

## Number 2.3 – RULES AND REGULATIONS FOR PERSONNEL ADMINISTRATION

**Effective Date:** July 1981

**Applicable To:** All classified employees with the Executive Branch of the State of Vermont.

**Issued By:** Department of Personnel

**Approved By:** William H. Sorrell, Secretary of Administration

### **PURPOSE AND POLICY STATEMENT**

It is important to understand the context in which these Rules are applicable. They were written before collective bargaining existed in Vermont, and many of the policies addressed in the Rules have since been also addressed, and sometimes modified, in the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. **If the Rules are inconsistent with the collective bargaining agreements, the agreements supersede the Rules. Therefore, it is important to review the Rules and the agreements together in order to ensure the Rules accurately reflect the current policy of the State.**

With such admonitions in mind, the Personnel Rules apply generally to the classified service State work force. They apply to managers and State employees who are designated as confidential employees. Managers and confidential employees have historically had the provisions of the collective bargaining agreements selectively extended to them by the Secretary of Administration. To the extent that the agreements have not been extended to these employees, the Personnel Rules and Regulations establish the policies which apply to them and outline their employment rights.

The Personnel Rules and Regulations generally do not apply to exempt, appointed, or temporary employees of the State of Vermont.

Further clarification can be obtained from the agency/department personnel officer, or from the Department of Personnel, Employee Relations Division, 802-828-3454.

### **Chapter 1 - Purpose**

1.01 **General Purpose:** These rules shall give effect to the provisions of Chapter 13, Title 3, Vermont Statutes Annotated, and shall be applied in accordance with the objectives of the personnel law, among which are:

To provide a system of personnel administration based upon merit principles and sound management concepts;

To provide equal opportunity to all eligible persons to compete for State employment on a basis of demonstrated ability and potential;

To establish and maintain an equitable classification and compensation program designed to provide State government with sufficient numbers of qualified personnel;

To promote efficiency and high morale among State employees; and

To develop a program of recruitment, training, advancement, and tenure which will make a career in the State service attractive to persons of ability and dedication.

1.02 **Adoption and Amendment:** The Rules and Regulations for Personnel Administration are adopted under the authority of 3 V.S.A. 310 (d) as amended. They shall continue in effect as hereby adopted until amended or repealed, or amended, modified or superseded by amendment to the personnel law or pay plan by action of the General Assembly.

## Chapter 2 - Definitions

Chapter 2 has not been changed by deletion or amendment of those definitions which also appear in the appendices to the general contract between the State of Vermont and Vermont State Employees' Association, because the new definition may not fit the context in which it was used in the old rules. An asterisk identifies those definitions which appear in the contract. The contractual definitions should be used when referring to those policies covered by the contract.

2.01 **Definitions:** The following definitions apply throughout these rules and regulations unless the context clearly requires another meaning.

\*2.011 AGENCY means any department, board, commission or other unit of the government of the State and the employees under its control.

\*2.012 ALLOCATION is the determining of the classification of a position by the Commissioner.

2.0121 REALLOCATION is a change of a position from one class to another class due to (a) a gradual increase or decrease in duties and responsibilities, or (b) the addition or subtraction of significant duties and responsibilities at a given point of time.

\*2.013 APPOINTING AUTHORITY means the officer, board, commissioner, person or group of persons authorized by statute or lawfully delegated authority to make appointments.

\*2.014 APPOINTMENT is the designation of a person as an employee and his induction into the designated position in accordance with the provisions of these rules.

\*2.015 ASSIGNMENT is the placing of a position class in an authorized pay scale.

2.0151 REASSIGNMENT is the change of a position class from one pay scale to another pay scale based upon (a) recruitment or retention factors, or (b) an increase or decrease in the level of duties and responsibilities of a one-position class.

2.016 BOARD means the Personnel Board.

\*2.017 CERTIFICATION is the submission to an appointing authority of the names of one or more available persons on a register who can be considered for appointment to a particular position.

\*2.018 CLASS means one or more positions sufficiently similar as to the duties performed, degree of supervision exercised or received, minimum requirements of training, experience, or skill, and such other characteristics that the same schedule of compensation may be applied to each position.

\*2.019 CLASSIFICATION PLAN means the orderly arrangement of positions into separate and distinct classes.

\*2.020 CLASSIFIED EMPLOYEE means any person who is paid a salary or wage for work performed in a permanent position in the State classification plan. Except as otherwise indicated, all employees referred to herein are deemed to be "classified employees".

2.0201 COMMISSIONER is the Commissioner of Personnel or legally-delegated representative.

\*2.021 DEMOTION is a change of an employee from a position of one class to a position in another class for which a lower maximum rate of pay is provided.

2.022 DIRECTOR (deleted)

2.023 ELIGIBLE as a noun, means a person whose name appears on a register; as an adjective, it means the state or condition of satisfying all requirements for a process named.

2.024 ESTABLISH is with reference to a position, the creation of a position by approved administrative action.

2.025 ESTABLISHMENT LIST means a list of established positions, by classes, existing in each agency.

\*2.026 EXAMINATION means all the tests of fitness, including the probationary period, that are applied to determine the qualifications of any applicant or group of applicants in appointment, promotion, transfer, or demotion to positions of any class.

2.0261 HIRING CERTIFICATE is the prescribed form on which the names of persons who may be considered for appointment to a particular position have been certified.

\*2.027 ORGANIZATION UNIT means either an entire agency or some part of an agency which is designated in writing by the appropriate appointing authority to be a unit for the purposes of administration of these rules.

\*2.028 PERMANENT STATUS means that condition attained by an employee upon satisfactory completion of an original probationary period entitling him to tenure and the statutory right of appeal. Additional rights and privileges including consideration for promotion, transfer, restoration, reinstatement and re-employment apply at any level where an appropriate probationary period has been completed.

\*2.029 POSITION means a group of current duties and responsibilities assigned or delegated by competent authority and requiring the full-time or part-time employment of one person.

\*2.030 PROBATIONARY PERIOD means the working test period during which an employee is expected to demonstrate his capacity for the position by adequate performance of its duties.

2.032 PUBLIC HEARING (deleted)

2.033 PUBLIC NOTICE (deleted)

\*2.034 RE-EMPLOYMENT is a rehiring of a former permanent-status employee separated by layoff through certification from a re-employment list.

\*2.035 REGISTER is a list of eligible persons (including candidates for re-employment, competitive appointment, transfer, demotion, and restoration) from which a hiring certificate for a given position is compiled.

\*2.036 REINSTATEMENT is the return of the name of an eligible person to a register.

\*2.037 RESTORATION is the rehiring of a former permanent-status employee to the position previously held by him, or in a position of the same class, or in a position assigned to an equal or a lower pay scale than the class of position previously held by action dependent upon his qualifications as exhibited by his former employment.

\*2.038 SEPARATION is the termination of an employee from employment by the State through resignation, removal, dismissal, retirement, or layoff.

2.0381 DISMISSAL is an involuntary separation of an employee other than by layoff, retirement or removal.

\*2.0382 LAYOFF is an involuntary separation from a position of an employee whose service record has been adequate or better either by reason of a reduction of force due to lack of work or lack of funds, or by reason of discontinuance of the position as previously established.

2.083 REMOVAL is the separation of an employee from a position for failure to report to duty.

2.0384 RESIGNATION is a separation of an employee from the State service by his own voluntary act.

2.0385 RETIREMENT is the separation of an employee from the State service in accordance with the provisions of the Vermont Employees' Retirement System or other retirement systems under which an employee is eligible to receive retirement benefits.

\*2.039 STATE SERVICE as herein used refers to service rendered by a classified employee while occupying a permanent position in the State classification plan.

2.040 SUSPENSION is the placing of an employee on involuntary leave without pay:

(a) for cause as a disciplinary measure; or

(b) when an employee has been arrested, indicted, and his subsequent return to work constitutes, in the opinion of his appointing authority, either:

(1) a clear and present danger to the public, people under the employees' care, or co-workers; or

(2) a factor that is so disruptive to the functioning of the employee's agency, department, or institution that the employee's presence on the job impairs his employing agency's or office's ability to achieve its legislatively mandated goal.\*

2.041 TRANSFER is a change of an employee (1) from one position to another position of the same class or (2) from a position of one class to a position of another class within the same pay grade, in any organizational unit.

2.042 VETERANS' PREFERENCE is the special consideration given to a veteran, an ex-serviceman or ex-servicewoman or to a member of his/her family in accordance with 3 V.S.A. 310(f) and 20 V.S.A. 1543.

2.043 WARNING PERIOD means a specified period immediately following the receipt of a marginal or unsatisfactory performance rating by a non-probationary employee, during which he is expected to achieve an adequate level of performance.

\* As amended in the Memorandum of Agreement between the State of Vermont and the Vermont State Employees' Association dated December 14, 1973.

## Chapter 3 – Statement of Policy

3.01 **Employee Conduct:** Every employee shall fulfill to the best of his ability the duties and responsibilities of his position. In his official activities, the classified employee shall pursue the common good and shall uphold the public interest, as opposed to personal or group interest.

3.011 Every employee shall during his hours of duty and subject to such other laws, rules, and regulations as pertain thereto, devote his full time, attention, and efforts to his office of employment.

3.012 An employee shall not use his position to secure privileges or exemptions for himself or others.

3.013 An employee shall not use State property or equipment for his private use or for any use other than that which serves the public interest.

3.014 An employee shall not directly solicit, receive or agree to receive any compensation, gift, reward or gratuity from any source except the State of Vermont for any matter or proceeding connected with or related to the duties of such employee, unless otherwise provided for by law. Honoraria or expenses paid for papers, talks, demonstrations, or appearances made by employees on their own time and not related to their employment by the State shall not be deemed a violation of this section.

3.015 An employee shall not engage in any employment, activity or enterprise which has been or may be determined by the appointing authority to be inconsistent, incompatible, or in conflict with his duties as a classified employee or with the duties, functions, or responsibilities of the agency by which he is employed.

3.016 An employee shall not disclose confidential information gained by him by reason of his official position except as authorized or required by law, nor shall he otherwise use such information for his personal gain or benefit.

3.02 **Political Activity:** An employee as defined in these rules and regulations shall not use his official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office. An employee shall not command or solicit from any other employee direct or indirect participation in any political activity or enforce or solicit contribution for any political party, organization, or candidate. An employee shall not offer himself as a candidate for any paid partisan political office at the state or national level. An employee shall retain his right to vote and to express freely his opinion on all political subjects. An employee shall not be prohibited from participation in local community activities or from holding local public office in the community in which the employee resided, provided that such activity does not conflict with section 3.01.\*

3.03 **Discrimination:** Discrimination against any person in connection with recruitment, examination, appointment, training, promotion, retention, or any other personnel action

because of race, national origin, or any other non-merit factors, or political or religious opinions or affiliations is prohibited, with the exception of any individual who is a member of or affiliated with any organization whose avowed objectives include overthrow of the United States or the State government by force. As to any such individual who may be a State employee, membership in or affiliation with such an organization shall be grounds for dismissal from State service. The burden of proof of such membership or affiliation will rest with the department head. Any applicant for State employment who feels adversely affected in his opportunity for employment, or any employee not a member of a bargaining unit who feels adversely affected in his status as an employee or in his conditions of employment shall have the right to appeal to the Vermont Labor Relations Board under 3 V.S.A. 1001.

\* Employees of agencies and departments receiving federal funds are also subject to the Federal Hatch Act. The prohibition of campaigning for and service in a paid partisan state or national political office was modified in 1980 by amendment of state law (21 V.S.A. 496) and Article 30 of the 1980-1981 collective bargaining agreement.

## Chapter 4 - Organization

4.01 **Personnel Board:** The Personnel Board shall consist of five members as follows: The Commissioner, ex officio, without vote, and three members who shall be members of known interest in the improvement of public administration and in efficient government personnel. These three members shall be appointed biennially by the Governor with the advice and consent of the Senate for a term of six years or for the unexpired portion thereof in such manner that not more than one term shall expire in the same biennium. The Governor shall appoint one additional member, without vote, who shall be a department head. The Governor shall biennially designate the chairman. Meetings of the Board shall be held upon call of the chairman. Any three agencies may request the chairman, in writing, to call a meeting of the Board. An agency shall have the right to be represented at any meeting of the Board, except when it meets in executive session, but such representation shall be without voting power.

4.02 **Commissioner of Personnel:** With the approval of the Governor, and advice and consent of the Senate, the Secretary of Administration may appoint a Commissioner of Personnel. (3 V.S.A. 2251)

4.03 **Agency Personnel Officer:** The appointing authority of each agency shall assign continuing responsibility for agency internal personnel functions to one or more employees in the agency.

## Chapter 5 - State Classification Plan

5.01 **State Classification Plan:** The State Classification Plan shall comprise all of the positions in the State service except those exempted by 3 V.S.A. 311 or any other provision of law. The Commissioner shall allocate each position to a class, based upon factors as applicable, including the following:

Knowledge and skills required

Responsibility for independent action

Complexity and variety of duties

Responsibility for supervision

Effort and working conditions

The Commissioner shall administer the State Classification Plan so as to meet the needs of changing agency organization and programs. (3 V.S.A. 310)

5.02 **Establishment List**: The Commissioner shall maintain an establishment list for each agency.

5.03 **Allocation of Positions**: Upon notification of establishment by proper authority, the Commissioner shall allocate every new position in the classified service to an appropriate position class.

5.04 **Class Specifications**: Each class shall be identified by a written specification which shall include an appropriate title, a statement of the nature of the work performed, and a statement of the minimum qualifications required of the applicants. Each agency shall prepare and submit specifications to the Commissioner for approval.

5.05 **Continuing Review**: The Commissioner shall maintain a continuing review of the classified positions in the state for the purpose of adjusting the allocation of positions in which duties have materially changed or which appear to be improperly allocated.

## Chapter 6 - Compensation

6.01 **Compensation Plan**: The State Compensation Plan as adopted under 3 VSA 310(c) and 904 shall be applicable to all positions in the classified service. The plan shall be designed so as to attract and retain highly competent employees, to assure that wages and salaries paid by the State of Vermont are competitive with those paid in private and public organizations for similar jobs, to pay equitable differentials for differences in the kind, difficulty and responsibility of the work, and to stimulate and recognize high level performance. Salaries paid in accordance with this compensation plan are subject to approval by the Commissioner.

6.02 **Revision of the Pay Plan**: (deleted. see 3 VSA 310(c).)

6.021 Whenever as a result of recruitment or retention problems it appears that professional, technical, scientific, or other special skills are in short supply in the labor market, the Commissioner, with the approval of the Governor, may adjust the

compensation of position classes requiring such skills to meet such conditions without public hearing or notice.

**6.03 Correction of Administrative Errors:** The Board with the approval of the Governor shall under the authority of this rule have full power and authority to correct administrative errors or mistakes which do not fully carry out the intent of the pay plan.

**6.04 Administration of Compensation Plan:** The compensation plan shall be interpreted and given effect as follows:

6.041 No employee shall be paid a salary greater than the maximum or less than the minimum for the class as fixed by the compensation schedule, except in special instances approved by the Personnel Board or the Commissioner.

6.042 The minimum rate for the class shall be the hiring rate which shall apply upon original appointment to a position in the State service, except as approved by the Commissioner in instances in which (a) a shortage of qualified applicants is known to exist; (b) special qualities of training and experience are requested by the appointing authority; or (c) a candidate possesses exceptional and outstanding qualifications for a position.

6.0421 When a shortage of qualified applicants is known to exist, or where special qualities of training and experience are requested by the appointing authority, the Commissioner shall (a) approve the positions to which this exception may be applied; (b) issue a recruitment bulletin containing a statement that appointment may be authorized at an amount above the minimum rate.

6.0422 Following completion of the recruitment, examination and certification process for a position, the Commissioner may, upon request by an appointing authority, authorize employment of a person at an amount in excess of the minimum rate of the pay scale, based upon qualifications substantially in excess of (a) the minimum training and experience requirements for the class, and (b) qualifications presented by other qualified and available candidates.

6.043 All rates in the scales of pay are those authorized for full-time employment. Payment for part-time service shall be prorated at the rate for full-time service.

6.044 The rates of pay prescribed shall be deemed to constitute full compensation. Allowances of maintenance and other services or commodities supplied to the employee and to any dependents shall be deducted from the salary payable to extent of their fair value as fixed by equitable appraisal.

6.045 When the agency classification plan requires an employee to perform work seasonally in more than one class, he shall be paid the rate for the class in which the work is performed, as certified by the appointing authority.\* The basic classification as designated by the Commissioner, shall govern salary changes.

6.046 An employee returning to State service following leave of absence for extended military duty shall be compensated in accordance with the current collective bargaining agreement.

6.05 **Pay Increases**: Pay increases shall be based upon performance and administered as follows:

6.051 Salary increases within prescribed pay ranges shall be based upon employee performance evaluated annually by individual supervisors in accordance with these rules. The Personnel Board\*\* shall establish the salary grid and the effective date(s) for granting such increases.

6.0511 An employee entering a position through open competitive appointment, upon satisfactory completion of an original probation, shall be granted a salary increase to the end of probation rate in accordance with the compensation plan.

6.052 Employees whose performance is outstanding between annual ratings may be recommended for a special salary adjustment in recognition of meritorious service. The Commissioner with approval of the Personnel Board shall establish guidelines for the administration of this section.

6.06 **Pay Increases Withheld**: An employee who receives a performance rating of unsatisfactory or marginal shall not be eligible for a pay increase.

6.061 When the services of an employee are recorded as unsatisfactory or marginal, the employee shall be officially notified that he may be subject to demotion or dismissal and shall be informed of specific ways by which his performance may be improved. If the employee has completed a probationary period for the class, he shall be placed in a specific warning period not to exceed twelve months.

6.062 An employee who at the time of an annual salary adjustment is not granted an increase because of unsatisfactory or marginal work performance may, upon attainment of an adequate rating, be granted a salary increase not to exceed the maximum established by the Board for that category of rating.

6.07 **Salary Adjustments Pertaining to Promotion, Demotion, Transfer, Reallocation, Reassignment, Restoration, Re-Employment, or Alternate Rate**:

Adjustments in the rates of pay of employees who are promoted, demoted, or transferred, restored or re-employed under section 12.07 or 12.08, or seasonally employed in different classes, and incumbents of reassigned classes or reallocated positions shall be governed by the following provisions:

6.071 **Promotion**: see attached compensation provisions.

6.072 **Demotion**: An employee who is rated as fully satisfactory and who is demoted to a position in a lower class shall be reduced in salary to the maximum of the lower class,

or if his salary is within the range of the lower class, it may be reduced by an amount not to exceed 5 percent. An employee who is rated less than fully satisfactory and who is demoted to a position in a lower scale shall be reduced in salary by an amount not less than 5 percent, except that the new salary amount shall not exceed the maximum nor be less than the end of probation rate of the lower scale.

6.0721 An employee demoted to a position in a lower class during a promotional probationary period shall be paid the salary received before promotion provided such rate does not exceed the maximum of the lower class, in which event salary shall be the maximum of the lower class.

6.0722 An employee returned to a position in a lower pay scale upon termination of a promotion by limited appointment shall be paid the salary in effect in the lower level class before promotion plus any salary adjustment to which he would have been entitled by virtue of continuous service in the lower class.

6.0723 An employee demoted to a position in a lower class during a probationary period of an original appointment shall be paid the minimum rate of the lower class.

6.073 **Transfer**: A transferred employee shall be paid the salary in effect in previous position occupied.

6.074 **Position Reallocation**: see attached compensation provisions.

6.0741 A permanent status employee with three or more years of continuous State service whose position is reallocated downward through no fault of his own and whose service in the position is at least fully satisfactory shall not be subject to a reduction in salary.

6.0742 A permanent status employee with less than three years of continuous State service whose position is reallocated downward through no fault of his own and whose service in the position is at least fully satisfactory shall continue to receive the same rate of pay unless such rate is over the maximum of the lower class, in which case the salary shall be the maximum of the lower class.

6.0743 **Automatic Reallocation**: see attached compensation provisions.

6.075 **Reassignment**: see attached compensation provisions.

6.076 **Alternate Rate**: An employee's basic classification shall determine his salary during alternate class employment. If the alternate class is assigned to a higher pay scale, salary shall be increased in accordance with section 6.071, Promotion. If the alternate class is assigned to a lower pay scale, salary shall be reduced in accordance with provisions of section 6.072, Demotion. Upon return to the basic classification, salary shall be the same as would have been in effect with continuous service in the basic classification plus any salary adjustment which would have accrued to such rate.\*

6.077 **Restoration:** An employee restored (section 12.07) to fill a position as provided in these rules shall be paid at any rate in the pay scale not in excess of the salary received in the previous position plus any increase which would have accrued to such rate in the interim because of adjustment to the pay scale or compensation plan.

6.078 **Shift Differential:** see collective bargaining agreement.

6.08 **Effective Date of Personnel Actions Affecting Pay:** Personnel actions affecting pay shall be recommended by an appointing authority and submitted through the Commissioner to the Governor, or his duly authorized representative, for his approval and shall be effective as follows:

6.081 Subject to the provisions of sections 9.01 and 10.01 of these rules, an original permanent appointment shall be effective on the date specified by the appointing authority.

6.082 Pay increases or decreases, including promotional appointments, shall become effective on the first day of the appropriate bi-weekly payroll period.

\* See memo of agreement between V.S.E.A. and the State of Vermont executed June 12, 1974, for special compensation provisions for nonseasonal alternate rate pay; see also attached compensation provisions.

\*\* Compensation Review Board.

## Chapter 7 – Recruitment and Examination

7.01 **Recruitment for Examination:** The Commissioner shall give public notice of each examination at least two weeks in advance of the date on which the examination is to be given, except for classes of known recruitment difficulty, in which instance the Commissioner may reduce such period of advance notice. Each eligible applicant shall be notified of the conditions and methods of competition.

7.011 For positions in the State service in which turnover is normally high due to promotions, transfers, and separations, or for which there are small numbers of suitable applicants, the Commissioner may assign such positions to a continuous recruitment and examination program with the objective of maintaining adequately-staffed registers of qualified applicants. The Commissioner shall periodically announce examinations for all positions assigned to the continuous recruitment and examination program.

7.02 **Citizenship and Residence:** All applicants for appointment to the State service shall be citizens of the United States, except as provided in 3 VSA 262.\* Residence in the State of Vermont shall not be a prerequisite for application or appointment except that preference to Vermont residents shall be given by appointing authorities in instances in which a non-resident and a Vermont resident possess substantially equal qualifications.

7.03 **Filing Applications**: Application for any position shall be made to the Commissioner on a prescribed form. The Commissioner may require proof of the possession of any license, degree, or other specified qualification, citizenship, or veteran's status claimed by an applicant.

7.04 **Eligibility for Admission to Examination**: Eligibility to take an examination shall be based on the minimum qualifications for application to the class as outlined in the class specification and any added requirement contained in the announcement.

7.05 **Decentralization of Selection**: The Board, or if so delegated by the Board, the Commissioner, in order to serve more efficiently the needs of certain departments with employees actively scattered throughout the state may, upon request, decentralize the selection process.

7.06 **Disqualification of Applicant**: The Commissioner may disqualify from admission to the examination or appointment any person if:

7.061 He is found to lack any of the preliminary requirements established for the class of position.

7.062 He is so disabled as to be rendered unfit for the performance of the duties of the class.

7.063 He is addicted to the use of drugs or the habitual use of intoxicating liquors to excess.

7.064 He has been convicted of a felony or other crime involving moral turpitude.

7.065 He has made a false statement of material fact in his application.

7.066 He has previously been dismissed from any service for delinquency, misconduct, or other similar cause.

7.067 He has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment.

7.068 He has directly or indirectly obtained information regarding examinations to which as an applicant he was not entitled.

7.069 He has failed to submit his application correctly or within the prescribed time limits.

7.0691 He has taken part in the compilation, administration, or correction of the examination.

7.0692 The Commissioner finds sufficient reason other than the above.

7.07 **Notice of Disqualification:** A disqualified applicant shall be promptly notified of such action, and an applicant who is not admitted to an examination because of failure to meet the preliminary requirements shall be notified by letter to his last-known address sufficiently in advance of the examination to allow for a review of his rejection. Proof of qualification shall rest with the applicant.

7.08 **Character of Examination:** Examination shall be practical and shall be construed to reveal the capacity of the person for the particular class as well as general background and related knowledge. Except as provided for in 3 V.S.A. 305(d),\* The Commissioner shall determine which of the following either singly or in combination shall constitute the examination for a position:

A written examination

A rating of training and experience

An oral examination

A performance test

The probationary period shall be a part of the examination process for every position in the classified service.

\* The U.S. District Court in an opinion dated October 21, 1971, adjudged 3 V.S.A. 262 unconstitutional as in conflict with the Fourteenth Amendment and the supremacy clause of the U.S. Constitution. In effect, therefore, there is no citizenship requirement. An alien must, however, comply with federal immigration laws, in that he must have a work visa or a permanent residence visa before he may compete for and be hired into a State position.

## Chapter 8 - Registers

8.01 **Establishment of a Register:** The Commissioner will prepare a list of persons qualified and eligible for appointment to positions in one or more classes. This list will include candidates for re-employment, competitive appointment, transfer, demotion and restoration. Candidates for competitive appointment must have passed the appropriate examination and shall be listed in order of qualifying score, highest score first. Candidates for competitive appointment may include agency promotional, State promotional and/or open-competitive candidates.

8.011 Scores on a register will normally remain active for two years from the date of examination, except that this period may be reduced or extended by the Commissioner.

8.012 The name of a candidate may remain on a register so long as he has an active score or, if he has no score, so long as he remains eligible for re-employment, transfer,

demotion or restoration, unless removed at the candidate's request or by the Commissioner for reasons authorized by sections 7.06 and 8.02.

8.013 Veterans' preference will be granted as authorized by law in the manner described in sections 8.0131 through 8.0136 below.

8.0131 Those veterans, ex-servicemen or ex-servicewomen who at the time of application are totally-disabled as a result of a service-connected disability shall have ten points added to their qualifying score, subject to sections 8.0135 and 8.0136.

8.0132 Spouses of totally-disabled veterans, ex-servicemen or ex-servicewomen whose disability is service-connected and who themselves have been unable to qualify on a State civil service examination by reason of their disability, and unmarried widows or widowers of deceased veterans, ex-servicemen or ex-servicewomen whose military service occurred during a period of war, in a campaign or expedition for which a campaign badge has been authorized, or subsequent to June 30, 1955, shall have ten points added to their qualifying score, subject to section 8.0135.

8.0133 Those veterans, ex-servicemen or ex-servicewomen who at the time of application are partially-disabled as a result of a service-connected disability shall have five points added to their qualifying score, subject to sections 8.0135 and 8.0136.

8.0134 Those veterans, ex-servicemen or ex-servicewomen whose military service occurred during a period of war, in a campaign or expedition for which a campaign badge has been authorized, or subsequent to June 30, 1955, and who do not qualify for veterans' preference under section 8.0131 or 8.0133 shall have five points added to their qualifying score, subject to sections 8.0135 and 8.0136.

8.0135 Veterans' preference points shall not be added to the score of an individual otherwise eligible for veterans' preference unless all of the following conditions are met:

- (1) The individual meets the minimum qualifications for application for the class:
- (2) The individual achieves a qualifying score on the examination:
- (3) An appointing authority requests an open-competitive certificate which is drawn from the register upon which the individual's name appears;
- (4) Military service was active duty of at least ninety days duration (not counting service under an initial period of active duty for training as part of the "six month" Reserve or National Guard program) rendered in any branch of the armed forces of the United States and terminated under honorable conditions.

8.0136 No veterans' preference will be given when the monthly service retirement allowance of any individual at the time of application is more than the median of all different armed forces monthly net allowances existing at time of application.

**8.02 Removal of Names from a Register:** The Commissioner may remove the name of an eligible from a register for cause, such as:

8.021 Inability to locate an eligible.

8.022 Declination of an eligible of three offers of permanent appointment in a locality for which the eligible has stated he was available.

8.023 Failure to reply to an inquiry concerning availability when such inquiry is made by the Commissioner or his authorized representative.

8.024 If, in the exercise of his choice provided under Chapter 10, the appointing authority passes over the name of an eligible on a register in connection with three separate appointments he has made from the register, written request may be made of the Commissioner that the name of such eligible be omitted from any subsequent certification to the same register. The name of such eligible shall thereafter not be certified to him from that register for future vacancies in that class of position.

8.025 If after interview, the name of an eligible has been passed over by appointing authorities in connection with six separate appointments within the immediately preceding two-year period, the Commissioner may remove the name of such eligible.

\* Omitted from statutes - 1969.

## **Chapter 9 – Certification of Names from a Register**

**9.01 Request for Certification:** When a classified position becomes vacant or when a new position is established and such position is to be filled by competitive procedures, a request for certification shall be submitted to the Commissioner on a prescribed form. Upon receipt of such request, the Commissioner will certify from the appropriate register the names of available persons having the three highest qualifying scores, provided that if there are fewer than five available candidates in the top three qualifying scores, the next lower qualifying score or scores shall be certified in order that an appointing authority have a minimum of five candidates with scores to consider. If the request is for an open-competitive certificate, the remaining candidates on the register who are eligible for veterans' preference will be given such preference as is authorized by law; if such an individual's score, with preference added, is equivalent to or higher than the lowest qualifying score certified, that person's name will be included on the hiring certificate. The score shown on an open-competitive certificate will be the total of the candidate's qualifying score and veterans' preference points, if any. Candidates eligible for re-employment, transfer, demotion or restoration will be certified without scores as appropriate.

9.011 An individual who has already been certified and is still under consideration for a particular vacancy will not be certified again on the same hiring certificate for the same vacancy.

9.012 A hiring certificate will expire thirty days following issuance unless extended by the Commissioner.

9.013 Each candidate who is interviewed subsequent to being certified on an open-competitive, State promotional or agency promotional certificate shall be notified promptly by the hiring agency when a decision is made regarding the position for which he was certified. The Commissioner may require a copy of each letter of notification to be filed with the Department of Personnel.

## **Chapter 10 - Appointment**

10.01 **Approval of Appointments:** Prior to the effective date the appointing authority shall submit to the Commissioner on a prescribed form each request for an appointment. If approved by the Commissioner the request shall be transmitted to the Governor or to his authorized representative for executive approval.

10.02 **Permanent Full-Time Appointment:** Selection for permanent appointment shall be made for each position from the certificate submitted by the Commissioner under the provisions of chapter 9, section 9.01, except as otherwise provided. Persons so selected shall after satisfactory completion of a probationary period be given permanent status in the position occupied.

10.03 **Permanent Part-Time Appointment:** When the services of a qualified person are needed for a specified period of time in the instance of recurring seasonal workload, a permanent part-time appointment may be made by the appointing authority. The Commissioner shall certify under the provisions of chapter 9, section 9.01, the names of eligible persons who are willing to accept a permanent part-time appointment. Permanent status shall be acquired in accordance with section 10.07.

10.04 **Provisional Appointment:** In the absence of three available names on an appropriate register the appointing authority may request the Commissioner to approve the provisional appointment of a person meeting the minimum qualifications of the class, pending examination and establishment of a register. Provisional appointments shall not be continued for more than thirty days after an appropriate certificate of eligibles is submitted to the appointing authority.

10.05 **Limited Appointment:**\* When the services of a person are required to fill a position temporarily vacant by reason of leave of absence or otherwise, a limited appointment may be made by the appointing authority. The Commissioner shall certify under the provisions of section 9.01, the names of eligible persons who are willing to accept a limited appointment. In the absence of a list of eligibles, appointment may be made in accordance with the provisions of section 10.04.

10.051 Employees who accept limited appointments must be recertified from a certificate of eligibles if the position becomes available for permanent appointment.

10.052 Persons who accept limited appointments in accordance with Chapter 9 shall be entitled to annual leave and sick leave accrual, annual salary adjustments and payment for holidays.

10.053 Limited appointees may be assigned to the same position as that already assigned to a permanent employee who may be on extended sick leave. In such instances, both the limited appointee and the employee on sick leave shall be appropriately compensated, regardless of the temporary necessity to include both individuals in the same position.

10.06 **Probationary Period**: The probationary period is an essential part of the examination process. As a continuation of this process each person given an appointment under the provisions of sections 10.02, 10.03, 10.04, 10.05, 11.02, 11.03, or 11.04 shall serve the probationary period specified for the class as approved by the Commissioner. This specific period shall not exceed twelve months.

10.061 On recommendation of the appointing authority and with the consent of the Commissioner the probationary period for a designated individual may be extended for a definite period of time, with written notification to the designated employee of the reason for extension and the definite period thereof. No probationary period may be extended by more than six months beyond the specified period for the class.

10.062 The probationary period for an employee accepting a permanent part-time appointment shall start on the date of initial part-time employment.

10.063 Time spent by an employee in a probationary period of a provisional or limited appointment shall be credited toward completion of the probationary period requirement if such employee receives a permanent appointment.

10.064 A performance evaluation of at least "Adequate" shall be required for completion of probation.

10.065 The appointing authority, or some member of the agency's staff delegated authority in writing to do so, shall notify a probationary employee in writing that he has (or has not) satisfactorily completed the required probationary period. A copy of such notice shall be filed with the Commissioner.

10.07 **Status of Employee**: An employee appointed to a permanent or seasonal position in accordance with Chapter 9 shall gain permanent status upon satisfactory completion of an original probationary period. Permanent status entitles an employee to the statutory right of appeal\* and to additional rights and privileges as provided by the "Rules and Regulations for Personnel Administration".

\* 'Limited' as used here means 'Interim', not Limited-service. Please refer to Agency of Administration Bulletin #4.10 **Categories of Employment** for establishment procedures for limited-service positions.

## Chapter 11 – Promotion, Demotion, Transfer

11.01 **Method of Making Promotions**: As far as is practicable and feasible, a vacancy shall be filled by promotion of a qualified employee based upon individual performance, as evidenced by recorded performance evaluation reports, and capacity for the new position.

11.011 A candidate for promotion must be certified by the Commissioner to possess the qualifications for the higher position set forth in the specifications for the class of position.

11.012 An incumbent of a position which is reallocated or reassigned to a higher level because of the gradual addition of more responsible duties shall be promoted automatically to the position without reference to the minimum qualifications, provided that he has served satisfactorily in the position for the previous eighteen months. Such employee shall not be required to serve a probationary period.

11.02 **Promotion by Competitive Examination**: If it is determined by the agency to fill vacancies in a particular class of position by promotional competitive examination, such examination shall be given under the direction of the Commissioner. A promotional competitive examination shall consist of any combination of the following: written tests, and oral examinations. The combination in each case shall be determined by the Commissioner in advance of the examination and shall take into consideration practices recognized in the field of personnel administration. All employees who receive a passing grade shall be placed on a promotional register for the class of position in order of their examination ratings.

11.03 **Promotion by Noncompetitive Examination**: If it is determined by the agency to fill a vacancy by a noncompetitive examination, an employee proposed for promotion shall be examined by the Commissioner in accordance with section 11.02 of these rules and regulations and, if found to qualify for the class, shall be so certified by him. An inter-agency promotion shall not be made through noncompetitive examination.

11.04 **Promotion by Administrative Action**: If an appointing authority elects to fill a vacancy by the promotion of a qualified and eligible employee of the agency by administrative action, he shall certify to the Commissioner that the employee has been selected for promotion on the basis of performance evaluation reports maintained over a substantial period of time. the Commissioner shall then certify whether or not the employee designated for promotion meets the minimum requirements for the higher class of position.

11.05 **Demotion**: An employee may be demoted at the discretion of the appointing authority for cause stated in writing to the employee or because of reduction in force.

11.06 **Transfer**: Interagency transfers shall be made on the certification of the Commissioner with the approval of the appointing authorities concerned and the

Governor or his representative. Transfers from one class to another shall be made on the certification of the Commissioner in accordance with the provisions of these rules and regulations.

\* see 3 VSA 928(b), 1001, and the current collective bargaining agreement.

## **Chapter 12 - Tenure, Separation, and Reinstatement**

12.01 **Tenure of Employment**: An employee will not be subject to dismissal or suspension except for cause stated in writing to the employee.

12.02 **Resignation**: An employee who resigns shall give at least two weeks' notice and reasons for such action in writing to the appointing authority. A resignation once submitted shall not be withdrawn by the employee without the consent of the appointing authority.

12.03 **Reduction in Force**: (deleted - see current collective bargaining agreement)

12.04 **Suspension**:

a. The appointing authority or his authorized representative may suspend an employee without pay for disciplinary reasons for a period of up to ten workdays.. Notice of suspension shall be in writing or shall be given personally by the appointing authority or his authorized representative and confirmed in writing within 24 hours.

b. Temporary Relief from Duty may be changed to suspension without pay or other disciplinary action for cause.

12.041 **Temporary Relief from Duty**: An appointing authority may relieve employees from duty temporarily with pay for a period of up to 30 workdays to permit the appointing authority to investigate or make inquiries into charges and allegations concerning the employee, or if in the judgement of the appointing authority the employee's continued presence at work during the period of investigation is detrimental to the best interest of the State, the public, the ability of the office to perform its work in the most efficient manner possible, or well being or morale of persons under his care. The period of Temporary Relief from Duty may be extended by the appointing authority, with the concurrence of the Commissioner of Personnel.

12.05 **Dismissal**: (deleted - see current collective bargaining agreement)

12.051 Employees serving an original probationary period may be dismissed immediately without prior notice or pay in lieu of notice.

12.052 Employees whose duties require them to hold an operator's license issued by the Vermont Motor Vehicle Department and who become unable to perform their assigned duties as a result of losing their driving privileges because of a violation may

be suspended without pay, transferred, or demoted to another position within the agency, or dismissed if no other position for which they are qualified is available.

12.06 **Like Penalties for Like Offenses**: In dismissals and suspensions for cause like penalties shall be imposed for like offenses.

12.07 **Restoration in Previous Class**: A permanent-status employee separated without prejudice may for a period of two years be restored to a vacant position in the class formerly held or to a vacant position of another class assigned to the same or lower pay scale, provided that he is eligible and qualified for the position.

12.08 **Re-employment**: (deleted - see current collective bargaining agreement)

12.09 **Reinstatement to a Register**: An employee with permanent status in his class who voluntarily separates from an agency without prejudice shall remain eligible for reinstatement for a period of two years to the register for the class of position formerly held or to another appropriate register.

### Chapter 13 - Performance Evaluations

13.01 **Procedure**: Each agency shall evaluate the performance of each employee at the end of the probationary period and any extension thereof, at the time of the annual performance review, at such other times as is necessary, and upon separation from the agency.

13.011 The immediate supervisor shall rate those employees under his supervision on a prescribed form in accordance with procedures established by the Personnel Board.

13.012 The rating of the immediate supervisor shall be reviewed by at least one higher level of supervision within the agency, except where the agency head is the immediate supervisor.

13.013 All performance evaluation reports shall be subject to the approval of the appointing authority or his designated representative.

13.014 Employees shall be notified of their performance evaluation by their supervisors. One copy of the rating form shall be provided to the employee and one copy shall be retained by the agency. The immediate supervisor shall discuss the rating with the employee, calling attention to particular areas of performance and, when necessary, pointing out specific ways in which performance may be improved. The employee copy of the rating shall constitute official notice to the employee of his rating.

13.015 Ratings shall be based upon the following standards:\*

(a) Outstanding - Performance which substantially exceeds standards of performance for the position and State service.

(b) Fully Satisfactory - Performance which consistently meets or occasionally exceeds standards of performance for the position and State service.

(c) Adequate - Performance which, although acceptable, may not fully and consistently meet the standards of performance for the position and State service.

(d) Marginal - Performance which frequently does not meet standards of performance for the position and State service.

(e) Unsatisfactory - Performance which frequently does not meet standards of performance for the position and State service.

13.016 An employee who disagrees with a performance evaluation report or a salary adjustment granted as a result of an annual performance evaluation may seek redress through the grievance procedure.

13.02 **Use of Performance Evaluation Reports:** Performance evaluation reports shall be used:

13.021 At the time of scheduled completion of probationary periods, traineeships, or warning periods.

13.022 In conducting the annual performance review.

13.023 In determining when special salary recognition should be given within a review period as provided by sections 6.0511, 6.052, and 6.062.

13.024 In filling vacancies in a department in accordance with sections 11.02, 11.02, 11.03, and 11.04.

13.025 In determining when a warning period is to be imposed to improve employee performance and when failure to show such improvement will result in demotion, intra-departmental transfer or dismissal.

13.026 (deleted - see current collective bargaining agreement; related to Reduction in Force)

13.027 On the separation of an employee from a position in State service.

13.028 At any other time deemed proper and necessary.

\* These definitions have been replaced by those on the following pages.

June 1, 1979

**Vermont Department of Personnel**

## DEFINITIONS OF EMPLOYEE RATING CATEGORIES

1. **Unsatisfactory** - Performance which falls significantly, even prohibitively, below position and departmental standards. Although certain job requirements may be performed at a satisfactory level, they are so outweighed by problem areas as to virtually preclude continued employment. Demands upon a supervisor's time may be totally unreasonable; efforts to encourage and/or achieve significant performance improvement are usually unproductive. Such rating underscores the magnitude of the gap between performance needs and performance rendered. Imposition at the close of a warning period signified failure to make sufficient improvement during that period and results in dismissal.
2. **Inconsistently meets job requirements/standards** - Performance which is noticeably deficient with respect to particular job requirements or during certain periods of time. Although other aspects of the job may be performed in a satisfactory manner, improvement in deficient areas is necessary. This level of performance is unacceptable and cannot be tolerated for a sustained period of time; demotion or dismissal will result from continued performance at this level.
3. **Consistently meets job requirements/standards** - Solid, competent performance which meets performance expectations. Assignments are typically completed as required. Performance slightly above or below position standards may appear from time to time or in a particular duty area but is not a dominant characteristic of total performance. The day-in, day-out result of such performance is that the job gets done in a timely and effective manner. The employee so rated is "doing the job" for which the position exists.
4. **Frequently exceeds job requirements/standards** - Superior performance in all significant functions of the job. The employee frequently displays considerable initiative and self-direction and usually completes assignments at a level above expectation and/or ahead of schedule. Performance errors, if they occur, are very infrequent and minor. This category is best characterized as high quality performance which always meets and frequently exceeds standards of the position.
5. **Consistently and substantially exceeds job requirements/standards** - Performance which is exemplary in all major aspects of position requirements. The employee so rated is readily perceived as exceptionally competent by supervisors, colleagues and subordinates alike. Such performance is the epitome of sustained excellence significantly above and beyond position criteria.

### Chapter 14 - Hours of Service, Overtime, Holidays and Leaves of Absence

(deleted - see current collective bargaining agreement and appropriate Agency of Administration bulletins)

## **Chapter 15 – Grievance Procedure**

(deleted - see current collective bargaining agreement and 3 VSA 926, 928, and 1001)

## **Chapter 16 - Appeal**

(deleted - see current collective bargaining agreement and 3 VSA 926, 928, and 1001)

## **Chapter 17 – Delegation of Authority**

17.01 Approval by any officer to whom the Governor has delegated the particular duty of approval in accordance with 3 V.S.A. 10 shall satisfy the requirements of approval by the Governor or his authorized representative wherever such requirement is found in these rules.

17.02 The delegation of a particular function shall not prevent the Board from acting in a case thereunder, and in any such instance, the delegation shall be of no effect.\*

\* As a result of reorganization, the Personnel Board is no longer a rule- or decision-making body and remains in an advisory capacity only.

## **STATE OF VERMONT**

### **CLASSIFIED SERVICE COMPENSATION PROVISIONS**

Effective July 1, 1979, the compensation provisions relative to completion of original probationary period, promotion, upward reallocation and upward reassignment will be as follows:

- a. Upon completion of an original probationary period, an employee whose base weekly salary is less than the end-of-probation rate for his pay scale will receive a salary increase to that end-of -probation rate.
- b. Upon promotion from one position to another, a permanent-status or limited-status employee will receive a salary increase of 8% or to the end-of-probation rate of the new pay scale, whichever is greater, subject to the maximum of that pay scale. No increase will be granted upon completion of the promotional probationary period.
- c. Upon upward reallocation of his position, a permanent-status or limited-status employee will receive a salary increase of 8% or the end-of-probation rate of the new pay scale, whichever is greater, subject to the maximum of that pay scale. No increase will be granted upon completion of any probationary period required as a result of upward reallocation. This provision does not apply to upward reallocation of position from the class Secretary/Clerk Trainee.

d. Upon automatic reallocation of his position from a trainee or entry level to the full level of a class as authorized in a limited number of occupational series (including, but not limited to, Mental Retardation Aide A to Mental Retardation Aide B, Probation & Parole Officer Trainee to Probation & Parole Officer), a permanent-status or limited-status employee will receive a salary increase of 8% or to the end-of-probation rate of the higher pay scale, whichever is greater, subject to the maximum of that pay scale. This provision does not apply to upward reallocation of a position from the class Secretary/Clerk Trainee. When a position is reallocated under this provision, the incumbent will not be required to serve a probationary period at the higher level.

e. Upon reallocation of his position from the class Secretary/Clerk Trainee to the full level class for that position, a permanent-status or limited-status employee will receive a salary increase to the end-of-probation rate of the higher pay scale. When a position is reallocated under this provision, the incumbent will not be required to serve a probationary period at the higher level.

f. When a class is reassigned to a higher pay scale, a permanent-status or limited-status employee occupying a position in that class will receive a salary increase of 8% or to the end-of-probation rate of the new pay scale, whichever is greater, subject to the maximum of that pay scale.

(From 'Guidelines for Implementation' (June 1979) for Article XXIV of the collective bargaining agreement effective July 1, 1979 to June 30, 1981.)