



TO: AGENCY HEADS, AGENCY HR ADMINISTRATORS, AFFIRMATIVE ACTION ADMINISTRATORS & DAS STATEWIDE HR MANAGEMENT STAFF

DT: December 22, 2006

RE: General Letter No. 226 – Promotion by Reclassification (Revised)

### PURPOSE

The purpose of this General Letter is to provide clarification regarding the implementation of Section 5-227a of the Connecticut General Statutes and to outline the procedures and documents required when processing transactions under this section of the statutes. (This General Letter supersedes the August 12, 2004 memorandum on promotion by reclassification and all earlier memoranda on this subject.)

### BACKGROUND

Section 5-195 of the Connecticut General Statutes states that all promotions in state service, except where specified, be made according to merit and fitness as ascertained by examinations announced and conducted in accordance with the Personnel Act. Section 5-227a provides for the waiving of competitive examinations in certain situations involving the reclassification of an employee's position. Section 5-227a was originally passed in 1992, modified in 1993 and modified again in 1996.

### ELIGIBILITY

Effective July 1, 1996, if an employee's position in the classified service is reclassified to a competitive position, the promotion of the employee shall be made without examination provided certain conditions are met. The set of conditions that must be met are outlined and explained below.

1. The employee must meet the minimum qualifications for the reclassified position as detailed on the job specification for the classification. (If the employee has taken and failed the most recent examination for the classification, this is evidence that the employee does not meet the qualifications for the higher-level class and cannot be considered for reclassification.)
2. The employee must have received a satisfactory appraisal on his two most recent consecutive performance evaluations. (Performance evaluations must be conducted in accordance with labor agreements and statutes.)
3. The employee must have worked at his existing level in his current position for a minimum period of six months. This is interpreted to mean that the employee must have been working in his current job class and in his current position number for at least six months (full-time or equivalent part-time) and must have completed a working test period for that class.
4. The reclassified position must be approved by the Commissioner of DAS

If the employee's existing position is not in the classified service or if all of the above conditions are not met, the employee must pass an examination in order to be promoted/reclassified to a competitive job classification. And, as always, if an employee is being promoted to a vacant competitive position, the employee must pass an examination (except if the vacant position

requires an advanced professional degree, license or certification and is covered under General Letter 222).

## STATUTORY REFERENCE

For easy reference, Section 5-227a is reprinted below.

**Section 5-227a. Promotion by reclassification of position. Examination for reclassified position not required.** *Whenever an employee's position in the classified service is reclassified, the promotion of the employee shall be made without examination provided: (1) The employee meets the minimum qualifications established by the Commissioner of Administrative Services for the career progression level of the reclassified position; (2) the employee has maintained an adequate performance record and has received a satisfactory appraisal on his two most recent consecutive performance evaluations; (3) the employee has worked at his existing level in his current position for a minimum period of six months; and (4) the reclassified position is approved by the Commissioner of Administrative Services.*

The intent of this statute is to provide a means for promotion, that does not require competition and examination when an employee grows naturally in his/her position and begins to work more independently and/or takes on more complex work as his/her knowledge and skills expand. Competition and examinations are still critical when new responsibilities need to be assigned to employees that alter the primary focus of their jobs.

As listed above, one of the conditions that must be met in order for an employee to be promoted without examination under Section 5-227a, is that the reclassified position be approved by the Commissioner of Administrative Services. DAS will approve reclassifications of filled positions where the growth in duties is natural and expected (e.g., to the next higher level in the career series) and where the organization can support the level of the reclassified position. DAS will not approve reclassifications under Section 5-227a when the reclassification is: (1) to a position outside of the career series, (2) to a position more than one level up in the career series, (3) to a position lower in the career series, (4) to a lead (working supervisor) or supervisory position, or (5) to a position in another labor unit. Reclassifications to managerial positions will be allowed in rare situations where there is a managerial career series and the growth is natural and expected (e.g., Assistant Attorney General 1 to Assistant Attorney General 2).

It is critical that employees are assigned work in accordance with their official job classification. There are many implications to allowing employees to perform duties that are outside of their job classification. Two of the most critical are claim to work and adherence to the Fair Labor Standards Act. Please note that when new duties need to be assigned that will result in a promotion or reclassification, but a vacancy does not exist, there should be competition and an examination process. The reclassification of the position and the person can be requested after the examination process is complete. The new duties should not be assigned until approval is received from DAS, and OPM if required.

Reclassifications from training classes to target classes are not covered under Section 5-227a. Section 5-234 governs promotions following the completion of training programs.

## PROCEDURES

The following outlines the procedures agencies must follow when requesting and processing promotions by reclassification under Section 5-227a.

- If the agency determines that a reclassification is warranted, the agency HR Professional enters a Position Data transaction via Core-CT for approval and sends all required documentation as outlined on the following page to the DAS HR Liaison responsible for the agency's Position Data request. The Position Data transaction must include the justification for the reclassification.

- The DAS HR Liaison reviews the Position Data transaction and required documentation to ensure that all conditions are met for promotion by reclassification and approves/disapproves the transaction. (Agencies are responsible for reviewing all documentation for completeness, accuracy and appropriateness before forwarding the request and documentation to DAS.)
- Upon final approval of the Position Data request, the agency HR Professional enters a Job Data transaction using the Action/Action Reason Codes of Promotion/Promotion by Reclassification. Notepad for this transaction should include the name of the DAS HR Liaison who approved transaction and the date the approval was granted. The Exam Waived (EWAV) code should be used in the Certification Number field.

The following procedures should be followed by the University of Connecticut and the University of Connecticut Health Center for classes under their decentralized classification agreement.

- Agency HR Professional makes classification decision, reviews the incumbent's background to ensure that the requirements of the statute and job specification are met, and maintains appropriate records as outlined below and in the decentralized classification agreement.
- Agency HR Professional processes the Position Data transaction (unless position is already at target level).
- Agency transmits the Job Data transaction. Notepad should include the following statement: "Promotion by Reclassification per Section 5-227a; supporting documentation is on file at the agency." The Exam Waived (EWAV) code should be used in the Certification Number field.

<b>REQUIRED DOCUMENTATION</b>
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Listed below is the required documentation that must accompany every transaction to promote an employee by reclassification under Section 5-227a.

1. An up-to-date Application for Examination and Employment Form (PLD-1) completed by the employee verifying that the employee meets the experience and training requirements for the higher class.
2. A statement affirming that the employee's last two consecutive performance evaluations have been satisfactory or above. (Copies of the service ratings must be available in the employee's personnel file.)
3. A statement confirming that the employee has been serving at his/her existing level in his/her current position for at least six months (full-time or equivalent part-time) and has completed the working test period for this job class.
4. A duties questionnaire completed by the employee.
5. An organizational chart.
6. A justification for the reclassification.

<b>POST AUDIT</b>
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All transactions under the provisions of this statute are subject to post-audit by DAS Statewide Human Resources Management.

## FREQUENTLY ASKED QUESTIONS

A list of commonly asked questions and answers are included to assist you in interpreting and applying this legislation.

- **QUESTION:** What if all of the conditions outlined in the statute are not met?  
**ANSWER:** An examination is required. All of the conditions must be met at the time of the effective date of the reclassification in order to make a promotion under section 5-227a. (Provisional appointments cannot be used to buy time to meet some or all of the conditions required for promotion by reclassification without exam.)
- **QUESTION:** Will DAS approve all position reclassification requests?  
**ANSWER:** No. The intent of this statute is to provide a means for promotion, that does not require competition and examination when an employee grows naturally in his/her position and begins to work more independently and/or takes on more complex work as his/her knowledge and skills expand. DAS will approve reclassifications of filled positions where the growth in duties is natural and expected and the organization can support the level of the reclassified position. DAS will not approve reclassifications when the reclassification is: (1) to a position outside of the career series, (2) to a position more than one level up in the career series, (3) to a position lower in the career series, (4) to a lead (working supervisor) or supervisory position, or (5) to a position in another labor unit. (Reclassifications will not be permitted in classifications that are designated as both lead and advanced working level. However, reclassifications to classifications designated solely as advanced working level may be permitted.) Reclassifications to managerial positions will be allowed in rare situations where there is a managerial career series and the growth is natural and expected (e.g., Assistant Attorney General 1 to Assistant Attorney General 2).
- **QUESTION:** What if DAS does not approve the request to reclassify the position?  
**ANSWER:** An examination is required as all the conditions of the statute are not met. If the duties have already been assigned, they must be removed immediately.
- **QUESTION:** Can an employee be promoted under Section 5-227a if the employee received a failing score on the most recent examination for which the reclassification is being requested?  
**ANSWER:** No. This is evidence that the employee is not qualified to be promoted to the higher level classification.
- **QUESTION:** Does this statute apply to a noncompetitive position being reclassified to a competitive position?  
**ANSWER:** Yes, provided all conditions are met.
- **QUESTION:** Does this statute apply to a noncompetitive position being reclassified to a noncompetitive position?  
**ANSWER:** No. An examination is not required in this case; therefore, this statute does not apply.
- **QUESTION:** Is there a certain time interval required between the two most recent performance evaluations?  
**ANSWER:** No. However, certain bargaining units have contract provisions concerning the frequency and format of performance evaluations. These contract provisions must be adhered to.
- **QUESTION:** Does this statute require that the employee occupy the same position control number for the six-month period prior to the reclassification?  
**ANSWER:** Yes, the statute requires that the employee has worked at his existing level in his current position for a minimum period of six months. (The only exception will be if an

employee has transferred within an agency and within the classification and the assignment is highly comparable or identical to the former assignment. There must be a close parallel between current and former duties and assignments, such as would occur when an employee transfers from one facility to another and continues to serve in the same capacity at the new location. If the responsibilities are not highly comparable, a reclassification without examination is not appropriate.)

- **QUESTION:** If an employee has been serving Temporary Service in a Higher Class (TSHC), can s/he be promoted by reclassification without examination?  
**ANSWER:** The answer to this question depends on the position to be reclassified. The employee cannot be reclassified under Section 5-227a from the position s/he is serving TSHC in, as the employee does not have permanent status in this job classification. (This position is technically a vacancy and must be treated for refill as a vacancy.) On the other hand, an employee may be promoted under this statute if the employee is promoted from the position s/he is permanently assigned to, provided all other conditions are met and provided this action is not taken to circumvent a vacancy and the required examination at the higher level. (An employee who is serving TSHC is assigned to their original position number and classification while they fill the second position on a temporary basis.) Reclassifying the TSHC position down and reclassifying the employee's original position to the title of the TSHC position is inappropriate as it is circumventing the vacancy at the higher level. Examinations are required under the Personnel Act when filling a vacancy in a competitive position.
- **QUESTION:** If an employee has been provisionally appointed, can s/he be promoted by reclassification without examination?  
**ANSWER:** No. When a provisional appointment is made to a vacant competitive position it is made pending the applicant passing the required examination.
- **QUESTION:** Does Section 5-227a apply to the promotion of an employee from a training classification to the target class?  
**ANSWER:** No. The promotion of an employee from a training class to a target class is covered under Section 5-234. Section 5-234 states that any person appointed to a professional or pre-professional training class may be reclassified, without examination, to the target class upon successful completion of the required working test period and the training program.
- **QUESTION:** If a position is being underfilled through Item No. 535-Q, can the employee be promoted to the level of the position without examination?  
**ANSWER:** Yes, if all conditions outlined in the statute are met and the employee is being promoted within his position number. (For these transactions all documentation as outlined in the General Letter should be sent to the DAS HR Liaison for review.)
- **QUESTION:** If an encumbered classified position has been reclassified to another job classification and all the conditions outlined in this statute are met, can the appointing authority require an examination?  
**ANSWER:** No. Once an employee's position has been reclassified and all conditions are met, the appointing authority cannot require that the employee take and pass an examination in order to be promoted to the reclassified position. The statute states that the promotion of the employee shall be made without an examination. Job postings are inappropriate when promotions are being made under 5-227a.
- **QUESTION:** Is an examination required if an agency desires competition for a position and the selected employee's position will be reclassified after the fact?  
**ANSWER:** When competition is desired, it is appropriate to appoint from a candidate list, or if a candidate list does not exist, to request an agency promotional examination be administered. (The key is when the reclassification of the position occurs. An examination

cannot be required if the position has already been reclassified and all conditions are met. However, an examination is appropriate if the reclassification will occur after an employee has been selected to fill a new assignment.)

- **QUESTION:** Can an employee transferring from one agency to another be promoted to a competitive position under Section 5-227a?  
**ANSWER:** No. Even if the employee is being transferred in their position, this would not be considered natural growth in the employee's position.
- **QUESTION:** Can an employee be promoted to a vacant competitive position under Section 5-227a?  
**ANSWER:** No, this legislation does not apply to the filling of vacant positions.
- **QUESTION:** Does an employee who has been promoted by reclassification have to successfully complete a working test period before achieving permanent appointment in the higher level classification?  
**ANSWER:** Yes.

If you have any additional questions concerning the interpretation and application of this legislation, please contact your agency's DAS Human Resources Liaison.

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