



DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF CITYWIDE PERSONNEL SERVICES

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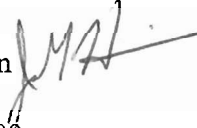
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MEMORANDUM

To: Agency Personnel Officers
From: James G. Hein 
Date: March 16, 2009
Subject: Recent amendments to the NYC Administrative Code Provisions regarding
Residency

Please be advised that the City Council has recently passed Local Law 10 of 2009 (Int. No. 837) amending Sections 12-120 and 12-121 of the Administrative Code of the City of New York regarding residency requirements. A copy of the amended law is attached.

The amended law raises several issues which still need to be resolved; however, one issue is resolved: Any individual who (1) has worked for the City for two continuous years and (2) is serving in a title represented by DC37 may, in addition to the five boroughs of New York City, live in Nassau, Suffolk, Westchester, Putnam, Rockland or Orange Counties. To date, this also includes DC37 Prevailing Rate employees covered under the following Consent Determinations: Construction Laborer, Clock Repairer, Supervisor Clock Repairer, Highway Repairer, Compositor, Furniture Maintainer (Various), Furniture Maintainer's Helper, Supervisor Furniture Maintainer, Printing Press Operator, Core Drill Operator and the Marine (Sludge Boat) Titles.

Again, additional guidance shall be provided as soon as full consideration is given to the other issues raised by these amendments.

C: Martha K. Hirst
James F. Hanley
Ilene Lees
Mitchell Paluszek
Maria DiPaola
Thomas Patitucci
Andrea Wrubel

Int. No. 837

By Council Members Jackson, Martinez, Gerson, Liu, Mendez, Felder, Weprin, Gioia, Gentile, Sears, Seabrook, Vallone Jr., Yassky, Gonzalez, Avella, White Jr., Nelson, De Blasio, Recchia Jr., Barron, Vacca, Stewart, James, Palma, Rivera, Lappin, Dickens, Fidler, Mealy, Katz, Sanders Jr., Gennaro, Mark-Viverito, Eugene, Comrie, Baez, Reyna, Garodnick, Oddo, Ignizio, and the Speaker (Council Member Quinn)

A Local Law to amend the administrative code of the city of New York, in relation to the residency requirement for city employees.

Be it enacted by the Council as follows:

Section 1. Section 12-120 of the administrative code of the city of New York, as added by local law number 40 for the year 1986, is amended to read as follows:

§12-120 [Employees to be city residents] Residency requirements. a. Except as otherwise provided in section 12-121, any person who enters city service on or after September first nineteen hundred eighty-six (i) shall be a resident of the city on the date that he or she enters city service or shall establish city residence within ninety days after such date and (ii) shall thereafter maintain city residence as a condition of employment. Failure to establish or maintain city residence as required by this section shall constitute a forfeiture of employment; provided, however, that prior to dismissal for failure to establish or maintain city residence an employee shall be given notice of and the opportunity to contest the charge that his or her residence is outside the city.

b. Notwithstanding subdivision a of this section, employees who have completed two years of city employment and are either (i) in titles certified to a collective bargaining representative that has entered into an agreement with the city dated September 29, 2006 to modify the residency requirements contained herein or (ii) represented by or affiliated with said representative and hold titles covered by Section 220 of the New York State Labor Law which subsequently enter into collective bargaining agreements or consent determinations to modify the residency requirements, shall be deemed to be in compliance with the residency requirements of this section if they are residents of Nassau, Westchester, Suffolk, Orange, Rockland or Putnam county.

§2. The section heading, as added by local law number 40 for the year 1986, and subdivisions a and b of section 12-121 of the administrative code of the city of New York, subdivision a as amended by local law number 59 for the year 1996 and subdivision b as amended by local law number 61 for the

year 1999, are amended to read as follows:

§12-121 Exceptions to [city] residence requirements. a. The commissioner of citywide administrative services on his or her own initiative or upon application of the head of an agency may certify that there is difficulty in the recruitment of personnel for a position and that to restrict recruitment for such position to [city residents and persons who would be willing] persons who meet the residency requirements of section 12-120 based on their residence or their willingness to establish [city] residence consistent with such requirements would not be in the public interest. Persons appointed to positions so certified by the commissioner shall not be required to establish or maintain [city] residence consistent with the requirements of such section as a condition of employment while in service in that position. Each agency head may make application to the commissioner, in such form as the commissioner shall prescribe, for the certification of positions within the agency head's jurisdiction. The commissioner may certify such positions subject to such limitations and conditions as the commissioner may deem appropriate. Notwithstanding the foregoing provisions, positions in the city council may be so certified by the speaker of the city council. Copies of all certifications of the commissioner and the speaker shall be filed with the city clerk and shall be subject to annual review by the commissioner and speaker.

b. [City residence] Residence in the city or Nassau, Westchester, Suffolk, Orange, Rockland or Putnam county shall not be required as a condition of employment for:

(1) persons appointed to the position of chaplain; or

(2) employees whose regular work site is outside the city; or

(3) employees who have performed functions at a regular work site outside the city,

where the city has reduced or terminated, or is in the process of reducing or terminating, the direct performance by city employees of such functions at such site, and the city seeks to transfer, reassign, or appoint such employees to positions located within the city. This paragraph shall apply only where the commissioner of citywide administrative services finds that it is in the public interest to waive the residence requirement for reasons including, but not limited to, facilitating the operations of the affected agency or agencies or furthering the interests of employee relations.

§3. The amendments to the administrative code enacted by this local law shall not be

construed to affect administrative or judicial actions taken to enforce the residency requirements in effect prior to the effective date of this local law, or to supersede, alter or affect any provision of the public officers law requiring that a person appointed to a position in city service be a resident. In addition, such amendments shall not be construed to require the termination of any certification issued by the commissioner of citywide administrative services pursuant to subdivision a of section 12-121 of such code, as such subdivision was in effect prior to the effective date of this local law, or to require the recertification of any positions so certified prior to such effective date.

§4. This local law shall take effect immediately.

LGA
9.19.08
11:40am