

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL**

TRANSMITTAL MEMORANDUM NO. 71

June 3, 2015

<u>PAGES ATTACHED</u>	<u>CODE</u>	<u>NO. OF PAGES</u>
1840, 1840 (A thru D) (TM-71)	1800 Appointments	8

PAGES IN MANUAL TO BE DESTROYED

1840, 1840 (A thru D) (TM-48)	1800 Appointments	8
-------------------------------	-------------------	---

SUMMARY OF REVISIONS OR NEW MATERIAL

1840 Voluntary Transfers in the State Service and **1840(D) Voluntary Transfer Checklist** have been updated to note permanent service in a traineeship leading to the source title may be counted toward the one year requirement, and to clarify that for all types of transfers Director's approval is not required to waive the one year if the nominee is reachable on the eligible list for the target title and location.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 Voluntary Transfers in the State Service

.1 BACKGROUND

.110 Legal Basis

Voluntary transfers are “...*the change, without further examination, of a permanent employee from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority or to a position in a different title in the same or a higher salary grade under the jurisdiction of the same appointing authority.*” (Rule 1.2 (b)(1))

The several types of voluntary transfers are authorized by Sections 52.6, 70.1, and 70.4 of the Civil Service Law. Other types of transfers, commonly referred to as “involuntary”, and governed by Sections 70.2, 76.3, and 78 of the Civil Service Law and Section 5.8 of the Rules for the Classified Service, are not discussed here.

.111 Voluntary transfers between administrative titles in the same or related or collateral specialties which have substantially equivalent tests or qualifications are permitted by Section 52.6 (c). Positions considered administrative as defined by Section 52.6 (a) are those in the occupational categories of law, personnel, budgeting, methods and procedures, management, records analysis, and administrative research.

.112 Voluntary transfers within a title between appointing authorities, or between titles for which there is not required an examination involving essential tests or qualifications different from or higher than those for the title held by the employee are permitted by Section 70.1.

.113 Voluntary transfers between titles where the employee has passed an appropriate examination for the title to which transfer is sought are permitted by Section 70.4.

.114 There is no provision in the law or rules for voluntary transfers for other than competitive class employees, or for competitive class employees to other jurisdictional classes, or for transfers on other than a permanent basis.

.2 POLICY

.210 General

.211 Voluntary transfers are an alternative to the use of eligible lists for filling competitive class positions.

.212 It is the policy of the Department of Civil Service to encourage voluntary transfers of eligible employees to promote career mobility, where such transfers are in the best interests of the State.

.220 Limitations and requirements

.221 Each voluntary transfer requires:

- a. the consent of the employee, and
- b. the nomination of the agency having jurisdiction over the position to which transfer is sought, and
- c. that the employee serve a probationary period unless waived by the agency at the time of transfer, and

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 Voluntary Transfers in the State Service

- d. the approval of the Department of Civil Service.
- .222 In addition to meeting the specific criteria required by the relevant law and rules, all voluntary transfers are governed by the following:
- * a. Transferees must be permanent in a competitive class position and have had one year of permanent service at their current salary grade. NOTE: Permanent service in a traineeship leading to the source title may be counted toward the one year requirement. Employees who have not completed probation may transfer if otherwise eligible.
 - b. The transfer may not be to a position more than two salary grades or one M-grade higher than the position from which transfer is made.
 - c. Consecutive voluntary transfers for the same employee will not be approved if they result in a net increase of more than two S-grades or one M-grade without intervening examination.
 - d. Voluntary transfers will not be approved if a reemployment list exists for the position to which transfer is sought except:
 - 1. if the highest ranking acceptor on the ranked reemployment list is simultaneously appointed to the position left vacant by the transfer, or
 - 2. if any acceptor is so appointed from an unranked reemployment list.
 - e. Certain voluntary transfers to redeploy employees who may be affected by layoffs may be permitted in the face of some reemployment lists. See Policy Bulletin 98-01 in this section.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 (A) Transfers Between Administrative Titles

.1 BACKGROUND

.110 Definition of **Administrative Titles**

Administrative titles are those covered by Section 52.6 of the Civil Service Law. Transfers without further examination shall generally be approved between administrative titles provided they meet the policies for voluntary transfer as stated in 1840, and:

- A. the titles have been determined by the Staffing Services Division to be in one of the following categories: law, personnel, budgeting, methods and procedures, management, records analysis, or administrative research, and,
- B. the title to which transfer is sought does not require special qualifications (e.g. licensure, certification, registration, specific credentials), or the employee seeking transfer possesses those qualifications.

.2 POLICY

.210 Definition of **Management titles**

For the purposes of an administrative transfer, a management title shall generally be a title:

- A. allocated to salary grades M-1 through M-8, or
- B. in which the duties performed by the incumbents are primarily direction of a major program of an agency or institution, or in which the duties performed by the incumbents are primarily:
 - 1. direction of a major program of an agency or institution, or
 - 2. management of a district office or a local office, or
 - 3. direct assistance in formulating and interpreting agency-wide policy as a special assistant or as an executive assistant to an agency head.

- .211** Titles in which positions are allocated to both M- and S- grades, which do not meet another criterion for administrative titles, will be reviewed by the Director of Classification and Compensation and the Director of Staffing Services to determine whether the duties typical of the title in question fall within the meaning of "management".

.4 PROCEDURES

- .411** The agency having the position to be filled must receive approval from their Staffing Services Representative before submitting the transaction.
- .412** Upon the written request of an agency the Staffing Services Representative will determine whether a title falls within the definitions in 1840 (A) .110 and .210 above. The Staffing Services Representative will consult with staff of the Divisions of Classification and Compensation, Diversity Planning and Management, and Testing Services, as appropriate.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 (A) Transfers Between Administrative Titles

- .413 If transfer from one title to another is appropriate (or if no change in title is involved) the Staffing Services Representative will confirm that the nomination is in order, i.e., that the proposed transfer meets the requirements of Section 1840.
- .414 When the Staffing Services Representative notifies the agency that the transfer is in order, the agency Personnel Office will notify the nominee, confirm that there are no reemployment lists which block the transfer, and initiate submission of the transaction.
- .415 The Division of Staffing Services will maintain a list of administrative title determinations which will provide a precedent file for future transfers and denials of transfers.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 (B) Transfers Between Similar Titles

.1 BACKGROUND

- .110 Section 70.1 of the Civil Service Law establishes the general provisions for transfer to the same title or to another title provided the essential tests and qualifications for the titles are not dissimilar.

.2 POLICY

.210 Requirements and limitations

- .211 Transfers without further examination to the same title under the jurisdiction of another appointing authority shall generally be approved provided they meet the policies for voluntary transfer as stated in Section 1840.
- .212. Transfers without further examination to a different title shall generally be approved provided they meet the policies for voluntary transfer as stated in Section 1840, and the titles have been determined to be similar by the Division of Staffing Services.
- .213 Titles shall be considered similar for the purposes of voluntary transfer where it has been determined that the successful performance of the typical duties and responsibilities for both titles require similar essential knowledges, skills and abilities based upon:
- a. a comparison of the types and contents of selection plans used to fill the titles, or
 - b. a comparison of the duties and responsibilities typical of the titles, or
 - c. a comparison to determine whether the titles are in the same occupational field (see .412 (b) below).
- .214 Titles in the same occupational field shall generally be considered to require similar essential knowledges, skills, and abilities provided:
- a. the Division of Staffing Services has approved the inclusion of both titles within the occupational field, and
 - b. that special credential(s) are not required to successfully perform the essential duties of the title to which transfer is sought, or the nominee possesses the required credential(s).
- .215 Interdepartmental titles existing within an agency are not generally included in the same occupational field as an agency's program titles.
- .216 Titles which have no minimum qualifications, and/or where the critical knowledges, skills and abilities which must be possessed by the incumbents are of a basic and general nature such that most individuals are likely to possess such knowledges, skills and abilities shall generally be considered as similar for the purposes of voluntary transfer.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 (B) Transfers Between Similar Titles

.4 PROCEDURES

- .411 The agency having the position to be filled must receive prior approval for the transfer from their Staffing Services Representative before submitting the transaction.
- .412 Upon an agency's written request to nominate an employee for transfer to a similar title the Division of Staffing Services will determine if the transfer is appropriate. This may include:
 - a. consulting with the Divisions of Classification and Compensation, Diversity Planning and Management, and Testing Services, as appropriate, to determine whether the titles are similar as stated in .210 above.
 - b. requesting from the agency a plan as to the occupational field(s) existing within that agency for the purposes of determining whether titles are similar as stated in .211 above.
 - c. requesting from the agency a description of the essential knowledges, skills and abilities required for successful performance of the typical duties and responsibilities of the titles in order to compare titles with different selection plans or titles in different occupational fields.
- .413 If transfer from one title to another is appropriate, the Staffing Services Representative will determine if the proposed transfer meets the requirements of Section 1840.
- .414 When the Staffing Services Representative notifies the agency that the transfer is in order, the agency Personnel Office will notify the nominee, confirm that there are no reemployment lists which block the transfer, and initiate submission of the transaction.
- .415 The Staffing Services Division will maintain a list of similar title determinations which will provide a precedent file for future transfers and denials of transfers.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 (C) Transfers Between Titles Which are not Similar

.1 BACKGROUND

Section 70.4 of the Civil Service Law provides for transfer to another title at a similar salary grade after a noncompetitive examination.

It has been the long standing practice and policy of the Department to consider this type of transfer as a device to allow current employees to change career fields, and to limit these transfers to titles which are (or would be) filled by examinations open to the public.

.2 POLICY

.211 Requirements and limitations:

Section 70.4 transfers shall generally be approved if they meet the requirements of Section 1840, and

- a. the employee seeking transfer meets the minimum qualifications and requirements of either the most recent or the next, anticipated open competitive examination, and
- b. the employee seeking transfer has not failed the most recent examination, either open-competitive or promotion, for the title to which transfer is sought, and
- c. there is not a departmental or interdepartmental promotion list containing the names of three eligibles willing to accept the position (Transition lists do not block this type of transfer), and
- d. the employee achieves (or has achieved) a passing score on the examination held for the title. (A passing score on a transition or promotion examination cannot be used.)

.4 PROCEDURES

- .411 The Personnel Office for the agency in which the position will be filled inquires of their Staffing Services Representative about the appropriateness of a Section 70.4 transfer for a potential nominee.
- .412 The Staffing Services Representative determines whether a nomination is in order, i.e., the requirements of Section 1840 are met. If so, the Staffing Services Representative advises the agency that a formal nomination may be submitted.
- .413 Upon written nomination from the agency, including a completed open competitive examination application (OC-APP) demonstrating that the employee is qualified, the Staffing Services Representative will arrange to administer any required tests.
- .414 Upon completing the transfer nomination, including any necessary tests, the Staffing Services Representative will send form S-121, *Action on Nomination for Permanent Appointment* to the agency. This form indicates the disposition of the nomination, and the effective date of the action.
- .415 Where the Section 70.4 transfer is approved, the agency Personnel Office will notify the nominee, confirm that no reemployment list or promotion list blocks the transfer and initiate the submission of the transaction.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 APPOINTMENTS**

1840 (D) Voluntary Transfer Checklist

This is a summary of the major factors which must be considered in approving voluntary transfers. It is not intended to supplant the complete and detailed information in the State Personnel Management Manual, or the Civil Service Law, rules and regulations.

The • in the column indicates the factor at the left must be taken into consideration.

The **Notes** below provide additional information relative to the numbers in the factors/questions.

FACTORS/QUESTIONS FOR CONSIDERATION	TYPE OF TRANSFER		
	§52.6	§70.1	§70.4
Are there reemployment lists (see note 1 below)?	•	•	•
Titles are within two S-grades or one M-grade and nominee has served permanently for one year (see note 2 below) in the title from which transfer is being made.	•	•	•
Nominee possesses any required special credentials or licenses	•	•	•
This will not be a second, consecutive transfer for the nominee resulting in an advancement of more than two S-grades or one M-grade (see note 4 below).	•	•	
Both titles are administrative (See 1840 (A))	•		
Transfer is appropriate between titles (See 1840 (B))		•	
Nominee meets the current or anticipated open competitive minimum qualifications, did not fail the last promotion or OC examination for the title, and has passed an examination appropriate for the title.			•
There are no departmental or interdepartmental promotion lists with three eligibles willing to accept the position to which transfer is sought (see note 3 below).			•

Notes:

1. Generally Redeployment lists, Agency Reduction Transfer lists, and Preferred Lists block voluntary transfers, although certain exceptions may be made. Reemployment rosters and Placement rosters do not. See Policy Bulletin #98-01 in 1825 or in this section for details.
2. * The one year requirement may be waived by the Director, Division of Staffing Services. The Director's approval is not required to waive the one year if the nominee is reachable on the eligible list for the target title and location. (A nominee's score is considered to be reachable if the list has expired or the year of eligibility on a CR list has expired.) Permanent service in a traineeship leading to the source title may be counted toward the one year requirement. For §52.6 transfers the year of service must be in any §52.6 title or titles within two salary grades of the target title.
3. Transition lists do not block these transfers.
4. [An NCP, 70.4, or the successful completion of a traineeship fulfills the requirement for an "intervening examination" for this purpose. If the employee has been **reinstated** to a position to which they could have transferred via 70.1 or 52.6, and that position is two grades higher than their former position, the employee **cannot** be again transferred to another two S-grade, or one M –grade, higher position.]