, and the documentation required therein, will also apply to performance incentives pursuant to this section.
- 912.5 In addition to performance incentives in accordance with this section, Excepted Service employees are eligible for incentive awards pursuant to Chapter 19 of these regulations, including Retirement Awards but excluding the other categories of monetary awards in that chapter.
- 912.6 Performance incentives for Excepted Service employees shall be submitted, processed and approved in accordance with Chapter 19 of these regulations.
- 912.7 A performance incentive awarded under this section will not be considered base pay for any purpose, and will be subject to the withholding of federal, District of Columbia and state income taxes, and social security taxes, if applicable. The amount of a performance incentive cannot be adjusted upward to cover these taxes

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913 SEPARATION PAY

- 913.1 In accordance with section 903 (f) of the CMPA (D.C. Official Code § 1-609.03 (f)) (2007 Supp.), and subject to the provisions of this section, an individual appointed to an Excepted Service policy position or an Excepted Service statutory position shall be paid up to twelve (12) weeks of separation pay at his or her rate of basic pay upon separation for non-disciplinary reasons, as follows:

- (a) An individual at grade level 15 (or equivalent) or pay level ES-9 or above, as applicable, shall be paid separation pay in increments of weeks up to a maximum of eight (8) weeks, unless the personnel authority specifies that separation pay of more than eight (8) weeks, but not to exceed the twelve-week (12-week) limit, is warranted; and
 - (b) An individual at grade level 14 (or equivalent) or pay level ES-8 or below, as applicable, shall be paid separation pay in increments of weeks up to a maximum of four (4) weeks, unless the personnel authority specifies that separation pay of more than four (4) weeks, but not to exceed the twelve-week (12-week) limit, is warranted.
- 913.2 The number of weeks of separation pay authorized pursuant to this section shall not exceed the number of weeks between the individual's separation and the individual's appointment to another position in the District government.
- 913.3 Separation pay shall be provided at the time of separation as a lump-sum, one-time payment, subject only to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable.
- 913.4 Separation pay is not payable to any individual who either:
- (a) Has accepted an appointment to another position in the District government without a break in service; or
 - (b) Is eligible to receive an annuity under any retirement program for employees of the District government, excluding the District retirement benefit program under section 2605 of the CMPA (D.C. Official Code § 1-626.05) (2006 Repl.).
- 913.5 An individual who receives separation pay pursuant to this section, but who is subsequently appointed to any position in the District government during the period of weeks represented by that payment, will be required to repay the amount of separation pay attributable to the period covered by such appointment. The pro-rated amount to be repaid will be based on the entire amount of the separation pay, including all required deductions, and is payable to the General Fund of the District of Columbia.
- 913.6 Notwithstanding the provisions in subsection 913.1 (a) and (b), separation pay shall not exceed four (4) weeks for any individual covered by this section who has not been employed with the District government for at least one (1) year prior to the separation.

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914 PERFORMANCE EVALUATION SYSTEM FOR EXCEPTED SERVICE EMPLOYEES

- 914.1 Except as provided in Chapter 14 of these regulations, the performance of employees in the Excepted Service shall be evaluated utilizing the performance management system in that chapter.

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915 ATTORNEY CERTIFICATE OF GOOD STANDING FILING REQUIREMENT

- 915.1 In accordance with section 881 (a) of the CMPA (D.C. Official Code § 1-608.81 (a)) (2006 Repl.), the provisions of this section are applicable to each attorney appointed in the Excepted Service at grade level 13 (or “ES-7” for Excepted Service attorneys who are compensated under the ES Schedule) 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) The Office of the Chief Financial Officer;
 - (b) Any agency, independent or subordinate, and whose duties, in whole or substantial part, consist of hearing cases as an administrative law judge or as an administrative hearing 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.
- 915.2 Not later than December 15 of each year, or as specified in sections 915.18 and 915.19 of this section, each attorney as described in section 915.1 of this section must 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.
- 915.3 Except as specified in sections 915.18 and 915.19 of this section, the certificate of good standing submitted every year pursuant to this section must be dated not earlier than October 1 and not later than December 15 of the year of submission.
- 915.4 Each subordinate agency or independent personnel authority that employs Excepted Service attorneys subject to the filing requirement is 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.
- 915.5 Notwithstanding the procedures in section 915.2 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.
- 915.6 A subordinate agency or independent personnel authority that elects to submit a consolidated listing as specified in section 915.5 of this section is responsible for establishing 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) must 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 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.
- 915.7 Any consolidated listing prepared pursuant to section 915.5 of this section must 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.
- 915.8 Nothing in this section prevents 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.
- 915.9 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 915.5 of this section will provide every year to the Director, 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.
- 915.10 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 his or her designee) will:
- (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.
- 915.11 Notwithstanding any other provision in this section, the Director, DCHR, may establish internal procedures to identify every year each attorney as described in section 915.1 of this section who is subject to the filing requirement and subsequently identify any attorney who did not comply with the filing requirement.
- 915.12 Failure of any attorney as described in section 915.1 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 sections 915.18 or 915.19 of this section, will result in forfeiture of employment.

- 915.13 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.
- 915.14 Any request for a temporary waiver of the filing requirement must be submitted by the attorney to the Director of the DCHR or independent personnel authority not later than December 1.
- 915.15 The Director of the DCHR or independent personnel authority will 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.
- 915.16 A request for temporary waiver of the filing requirement must 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 section 915.15 of this section, 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.
- 915.17 The Director of the DCHR or independent personnel authority will 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 must inform the attorney of the deadline to file prescribed in section 915.18 of this section. A notification denying the request must 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 will 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.

- 915.18 An attorney granted a temporary waiver of the filing requirement (waiver) must file a certificate of good standing (certificate) with the DCHR within thirty (30) days of being admitted to the D.C. Bar. A certificate filed pursuant to this subsection must not be dated earlier than the date of the written request for the waiver submitted by the employee.
- 915.19 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 13 (or “ES-7” for Excepted Service attorneys who are compensated under the ES Schedule) or equivalent, becomes effective on or after the December 15 deadline, the attorney will 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 must 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.
- 915.20 Upon establishing the effective date of a personnel action as described in section 915.19 of this section and processing the action, the Director of the DCHR or independent personnel authority will promptly inform the affected employee, in writing, of the deadline to file prescribed in section 915.19 of this section.
- 915.21 Each subordinate agency or independent personnel authority will provide a written notice of the intent to terminate employment to any agency attorney who is not in compliance with the filing requirement (requirement), except that in the case of a denial of a request for a temporary waiver of the requirement, notification will be accomplished as specified in section 915.17 of this section. The notice will 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 will 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.
- 915.22 Each appointee to an attorney position subject to the filing requirement (requirement) will 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 sections 915.18 and 915.19 of this section, as applicable, will result in forfeiture of employment.
- 915.23 Not later than March 1 of each year after the December 15 filing deadline for the preceding year, the Director of the DCHR will publish in the D.C. Register the list of attorneys who have not met the filing requirement

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920 PROMOTION TO BATTALION FIRE CHIEF AND DEPUTY FIRE CHIEF POSITIONS – FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

- 920.1 D.C. Official Code § 5-402 (b)) (2007 Supp.) provides that the Fire Chief shall establish criteria for Excepted Service appointments to Battalion Fire Chief and Deputy Fire Chief that addresses the areas of education, experience, physical fitness, and psychological fitness. The criteria established, which shall become effective on October 1, 2007, are specified in sections 920.2 through 920.4 of this section.
- 920.2 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.
- 920.3 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 two (2) years;
 - (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.

920.4 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 920.2 and 920.3 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.

920.5 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 two (2) years;
- (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.

920.6 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 920.4 and 920.5 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.

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999 DEFINITIONS

999.1 In 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.

Attorney – a position that is classified as part of Series 905, except for a position in the Legal Service.

Biweekly pay period – the two-week (2-week) period for which an employee is scheduled to perform work.

Break in service – a period of one (1) workday or more between separation and reemployment that may cause a loss of rights or privileges.

Consultant – for the purposes of section 904.4 (c) of this chapter, the term “consultant” means a person who serves as an advisor to an officer or instrumentality of the District government, as distinguished from an officer or employee who carries out the agency’s duties and responsibilities. A consultant gives views or opinions on problems or questions presented by the agency, but neither performs nor supervises performance of operating functions. The person is an expert in the field in which he or she advises, but need not be a specialist. A person’s expertness may consist of a high order of broad administrative, professional, or technical experience indicating that his or her ability and knowledge make his or her advice distinctively valuable to the agency.

Consultant position – for the purposes of section 904.4 (c) of this chapter, the term “consultant position” means a position requiring the performance of purely advisory or consultant services, not including performance of operating functions.

Days – calendar days, unless otherwise specified.

Disciplinary reasons – includes but is not limited to behavior that negatively impacts the integrity of government operations or that is contrary to established standards, policies, or procedures; failure to meet specific requirements for the position the employee occupies, such as professional licensing or certification requirements; and failure to meet established performance goals, unsatisfactory or poor performance, incompetence, or any other performance-related deficiencies.

Excepted Service – positions identified as being statutory, transitional, public employment, special category, training, or policy positions, and authorized by sections 901 through 908 of the CMPA (D.C. Official Code § 1-609.01 through 1-609.08) (2006 Repl.). These positions are not in the Career, Educational, Management Supervisory, Legal or Executive Service.

Expert – for the purposes of section 904.4 (c) of this chapter, the term “expert” means an expert may be a person who performs or supervises regular duties and operating functions and shall include the following:

- (a) A person with excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field; and
- (b) Certain members of boards or commissions.

Expert position – for the purposes of section 904.4 (c) of this chapter, the term “expert position” means: (a) a position that, for satisfactory performance, requires the services of an expert in the particular field, as defined above, and with duties that cannot be performed satisfactorily by someone not an expert in that field; or (b) a position that is occupied by members of certain boards and commissions.

Greater Washington Metropolitan Area – the Consolidated Metropolitan Statistical Area, which includes Washington, D.C. (the “Washington-Baltimore, DC-MD-VA-WV CMSA”), as

defined by the Office of Management and Budget June 30, 1998 (revised November 3, 1998), and which consists of the following:

- (a) The Baltimore, MD Primary Metropolitan Statistical Area (PMSA), consisting of Anne Arundel County, Baltimore County, Carroll County, Harford County, Howard County, Queen Anne's County, and Baltimore City;
- (b) The Hagerstown, MD PMSA, consisting of Washington County; and
- (c) The Washington, DC-MD-VA-WV PMSA, consisting of the District of Columbia; Calvert County, MD; Charles County, MD; Frederick County, MD; Montgomery County, MD; Prince George's County, MD; Arlington County, VA; Clarke County, VA; Culpeper County, VA; Fairfax County, VA; Fauquier County, VA; King George County, VA; Loudoun County, VA; Prince William County, VA; Spotsylvania County, VA; Stafford County, VA; Warren County, VA; Alexandria City, VA; Fairfax City VA; Falls Church City, VA; Fredericksburg City, VA; Manassas City, VA; Manassas Park City, VA; Berkeley County, WV; and Jefferson County, WV.

Hard-to-fill position – a position designated as a hard-to-fill position pursuant to section 911.4 of this chapter on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

Intermittent employment – for the purposes of section 904.4 (c) of this chapter, the term “intermittent employment” means occasional or irregular employment on programs, projects, problems, or phases thereof, requiring intermittent services, without a regularly scheduled tour of duty. If at any time it is determined that the employee's work is no longer intermittent in nature, the person's employment must be changed immediately.

Performance contract – an agreement between an employee in an Excepted Service policy position under section 903 (a) of the CMPA (D.C. Official Code § 1-609.03 (a)) (2007 Supp.) and the personnel authority that may be entered into and that clearly identifies measurable goals and outcomes.

Personnel authority – an individual or entity with the authority to administer all or part of a personnel management program as provided in section 401 of the CMPA (D.C. Official Code § 1-604.01 *et seq.*) (2006 Repl. and 2007 Supp.).

Pre-employment travel expenses – expenses allowed for an individual pursuant to section 911.1 of this chapter, which may include such items as hotel accommodations, travel (commercial carrier, privately owned vehicle, etc.), and a per diem allowance.

Relocation expenses – expenses allowed for an individual and his or her immediate family pursuant to section 911.2 of this chapter, which may include such items as transportation of family, transportation of household goods and expenses related thereto, temporary storage expenses, relocation services company, property management services, and a per diem allowance.

Separation pay – compensation to be paid to an individual upon separation from the Excepted Service for non-disciplinary reasons as specified in section 913 of this chapter. Separation pay is

computed based on the individual's rate of basic pay at the time of separation, and the maximum amount of separation pay an individual may receive upon separation is twelve (12) weeks.

Temporary employment – for the purposes of section 904.4 (c) of this chapter, the term “temporary employment” means employment for one (1) year or less on programs, projects, problems, or phases thereof, requiring temporary service for such a period of time.

Temporary housing allowance – subsistence expenses incurred by an individual and his or her immediate family while occupying lodging obtained for the purpose of temporary occupancy when authorized pursuant to section 911.3 of this chapter.

Time-limited appointment – an appointment with a specific time limitation consistent with the anticipated duration of the programs, projects, problems, or phases thereof, requiring such service.

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D.C. Register Updates for Chapter 9 of the D.C. Personnel Regulations, Excepted Service

The following *D.C. Register* citations identify when a given section(s) of Chapter 9, Excepted 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 DPM subscribers, the Addendum identifies amendments on a section-by-section basis; identifies the page(s) in a DPM Transmittal impacted by the amendment(s); and provides brief comments on the amendment(s) accomplished.

<i>D.C. Register</i> Date	Section(s)	Change(s) Reflected on Page(s)	Comments
32 DCR 2271 (4/26/85)	Entire chapter	Entire chapter DPM Transmittal No. 7	The DPM transmittal replaced pages for this chapter. The new pages reflected corrections made to portions of the text in the chapter to conform it to the text published in the <i>D.C. Register</i> on April 26, 1995.
36 DCR 7931 (11/17/89)	Section(s) 904, 907 and 908	Entire chapter DPM Transmittal No. 13	The rules amended the entire chapter.
39 DCR 6171 (8/21/92)	Section(s) 908 and 910	Entire chapter DPM Transmittal 31	The rules amended the chapter to add residency preference provisions for attorneys.
47 DCR 8093 (10/6/00)	Section(s) 900 through 913, and 999	Entire chapter DPM Transmittal No. 65	The rules implemented the provisions of law which modified the language on restrictions on subsequent appointments and residency credit for reductions in force; and the provisions of law authorizing the designation of additional Excepted Service positions.
50 DCR 4743 (6/13/03)	Entire chapter	Entire chapter DPM Transmittal No. 100	In addition to other modifications to the chapter, the rules were amended to indicate that an explanation for the termination of an Excepted Service employee in the 15-day advance written notice is discretionary; to delete the amount previously specified as the limit allowed for the payment of relocation expenses, temporary housing allowances, or both; and to clarify the provisions regarding payment of performance incentives and performance management for Excepted Service.
50 DCR 10565 (12/12/03)	Section(s) 915 and 999	Page(s) i, and 9-I-9 through 9-I-13 DPM Transmittal No. 108	The rules amended the chapter to add a new section 915 establishing the provisions for the annual filing of a certificate of good standing by certain Excepted Service attorneys and related procedures, including the standards for the granting of

			temporary waivers of the filing requirement and attorney notification procedures.
51 DCR 10416 (11/12/04)	Section(s) 915 and 999	Page(s) i, and 9-I-9 through 9-I-14 DPM Transmittal No. 121	These rules amended section 915 of the chapter to: change the heading of the section; modify existing subsections concerning the standards for the granting of temporary waivers of the filing requirement so that it is clear that waivers are granted by the appropriate personnel authority; expand on some of the other provisions concerning the granting of temporary waivers by adding new subsections on the subject, including a new subsection on the timing of the filing for employees granted temporary waivers; add language on the timing of the filing for employees placed in attorney positions subject to the filing requirement as a result of personnel actions effected on or after the December 15 deadline; make minor technical modifications to other subsections; and add the definition of the term “subordinate agency” to section 999, <i>Definitions</i> .
51 DCR 10934 (Errata) (11/26/04)	Section(s) 915 and 999	Page(s) i, and 9-I-9 through 9-I-14 DPM Transmittal No. 121	Final rules were published at 51 DCR 10416 (November 12, 2004)(see above); however, due to a technical error, the notice shows section 915.12 as 9 15.11, and section number 915.11 appears twice. Accordingly, a corrected version of the final rules was re-published.
53 DCR 3261 (4/21/06)	Section(s) 920	Page(s) i, ii, and 9-I-9 through 9-I-17 DPM Transmittal No. 140	The rules added a new section 920, “ <i>Promotion to Battalion Fire Chief and Deputy Fire Chief Positions – Fire and Emergency Medical Services Department,</i> ” to the chapter. The new section contained the criteria for Excepted Service appointments to Battalion Fire Chief and Deputy Fire Chief in the FEMSD, as required under 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)).
53 DCR 5495 (7/7/06)	Section(s) 900 through 915, and 999	Page(s) i, ii, and 9-I-1 through 9-I-21 DPM Transmittal No. 146	The rules were amended to add a new section 903, <i>Excepted Service Pay Plan</i> , on the Excepted Service Schedule (“ES Schedule”) to the

			<p>chapter. In addition, section 906, <i>“Excepted Service Appointments of Persons from Career or Educational Service,”</i> was also amended to add language explaining more specifically the “entitlements” of Career Service employees holding positions in the Career or Educational Service who are detailed, temporarily promoted, temporarily transferred, or temporarily reassigned without a break in service to positions that would otherwise be in the Excepted Service. Section 999 of the chapter, <i>Definitions,</i> was amended to modify the definitions of the terms <i>“attorney,” “Excepted Service,” “hard-to-fill position,” “performance contract,” “personnel authority,” “pre-employment travel expenses,” “relocation expenses,” and “temporary housing allowance,”</i> and to add the definition of the terms <i>“biweekly pay period”</i> and <i>“separation pay.”</i> Several other sections throughout the chapter were amended.</p>
<p>55 DCR 7953 (7/25/08)</p>	<p>Sections(s) 900 through 920, and 999</p>	<p>Entire chapter DPM Transmittal No. 172</p>	<p>The rules amended the chapter for the main purpose of: (1) adding language to section 907.3 to address Excepted Service positions with a term of years established by statute, including provisions on minimal due process rights when removal of an individual in such a position is contemplated; and (2) adding a new section 910, <i>Special Consideration for Placement and Advancement,</i> to the chapter. New section 910 provides that graduates of the District government’s Certified Public Manager Program; and persons appointed as Capital City Fellows (upon completion of the two-year (2-year) Program) shall be referred to selecting officials in subordinate agencies for interview by management and special consideration for placement and advancement for Excepted Service positions they qualify for. Additionally, various portions of sections 900 through 909, 911 through 915, and 920 were amended, and the following definitions were</p>

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			added to section 999 of the chapter: <i>“break in service,” “disciplinary reasons,” “intermittent employment,”</i> and <i>“temporary employment.”</i>
56 DCR 002223 (4/10/09)	Sections(s) 910	Page 10 DPM Transmittal No. 184	The rules amended section 910 of the chapter on the provisions for special consideration for advancement and advancement afforded to graduates of the District government’s Certified Public Manager Program and the Mayor’s Capital City Fellows Program.

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