THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 131

February 24, 2010

RESIDENCY REQUIREMENTS FOR THE EXECUTIVE OFFICE OF THE MAYOR AND MAYORAL AGENCIES

WHEREAS, Section 12-120 of the Administrative Code, as amended by Local Law No. 48 of 2009, provides that employees who have completed two years of City service need not maintain City residency as a condition of employment so long as they reside in Nassau, Westchester, Suffolk, Orange, Rockland or Putnam county;

WHEREAS, Subdivision b of such section authorizes the Mayor to require individuals seeking or holding certain titles in the Executive Office of the Mayor or in mayoral agencies as defined in section 385 of the City Charter to establish or maintain City residency as a condition of employment;

WHEREAS, as chief executive officer under sections 3 and 8 of the Charter, and in furtherance of the purpose and intent of Local Law No. 48 to preserve discretion of elected officials with respect to key non-represented staff of their own offices and agencies, the Mayor may establish residency criteria for appointment of such staff within the Executive Office of the Mayor and mayoral agencies;

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Titles subject to City residency requirement.

(a) Except as otherwise provided herein, a person serving within the Executive Office of the Mayor in any of the following civil service or office titles shall be a resident of the City on the date that he or she assumes such title or shall establish City residence within ninety days after such date and shall thereafter maintain City residence for as long as he or she serves in such title: the First Deputy Mayor; Deputy Mayor; Communications Director; Counselor to the Mayor; Senior Advisor to the Mayor; Press Secretary to the Mayor; heads of mayoral offices; and other titles, the responsibilities of which address substantial citywide issues of a policy, operational, and/or administrative nature, identified on a list established pursuant to section 2(a) of this Order.

(b) Except as otherwise provided herein, a person serving in a mayoral agency in any of the following civil service or office titles shall be a resident of the City on the date that he or she assumes such title or shall establish City residence within ninety days after such date and shall thereafter maintain City residency for as long as he or she serves in such title: agency heads, including but not limited to Commissioner, Director and Executive Director; First Deputy Commissioner; Executive Deputy Commissioner; Deputy Commissioner; General Counsel; Borough Commissioner; Assistant Deputy Commissioner; Associate Commissioner; Assistant Commissioner; and other senior-level staff titles, identified on a list established pursuant to section 2(b) of this Order.

§ 2. Additional titles subject to City residency requirement.

(a) The First Deputy Mayor shall, at his or her discretion, establish and maintain an updated list of titles subject to section 1(a) of this Order, as necessary. Such list shall be kept on file at the human resources division of the Executive Office of the Mayor as well as the Department of Citywide Administrative Services ("DCAS"), and shall be publicly available on the DCAS website.

(b) The Commissioner of DCAS shall work with the head of each agency whose employees are subject to this Order to compile a list of titles subject to section 1(b) of this Order. Such list shall be kept on file at DCAS, and shall be publicly available on the DCAS website. Every two years following the effective date of this Order, the head of each agency whose employees are subject to this Order shall submit to the Commissioner of DCAS a current list of titles constituting its senior-level staff. In addition, agency heads shall notify DCAS of changes at any time with respect to civil service or office titles of senior-level staff, including the addition of new titles for such staff, as may be necessary to ensure that the Commissioner of DCAS may update the list set forth in section 1(b) of this Order in a timely manner.

§ 3. Prior directives. Mayoral directives 78-2 of January 12, 1978 and 78-13 of July 26, 1978, relating to residency requirements for City employees, are hereby revoked, provided that employees who received substantial hardship exceptions are not subject to the residency requirement of this Order even if they hold, or subsequently assume, a title that is subject to section 1 of this Order. Employees who entered City service prior to September 1, 1986 who were entitled to seek but did not receive a substantial hardship exception shall be subject to the residency requirement of this Order to the same extent as other employees, and must seek an exemption from the residency requirement pursuant to section 8 of this Order in order to reside outside of the City while holding a title that is subject to section 1 of this Order.

§ 4. Competitive class titles. Employees who entered City service prior to September 1, 1986 and serve permanently in a competitive class title are not subject to the residency requirement of this Order provided they continue to serve in such permanently-held competitive class title. In the event such employees resign from or go on leave from

such permanently-held competitive class title and assume a title that is subject to section 1 of this Order that would not be a permanently-held competitive class title, the head of the relevant agency must apply for an exemption pursuant to section 8 of this Order in order for such employee to reside outside of the City.

§ 5. City employees serving in titles represented by a public employee union. Persons serving in titles that are represented by a public employee union are not subject to the residency requirement of this Order. However, if such persons seek to resign from or go on leave from a title represented by a public employee union and to assume a title subject to section 1 of this Order that would not be a represented title, the head of the relevant agency must apply for an exemption pursuant to section 8 of this Order in order for such persons to reside outside of the City.

§ 6. Other City employees currently residing outside of the City. Any City employee who is not subject to the provisions of sections 3, 4 or 5 of this Order, who is subject to section 1 of this Order, and who was lawfully residing outside of the City on the effective date of this Order shall not be subject to the residency requirement of this Order. However, if such an employee assumes a new civil service or office title subject to section 1 of this Order, such employee shall be required to comply with the residency requirement of such section unless he or she obtains an exemption pursuant to section 8 of this Order.

§ 7. Difficult to recruit titles. Employees serving in titles that have been deemed difficult to recruit as provided for in section 12-121 of the Administrative Code are exempt from the residency requirements of this Order. Such employees shall not be subject to the residency requirements of this Order even if they seek to assume a title at a different agency or mayoral office provided they continue to hold a title that has been deemed difficult to recruit.

§ 8. Exemption procedure. Notwithstanding section 1 of this Order, an agency head may apply to the Commissioner of DCAS for an exemption from the residency requirement of this Order for an employee of the agency or a person the agency head is considering for appointment to a title subject to section 1 of this Order. However, such an exemption may not waive the two-year residency requirement imposed by subdivision b of section 12-120 of the Administrative Code, or the requirement in such subdivision that employees who satisfy the two-year requirement must live in either the City or one of the counties specified in such subdivision. The application for an exemption must (a) articulate the substantial personal hardship on the part of the employee or prospective employee if the exemption is not granted, and (b) explain how the particular qualifications of the person would substantially further the agency's mission. An employee who receives an exemption shall not be subject to the residency requirement of this Order so long as he or she continues to serve as an employee of the same agency or mayoral office.

§ 9. Other City employees. In the event that the circumstances of a person's employment are not described in this Order, DCAS shall determine the applicability of City residency requirements in a manner that shall be consistent with the intent of state and local laws regarding residency and this Order.

§ 10. Applicable law. Nothing herein shall be deemed to affect the residency requirements of the Public Officers Law, section 255 of the Executive Law, or any other state law affecting the residency of City employees.

§ 11. Agency cooperation. All mayoral agencies shall cooperate in providing the Commissioner of DCAS with information and other assistance as may be necessary and appropriate for the Commissioner to carry out his or her duties as set forth in this Order.

§ 12. Effective date. This Order shall take effect immediately.

Michael R. Bloomberg
Mayor