§ 355-a. Powers and duties of trustees--personnel functions. 1. (a) The state university trustees are authorized and empowered to classify and reclassify all positions in the state university determined pursuant to section thirty-five of the civil service law to be in the professional service as defined in subdivision three of this section, except those of the New York state colleges, schools and experiment stations administered by Cornell university and Alfred university.

(b) To the fullest extent possible consistent with its authority under the civil service law, and after consultation with the state university trustees, the state civil service commission shall consider the unique educational mission and operating requirements of the state university when making any determination relating to the jurisdictional classification of positions in the state university in the classified service. The director of the classification and compensation division of the department of civil service shall similarly consider the unique educational mission and operating requirements of the state university when making determinations concerning the classification and reclassification and the allocation and reallocation of the positions in the state university in the classified service.

2. Subject to the approval of the state university trustees, Cornell university and Alfred university are authorized and empowered to allocate and reallocate positions in the non-professional services of the New York state statutory or contract colleges, schools and experiment stations administered by such universities, as classified and reclassified by the respective universities, in accordance with a schedule of positions and salaries filed by the state university trustees pursuant to subdivision four of section three hundred fifty-five of this chapter.

3. a. The professional service shall include positions requiring the performance of educational functions in teacher education, agriculture, home economics, forestry, ceramics, liberal and applied arts and sciences, engineering, technical skills, crafts, business education, labor and industrial relations, medicine, dentistry, veterinary medicine, pharmacy, nursing, law, public affairs, maritime officer training, academic administration, library service, student activities,

student personnel service and other professions required to carry on the work of the state university and of the colleges, schools, institutes, research centers, facilities and institutions comprising it. Each employee in the professional service shall receive an annual salary to be paid over a period of not less than nine months as determined by the state university trustees, or by Cornell university and Alfred university with the approval of the state university trustees for the New York state colleges, schools and experiment stations administered by such universities.

b. The non-professional services shall mean all positions at the New York state statutory or contract colleges, schools and experiment stations administered by Cornell university and Alfred university which are not included in the professional service.

4. New appointments in positions allocated to the nonprofessional services shall be made in accordance with a schedule of positions and salaries filed by the state university trustees pursuant to subdivision four of section three hundred fifty-five of this chapter. Any person who is appointed, promoted, reinstated or transferred from an unallocated position in the nonprofessional services to a position allocated to a salary grade, the minimum salary of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement or transfer, be paid the minimum salary of the grade of such allocated position plus the number of normal performance advancement payments which corresponds to the number of years of service in such employee's former unallocated position or positions during which that employee received a salary equal to or in excess of the minimum salary of the position to which such employee is appointed, promoted, reinstated or transferred, not to exceed the salary that employee was receiving in such employee's former position immediately prior to the date of such appointment, promotion, reinstatement or transfer and not to exceed the maximum salary of the new position.

5. Nothing contained in this section shall prevent the employment of persons who receive part of their compensation from other than state

sources.

6. An employee in the professional service who is assigned to extension session, summer session or part-time service shall be entitled to extra compensation for such service provided such service is in addition to that regularly assigned to his position.

7. Any contribution of food, lodging, or maintenance by the state or any commutation in lieu of maintenance, except traveling expenses and field allowances, shall be considered as part of the salary established in this section. The fair value of such food, lodging, maintenance or commutation shall be determined by the state university trustees and may in their discretion be deducted from the salary established by this section.

8. The state university trustees are further authorized and empowered, and Cornell university and Alfred university so far as concerns the New York state statutory or contract colleges, schools and experiment stations administered by such universities, subject to the approval of the state university trustees, are also further authorized and empowered:

a. To except individual positions or groups, titles or classes of positions from the schedules filed by the state university trustees pursuant to subdivision four of section three hundred fifty-five of this chapter.

b. To determine the procedure by which an employee may be promoted on evidence of continued meritorious service, and to make promotions. If an employee in the non-professional services in a position allocated to a salary grade is appointed or promoted to a position in a higher grade, such employee shall receive a percentage increase in existing basic salary of one and one-half percent plus one and one-half percent times the number of grades by which that employee is so advanced, or shall be paid the minimum salary of the grade of the position to which such employee is appointed or promoted, whichever results in a higher annual salary.

c. To transfer positions from one state-operated institution in the state university to another. Notwithstanding the provisions of the state finance law, the trustees are hereby authorized to transfer positions within a unit of the university without the approval of the director of the budget.

d. To grant leaves of absence to employees for travel, study or other appropriate purposes, not to exceed one year in seven, at the rate of not to exceed one-half the regular salary paid, or with salary at full rate for such leave for one-half year. The balance of salaries appropriated for such persons, or so much thereof as may be necessary, may be applied by the state university trustees, Cornell university or Alfred university, as the case may be, during the period of such absence for the payment of the salaries of substitutes to take the place of the persons to whom leaves of absence have been granted as provided herein.

e. To establish regulations providing for the adjustment and determination of salaries of professional service employees whose professional obligation is changed as between or within calendar years or academic years, or whose conditions of appointment are affected by any other situation unique to state university positions in the unclassified service.

f. To establish regulations providing for the payment, upon resignation or retirement, or upon death while in service, for salary or remuneration due by reason of the completion of required services, or in settlement for unused vacation, if any, to any incumbent of a position in the professional service. The state comptroller is hereby authorized to make such payments in accordance with such regulations from monies available to state university.

9. The annual salary of a position which is classified or reclassified, or which is allocated or reallocated to a salary grade pursuant to this section shall not be reduced for the incumbent by reason of such allocation, reallocation, classification or reclassification so long as such position is held by such incumbent.

No employee whose salary would be increased by such allocation, reallocation, classification or reclassification shall have any claim for the difference between such increased salary and his former salary for the period prior to the date such change in title or salary grade becomes effective.

The state university trustees are further authorized and empowered, and Cornell university and Alfred university so far as concerns the New York state statutory or contract colleges, schools and experiment stations administered by such universities, subject to the approval of the state university trustees, are also further authorized and empowered to adjust salaries upon the reallocation of positions as follows:

When any position allocated to a salary grade is reallocated to a higher salary grade, the annual salary of an incumbent shall be determined in accordance with the provisions of paragraph b of subdivision eight of this section.

10. Salary, status, and accumulated leave credits of employees whose employment changes as between the classified and the unclassified service:

a. The incumbent of any position in the classified service which is determined to be in the unclassified service shall, on the effective date of such change, be paid at an annual salary rate not less than the former rate. Such person shall retain the rights and privileges of the classified service jurisdictional classification with respect to discipline, dismissal and suspension for as long as such person remains in the redesignated position.

b. Any employee in the classified service who accepts appointment to an unclassified service position shall thereby relinquish the rights and privileges of such employee's classified service jurisdictional classification during the continuance of such employee's service in an unclassified position and shall acquire the rights and status of such employee's unclassified position.

c. Any employee in the classified service who accepts appointment to a position in the unclassified service pursuant to subdivision (h) of section thirty-five of the civil service law having, as of the effective date of such change, an accrued balance of annual leave or sick leave under the attendance rules for the classified service, shall retain such balances to such employee's credit upon appointment to the professional service, but shall accrue no further annual or sick leave under the attendance rules for the classified service. Thereafter any such employees shall be eligible for annual leave and sick leave as provided for by the state university trustees. Upon resignation or retirement from state service such employee shall be paid in cash for any balance of annual leave in accordance with the regulations applicable to persons in the professional service; provided however, that in the case of death while in service, such payment, if any, shall be made to the beneficiary to whom a survivor's death benefit pursuant to section one hundred fifty-four of the civil service law, if any, would be payable.

Any such employee having accrued overtime or personal leave balance shall forfeit such credit, except that such employee shall be paid in cash for an accrued balance of overtime on the basis of the annual salary in that employee's classified service position at the time of such employee's appointment to the unclassified service. Hereafter, any such employee shall be subject to the provisions made by the state university trustees with respect to vacation and other leave except as herein provided.

d. Any employee in the unclassified service pursuant to subdivision (h) of section thirty-five of the civil service law who accepts appointment to a classified service position having, as of the effective date of such change, eligibility for vacation or sick leave under the provisions made by the state university trustees shall be credited with such balance under the attendance rules for the classified service; provided however, that not more than thirty days of annual leave and two hundred days of sick leave shall be so credited. Thereafter such employee shall accrue annual leave and sick leave credits in accordance with the attendance rules for the classified service, except that (i)

that employee's previous state service shall be considered in determining the rate at which the employee shall accumulate annual leave under such rules and (ii) such service shall be considered in allowing any sick leave at one-half salary for which the employee may be otherwise eligible under such rules. For the purpose of establishing an anniversary date for computing personal leave credit, such employee shall be deemed to have been appointed on the effective date of that employee's appointment to the classified service from the unclassified service. Thereafter such employee shall be subject to the attendance rules for the classified service except as herein provided.

11. Whenever a salary for a position in the professional service results in an annual salary rate in an amount other than a whole dollar amount, said rate shall be increased to the next higher whole dollar.

12. Nothing in this section shall be construed to limit the powers heretofore conferred on Cornell university or Alfred university except as expressly provided for herein.

* 13. The expenditure of moneys appropriated to support a group disability insurance program for employees in the professional service shall not exceed sixty percent of salary plus contributions for annuity contracts not to exceed the rates of employer contributions pursuant to article eight-B of this chapter plus adjustment for cost of living increases reduced by any amount for which the employee is eligible pursuant to compensation or benefit paid for, by or on behalf of the state or state university and any normal contribution to a retirement program made by the state or the state university on the employee's behalf while eligible for benefits under such program in accordance with regulations of the state university trustees relating to eligibility and other terms, conditions and limitations of coverage and benefits and administration of program.

* NB There are 2 sb 13's

* 13. Notwithstanding subdivisions one through thirteen of section one hundred thirty and section one hundred thirty-five of the civil service law or any other provisions of law, rule or regulations to the contrary:

a. Whenever a representative study of peer institutions in private or

other public hospitals in the same geographic area as a state university hospital shows that wage rates and/or pay differentials of nurses employed in such peer institutions are higher than the wage rates and/or pay differentials paid by the state to teaching and research center nurses of the state university, the state university trustees may authorize and prescribe pay differentials which may be added as adjustments to the hiring rate, the job rate and the longevity steps of the salary grade or grades and/or shift differentials for teaching and research center nurses in the classified civil service at the state university hospitals, clinics or other ancillary health care facilities in such areas or locations. In each case, pay differentials under this subdivision shall be percentages or fixed dollar amounts. Such differentials shall be in addition to and not in lieu of an employee's basic annual salary. Any performance advancement payments, performance awards, longevity payments or other rights or benefits to which an employee may be entitled shall be calculated from a combined base of annual salary plus differential payments. Any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes. A pay differential shall be terminated for any employee when the employee ceases to be employed in a position, or area, or location for which such pay differential was authorized. Otherwise, a pay differential shall remain in effect for each such employee and future pay differentials shall be authorized pursuant to this subdivision.

b. Teaching and research center nurses who on April first, nineteen hundred ninety-five are receiving additional compensation as a result of a previous determination by the director of classification and compensation of the department of civil service to authorize a geographic area pay differential shall continue to receive such additional compensation while employed in the position for which such differential was authorized unless modified pursuant to this subdivision.

c. The state comptroller is hereby authorized to make the payments allowed under this subdivision from monies available to the state university from health care revenues.

d. The compensation described herein is limited to those nurses in the classified civil service employed at university health care facilities at the health science center at Syracuse, university hospital at the health science center at Brooklyn, and university hospital at the state university of New York at Stony Brook.

* NB There are 2 sb 13's

* 14. (a) The use of artificial intelligence systems, as defined by section one hundred three-e of the state technology law, shall not affect (i) the existing rights of employees pursuant to a collective bargaining agreement; or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or

(ii) transfer of duties and functions currently performed by employees of the state university of New York to an artificial intelligence system.

(c) The use of an artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership status of all existing employees of the state university of New York shall be preserved and protected.

* NB Repealed July 1, 2028