

New Civil Service Legislation on Probation Periods

On September 7, 2023, new legislation went into effect updating Civil Service Law Section 63 <<https://www.nysenate.gov/legislation/laws/CVS/63>> to credit provisional service to any probationary period.

This means...

Any person appointed provisionally, in accordance with Civil Service law, who receives a permanent appointment to the same title **after September 7, 2023** shall have all time spent as a provisional appointment credited to any probationary period required.

Prior to this legislation, the probationary period for Competitive class positions started upon permanent appointment from an eligible list which could be after a lengthy provisional appointment.

Action to be taken...

- Going forward - Be sure to assess the performance of new hires within the first 12 months of service regardless of provisional or permanent status.
- For employees permanently appointed after September 7, 2023 - consider their performance and whether the probation period will be satisfied upon permanent appointment or if there will still be time left in the probation period after permanent appoint to determine if the employee is a good fit.

Remember that you have 60 days from the date that HR establishes an eligible list to appoint a provisional employee from the list hence providing the employee permanent status. If the employee has already served more than 12 months when HR establishes an Eligible List and you decide that the employee was not meeting expectations you should NOT appoint the employee from the Certified Eligible list but rather term their employment prior to the 60 day deadline.

Example:

- | | |
|--|--|
| 1. Provisional appointment date = 11/29/2022 | 2. Provisional appointment date – 11/29/2022 |
| Permanent appointment date = 09/07/2023 | Permanent appointment date = 09/06/2023 |
| Probation start date = 11/29/2022 | Probation start date = 09/06/2023 |
| Probation end date = 11/28/2023 | Probation end date = 09/05/2024 |

Definitions:

Eligible List vs. Certified Eligible List.

- The Eligible List is the list of all candidates that passed the exam in rank score order – HR establishes this as soon as we get the exam results from the State. This list is kept in HR.
- The Certified Eligible List or Certified List is the list of candidates, which HR provides to Department Heads. The candidates on this list are reachable at that time.

Provisional Appointment vs. Permanent Appointment (competitive class positions only).

- Provisional appointment – appointed to a position that did not have a corresponding mandatory Eligible List.
- Permanent appointment – appointed to a position from a Certified Eligible List